



Title: SSSI Denotifications in 2019/20 and 2020/21

Date: 17 March 2021

Purpose:	For Information – the Board is asked to note the denotification work undertaken in 2019/20 and 2020/21.
How does this link with our corporate priorities of improving biodiversity or delivering nature-based solutions to climate change	Denotification work is part of our statutory duties on protected areas. It enables NatureScot to ensure the SSSI series fulfils its purpose by removing land that no longer supports a qualifying natural feature from sites.
Summary:	<p>NatureScot can denotify all or part of a SSSI if the interest of the land has been lost. The partial denotification of three sites was confirmed in 2019/20. In 2020/21 one site has been partially denotified and one site completely denotified.</p> <p>This paper explains the legislative context and process followed for denotification. It also presents a summary of the reasons behind the latest denotification case.</p>
Recommendations:	The Board are asked to note the denotification work.
Report Author(s):	Sarah Hutcheon, John Kerr, Tim Walsh
Sponsor:	Eileen Stuart
Appendices:	Appendix A: Background on denotification procedure

Purpose

1. It is a requirement that the Board of NatureScot are informed of any SSSI denotification work undertaken by staff. This paper presents the denotifications that have been confirmed in 2019/20 and 2020/21.

Denotification work in 2019/20 and 2020/21

2. Since 2004 SNH/NatureScot has denotified 34 SSSIs and carried out 24 partial denotifications of 23 SSSI.
3. We last reported to the Board in May 2019 on denotification work that had been undertaken or started in 2018/19. In that paper we stated that denotification work had been completed on three sites and was underway on a further four. We provided details on the reasons for denotification for each site. We can confirm that the partial denotification of three of these sites (Ballyoukan Juniper Wood; Skolie Burn; Earlshall Muir) was completed in 2019/20. The complete denotification of the fourth site (Correen Hills) was confirmed in June 2020. The table below summarises the reasons for denotification for these sites. To note that all the developments on sites had planning permission.

Site name	Complete or partial denotification	Reason for denotification	Comment
Ballyoukan Juniper Wood	Partial	Land lost to development	Loss of 0.28ha of SSSI area which did not contain any of the Juniper notified feature.
Skolie Burn	Partial	Land lost to development	Loss of 0.75ha of SSSI area that did not affect the notified features.
Earlshall Muir	Partial	Land lost to development	Loss of 5ha of SSSI area.
Correen Hills	Complete	Interest lost	Breeding common gulls no longer use the site.

4. In 2020/21 we have partially denotified one further SSSI (Foveran Links SSSI).
5. The partial denotification of Foveran Links SSSI was taken forward after the construction of the Trump International Golf Links Scotland course on the site. NatureScot staff had undertaken an assessment of the impact of the development on the site and advised that the Menie part of the site no longer warranted SSSI status. NatureScot formally consulted on the proposal to partially denotify the site in 2019. Following a formal representation from TIGLS, it was agreed to refer the proposed denotification to the PAC. The PAC sought independent advice from a sub group of the Scientific Advisory Committee and in November 2020 decided to confirm the partial denotification, after reviewing the evidence from NatureScot staff, the SAC sub group and the TIGLS representation. Formal confirmation of the denotification was issued in December 2020.

Recommendation

6. The Board is asked to note the SSSI denotification work.

Appendix A: Background on denotification procedure

1. The Nature Conservation (Scotland) Act 2004 (section 9) allows NatureScot to denotify SSSIs in whole or part. NatureScot can do this when it no longer considers the affected land to be of special interest for any of the natural features specified in its notification. This provision enables NatureScot to ensure the SSSI series fulfils its purpose by removing land that no longer supports a qualifying natural feature from sites
2. A SSSI must have one or more natural features which meet the criteria laid out in the JNCC [Guidelines for selection of biological SSSI](#) or [Guidelines for selection of earth science SSSIs](#). NatureScot may only propose the de-notification of all or part of a SSSI when we can show that retention of that land within a SSSI cannot be otherwise justified. It could be that it supports none of the natural features for which that site is notified, or the features are still found on the land but at a level that is no longer considered to be of special interest.
3. Before deciding to denotify a site in whole or part, NatureScot must make a proper assessment of the circumstances and consider the options on a site by site basis. In deciding whether any land is no longer of scientific interest, NatureScot must have regard for the extent to which notification continues to contribute towards the development of a series of SSSIs in Scotland representing the diversity and geographic range of the natural features of Scotland, Great Britain and the European Union. The decision to denotify a site should be regarded as the final resort.

Delegated Authority

4. The Board approved the relevant delegated authorities in May 2005 and April 2007. The Director of Nature and Climate Change may approve the notification and confirmation of denotifications where she considers the denotification of all or part of an SSSI not to be significant, and inform the Board. Where a denotification is more significant the Director must use her discretion on whether to refer the denotification to the Protected Areas Committee.
5. The Protected Areas Committee (PAC) must decide whether to confirm a denotification if the case has proved to be contentious; for example, where valid scientific representations have been referred to the Scientific Advisory Committee (SAC).

Denotification procedure

6. Where land has not been lost to development then the following procedure is followed:
 - pre-notification consultation
 - notification, and
 - confirmation

Notification refers to the serving of documents in relation to denotification as well as the creation of SSSIs. The land only ceases to be part of a SSSI from the date of confirmation.

7. If land within a SSSI has been permanently damaged as a result of an authorised operation, it can be denotified using the provisions of section 9(5) of the 2004 Act. These provisions apply if the public body that authorised the damaging operation (for example the construction of a house) consulted NatureScot in accordance with the relevant legislation when considering the original application.

8. Under this provision, the denotification of the land takes effect from the date of the initial denotification letter. The interested parties are not given 3 months in which to make scientific representations to the denotification, and the initial proposal to denotify does not need to be confirmed. This is on the basis that full consideration of the effects of the development will have been made when it was approved and the reason for notification of the land has been permanently lost.