

Stages in the Site Designation Process

Step 1: Identify, document and select a boundary for a site

Areas selected for nature conservation are chosen using:

- Previously existing knowledge, such as the list of Areas of Scientific Interest compiled in the 1970s,
- various publications on important bird areas in Ireland; and other surveys;
- the NHA survey, carried out from 1991-94;
- continuing survey and site visits by Department staff and contractors;
- inputs from NGOs, professional and amateur ecologists.

In all cases, proposed sites are evaluated by scientists within the Department before they are allowed forward for designation. Sites should be at least large enough to provide the physical and semi-natural conditions for the maintenance of a particular habitat. In practice this means that most sites are over 100 hectares in size, although there are exceptions.

Wherever possible the boundaries of sites coincide with identifiable (and mappable) features on the ground or water. On land, these may be fences, hedges, ditches, roads and so on. In the case of boundaries at sea or in large lakes, the boundary may be a straight line between visible markers (headlands, islands etc.). High and low tide marks are sometimes used.

The selection criteria for individual NHA habitat types are being specified. Such requirements will encompass the following:

1. protection of the site will make a significant contribution to the conservation of one or more species (or other biological type) which are considered vulnerable, rare or endangered in Ireland, or in the Atlantic biogeographical region, or which are covered by any relevant international treaty to which Ireland is a party.
2. protection of the site will make a significant contribution to the conservation of one or more species which are protected in Ireland under national or international law.
3. protection of the site will make a significant contribution to the conservation of one or more habitats which are considered vulnerable, rare or endangered, either in Ireland or in western Europe.
4. the site is one of a series selected to represent habitats, or ecosystems which are typical of Ireland.
5. the site is one of a series of sites selected to represent a range of variation of habitats which are typical of Ireland.
6. the protection of the site will, in the judgement of the Geological Survey of Ireland, contribute significantly to the conservation of geological, geomorphological or fossil features.

SACs are chosen subject to criteria laid out in Annex III of the Habitats Directive. Broadly speaking, these are as follows:

1. The importance within Ireland of the site for its habitats or species;
2. How representative is the example of the relevant habitat present on the site (in practice, this means that a suite of sites is selected which encompasses the range of variation found);
3. How isolated is the population of the relevant species on the site (the more isolated the population, the more likely it is to be genetically different from other populations);
4. The intactness of the habitat on the site;
5. Other factors, including the need to ensure a good geographic spread of sites, the total number of habitats and species listed in the Annex to the Habitats Directive present on the site, whether or not there is a priority habitat on the site and whether or not the site contains habitats or species for which Ireland is especially important.

Sites which meet any of the following criteria may be selected as SPAs:

1. A site holding 20,000 waterbirds or 10,000 pairs of seabirds;
2. A site holding 1% or more of the all-Ireland population of an Annex 1 species;
3. A site holding 1% or more of the biogeographical population of a migratory species; or
4. A site is one of the 'n' most suitable sites in Ireland for an Annex 1 species or a migratory species, (where 'n' is a variable which is related to the proportion of the total biogeographic population of a species held by Ireland).

Step 2: Advertise and notify intention to designate site

Where lands are being proposed for designation, or are being designated on foot of earlier proposals, the individual farmer/landowner/user is notified in writing and is sent an information pack on the relevant site. The scientific reasons for the designation are explained to the farmer as well as the prescribed farming conditions and any applicable restrictions. Boundaries of sites are also sent to landowners so they can determine whether their land is located within a conservation area.

It is often not possible to identify every landowner/occupier. So, as well as notifying individuals, proposals for NHAs, SACs and SPAs are advertised in the local newspapers and on local radio. Relevant maps are also displayed for public viewing in the local offices of the National Parks and Wildlife Service, the local offices of the Department of Social Protection, Teagasc / Farm Development Service local offices. Maps are also available for consultation in the local county library as well as local Garda Stations. Sites are legally protected once they are publicly advertised.

A freephone number (1800 40 5000) is available if further clarification is required.

A list of activities that might damage the wildlife interests of the site, and measures required to protect the site is also provided. These potentially harmful activities are called the Activities Requiring Consent or Notifiable Actions.

Step 3: Assess any objection to proposed site

A 3-month period is allowed by law for lodging of objections to a proposal to designate a site for nature conservation.

Objections to a proposal to include land in a site **may be made by those with a legal interest in the site (i.e. an owner or legal user). An objection may also be made by a person with an interest in land outside the site which could potentially be affected by the designation.** Any objection will only be assessed on scientific grounds, i.e. it is shown that the relevant habitats/species/geological features were not present in such a condition as to warrant designation.

A case can also be made for the inclusion of an additional area in a proposed nature conservation site.

In both cases a covering letter accompanied by a map with the relevant area clearly outlined must be lodged within 3 months of publication of the Ministers proposal.

There are two stages to the process:

1st stage: Internal Review

To initiate an internal review of proposals to include a section of land, write to:

NPWS - Site Designation and Plans Unit
Department of Arts, Heritage and the Gaeltacht,
7 Ely Place
Dublin 2

Tel: [01] 888.3265

e-mail: objections@ahg.gov.ie

Alternatively, you may initiate an internal review by contacting your local Conservation Ranger at

http://www.npws.ie/media/npws/images/Contact_numbers.pdf.

All objections must be made in writing **and, where there is a wish to have land excluded,** be accompanied by a good quality map with the boundary of the area relating to the objection clearly outlined. Verbal requests will not constitute registration of an objection.

Most objections are dealt with at internal review stage. At internal review, the local Conservation Ranger may arrange to meet you on site to examine the relevant area. Adjustments to boundaries can only be made on scientific grounds. The outcome of the internal review is issued to you by letter.

Where the outcome of the internal review is not to your satisfaction you may choose to avail of the option to have the case referred to the Designated Areas Appeals Advisory Board for

consideration. The conditions for availing of this option are outlined in the letter advising you of the outcome of the internal review.

2nd stage: Designated Areas Appeals Advisory Board

This option is available only where an objection is unsuccessful at internal review. The landowner will be informed of the outcome of the internal review and if relevant will be given the option of having the objection referred to the Designated Areas Appeals Advisory Board. If the appellant opts to have their appeal sent to the Designated Areas Appeals Advisory Board then both the appellant and the Department are required to produce scientific reports for submission to the Board. Some grant assistance is available for the appellant to engage the services of an ecologist in the production of a scientific report. A list of some independent ecologists who can assist in the production of a scientific report will be provided although the appellant is free to engage the services of an expert other than those listed on the panel. When assessing each appeal the Board must confine itself to consideration of the scientific arguments relating to the specific lands only. Following assessment of the scientific reports from both the Department and the appellant the Board makes a recommendation to the Minister.

The Board is comprised of an independent chairperson and equal representation of landowners/users groups and environmental conservationists.

The Board must confine itself to consideration of the scientific arguments relating to the specific lands only. In this regard, a scientific report from a suitably qualified expert is required. Some grant assistance is available towards an appellant's costs for the expert engaged in the production of a scientific report. A list which details some independent experts who can provide assistance in drawing up the scientific evidence on which it is intended to base the appeal will be provided. An appellant is of course free to engage the services of an expert other than those listed on the panel.

Apart from providing a scientific report to the Board, an opportunity will also be provided to address the Board on the scientific basis of the objection. The Board may also examine the area under appeal at the time of the appeal hearing.

Step 4: Designate site

Special Areas of Conservation (SAC) and Special Protection Areas (SPA) are collectively known as [NATURA 2000](#) sites.

Under the terms of the Habitats Directive, Ireland is required to transmit it's list of SACs to the European Commission for adoption as sites of community importance. Transmitted sites are examined by representatives of other member states, independent scientists and representatives of Non-Government Organisations. The Commission has already adopted 423 Irish sites and this number will rise to 431 when further marine sites are added. The designation process is finalised with the production of a Statutory Instrument for each site.

SPAs are designated without reference to the EU, although the Commission can and does seek to ensure that the total area designated is adequate within the terms of the codified [EU Birds Directive 2009](#). *The designation process for an SPA is completed with the making of a Statutory Instrument for the site.*

NHAs are designated without reference to Europe under the [Wildlife \(Amendment\) Act, 2000](#).

Step 5: Draft Conservation Plan for site

NPWS produces a draft conservation plan for each NHA, SAC and SPA. Each plan lists the wildlife resources of the area, the current human uses, any conflicts between the two, and strategies for retaining the conservation value. This draft document is made available on-line and to interested parties for a consultation period, following which the final version of the conservation plan is completed. It is intended that plans will be reviewed every 5 years. It is expected that these plans will be consulted/referenced during the preparation of

- farm management plans for holdings within and nearby the nature conservation site and
- local authority development plans.

Compensation Provisions

The Minister for Arts, Heritage and the Gaeltacht is committed to the payment of a fair and proper level of compensation to landowners and land users who are at a financial loss as a result of certain restrictions applied further to the designation of Natural Heritage Areas (NHA), Special Areas of Conservation (SAC) and Special Protection Areas (SPA).

Landowners, occupiers or users may seek compensation for losses incurred solely as a result of restrictions imposed on land included in a proposed or designated NHA, SAC or SPA. Applications for compensation can only be considered where an application for consent to carry out works has been refused by the Minister and the activity requiring consent has already been in operation on-site for five years prior to the refusal or curtailment of the works.

Affected landowners, occupiers or users who have had an application for consent refused may appeal against this refusal within, but not later than, 30 days after the date of refusal. Details of the appeals process are available from Site Protection Unit of the National Parks and Wildlife Service (address below).

Any compensation will be based on loss suffered by the applicant as a result of the depreciation of an interest in the land to which he or she is entitled. It should also be noted that any compensation offered will be reduced by the value of any payments that have been made under grant schemes.

Where the amount of compensation, if any, is in dispute, the applicant can apply to the High Court for the appointment of an arbitrator. It should be noted that, in relation to deciding on questions of compensation, the arbitrator will have the power to award costs against either or both parties.

Application for compensation must be made within six months of the date of refusal to grant consent, to:

Site Protection Unit,
National Parks & Wildlife Service,
Newtown Road,
Wexford

Tel: [053] 911.7310

e-mail: designated.bogs@ahg.gov.ie

Details should be provided of the losses incurred as a result of the refusal of consent and the applicant should outline the basis for the calculations.

Documentary evidence of past earnings and the activities that produced these should also be included with the claim.

The material will be examined and if appropriate, an offer of compensation will issue in due course.