

**Case Number (if relevant): CMS-510/511**

**Description:** A complaint concerning the alleged failure of Natural England to follow statutory processes for the modification of a management scheme for a Site of Special Scientific Interest.

### Case Overview

#### Background/Complaints Summary

The complaint concerns the alleged failure of Natural England to follow statutory processes for the modification of a management scheme (also referred to as a 'Site Management Statement') for a Site of Special Scientific Interest. It was claimed that this resulted in a failure to take enforcement action against alleged breaches of restrictions within the SSSI. The complaint also asserted that the assessment of the site as being in "favourable" condition was unjustified based on evidence of damage and the baseline evidence used.

The complaint relates specifically to Unit 003 (Turnerbury Plantation) of the Chichester Harbour SSSI, which consists of two blocks of broadleaved woodland. Part of the site is used for a commercial enterprise, which is referred to as a 'business amenity area' in a Site Management Statement (SMS) agreed with the landowner.

Natural England undertook a site condition assessment of this unit in October 2022. The condition of the woodland was judged to be 'favourable', meaning that all the key attributes measured are within target. Previous assessments carried out in 1997, 2004 and 2010 all arrived at the same conclusion.

In addition to concerns relating to the SMS, the complainant made a series of other allegations in relation to the management and regulation of activity at the site.

#### OEP Actions

We considered the information provided by the complainant, and reviewed publicly available information to support our assessment of this complaint.

We requested information from Natural England to understand what actions were taken in relation to this site, and the justification for those actions.

We have met with Natural England throughout this process to explain our position and understand how they intend to address the issues identified.

**Conclusions and Outcomes**

From the information available to us, the OEP determined that there was no indication that there may have been a failure to comply with environmental law in relation to the specific grounds raised by the complainant.

However, as a result of our findings we did make recommendations to Natural England with regards to the following ground:

**Failure to follow statutory processes for modifying a SSSI management scheme**

Tournerbury Woods SSSI is subject to a SMS under the Wildlife and Countryside Act 1981 (WCA 1981). The issuance of a SMS is the responsibility of Natural England and they detail the requirements to best conserve or, where applicable, restore the special features of an SSSI. In order to modify an SMS, Natural England must follow the statutory processes set out in the WCA 1981.

The complaint and subsequent OEP assessment identified that two different versions of the SMS existed for Tournerbury Woods, and due to “failures in historic documentation archiving” it was unclear which of the two SMS was the final agreed version. This led to weaknesses with the management scheme at the site due to discrepancies around what activities were authorised at the location. The complaint alleged that this amounted to a failure to follow the statutory process required to modify an SMS.

We concluded that without an adequate audit trail, Natural England took a decision in 2014 to accept one version of the SMS to be used going forward. This cannot be considered a decision to modify the SMS, as there was insufficient evidence to say conclusively which version of the SMS was the original to be modified. Therefore, in our view, the requirement to follow the statutory process to modify the SMS was not engaged and we do not consider there to otherwise be an indication of a potential failure to comply with environmental law.

We did, however, highlight the weaknesses that exist within the SMS relating to the level of protection it affords to Tournerbury Woods, and it is regrettable that limited progress appears to have been made to improve management of the site. Whilst we acknowledge that it is within Natural England’s discretion to do so, we recommended that Natural England considers how to enable more effective protection of the site, possibly through modification or replacement of the SMS and development of a Management Scheme which is appropriate for the site. We also recommended that Natural England engage with the complainant to provide further clarity on this matter.

Natural England has confirmed to OEP that it has taken prompt action on the recommendations, contacting both the complainant and the landowner to set out next steps. The landowner has acknowledged that the issue “requires proper resolution”, and arrangements are being made for a site visit.