

Walshaw Moor, South Pennines

RSPB complaint to the European Commission – further submission 2014

Summary

The RSPB's complaint

In October 2012, the RSPB submitted a complaint to the European Commission concerning decisions by Natural England (NE) in March 2012 over the management and protection of the part of the South Pennine Moors owned and managed by the Walshaw Moor Estate Limited (WMEL). The RSPB considered those decisions, taken on behalf of the UK Government, were in breach of the requirements of the European Habitats Directive and Birds Directive to protect the special wildlife of the South Pennines. A briefing summarising the RSPB's original Complaint can be found [here](#). They related to the SSSI Consent 2012 (dated 1 March 2012) and the dropping by NE of its prosecution of WMEL in March 2012.

Just before its decisions in March 2012 affecting Walshaw Moor, NE decided to abandon implementation of its vision for the English uplands (February 2012), and announced its intention to conduct a review of upland evidence as part of a wider Upland Delivery Review Programme. In May 2013, NE published 5 topic-based evidence reviews, **including** reviews on restoration of degraded blanket bog (NEER003) and the effects of managed burning on upland peatland biodiversity, carbon and water (NEER004) (<http://www.naturalengland.org.uk/ourwork/uplands/default.aspx>). The reviews are now being used by NE to 'refresh' guidance for advisors and land managers.

The UK Government's response

In March 2013, the UK Government responded to the European Commission's questions relating to the RSPB's complaint. A copy of the UK Government's reply can be found [here](#). The RSPB considers the UK Government's response fails to address both the strategic and detailed components of the RSPB's Complaint. No evidence is provided to counter the RSPB's analysis and criticisms of NE's actions and its consequences for the integrity and favourable conservation status of the South Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA).

In answering the Commission's questions, the UK Government also accepted that, outside of the Walshaw example, grouse moors are the only places in England with NE's permission to burn blanket bog on those SACs and that some of these permissions are funded by EU agri-environment money. The UK Government made a commitment to the Commission to carry out a review of these permissions following completion of NE's Upland Evidence Review (see above).

The RSPB's commentary on the UK's response

Below is a summary of our recent response to the Commission commenting on the UK's answers. Much of this analysis is based on information provided to the RSPB by NE during 2013, as we tried to better understand the UK's answers.

Information relating to the RSPB's Complaint on Walshaw Moor

Burning of blanket bog

In the summary of the RSPB's original Complaint, we set out that blanket bog is a climax habitat and burning vegetation on deep peat soils or draining it prevents the recovery of the habitat and the species of these protected sites – basically burning and draining are incompatible with restoring degraded blanket bog to favourable condition. Natural England's recent Upland Evidence Review supports the RSPB's position on the

incompatibility of burning with restoration and maintenance of blanket bog habitats (see NE Upland Evidence Review, [Glaves et al \(2013\)](#)).

It is interesting to note that nowhere in the UK's response did it disagree with the Commission's view that burning of degraded blanket bog will prevent it from recovering. The UK provided no evidence to show that recovery to favourable status is possible when blanket bog is burned. Under the SSSI Consent 2012, approximately 1,423 ha of SAC/SPA active and degraded blanket bog on land managed by WMEL is allowed to be burned, preventing it from recovering to favourable status (see Map A below). Based on National Soil Resource Institute data, a further 359 ha of the 514 ha mapped by NE as "indicative dry heath" (and subject to more frequent burning) overlays deep peat soils, meaning it is in effect degraded blanket bog in need of restoration. Being treated as "dry heath" means there is a risk that Higher Level Stewardship (HLS) money could be acting to prevent it being restored to active blanket bog.

Even more intensive burning and drainage is permitted around individual grouse butts, potentially leading to greater damage to significant areas of active/degraded bog (c60 ha), and in some of the sensitive areas where burning should not be permitted (c32 ha).

The RSPB welcomes the agri-environment agreement for a drain blocking programme to re-wet and restore areas of drained blanket bog. However we consider the effectiveness in restoring blanket bog to favourable condition will be compromised within those areas where burning continues thus potentially wasting public money.

The dropped prosecution

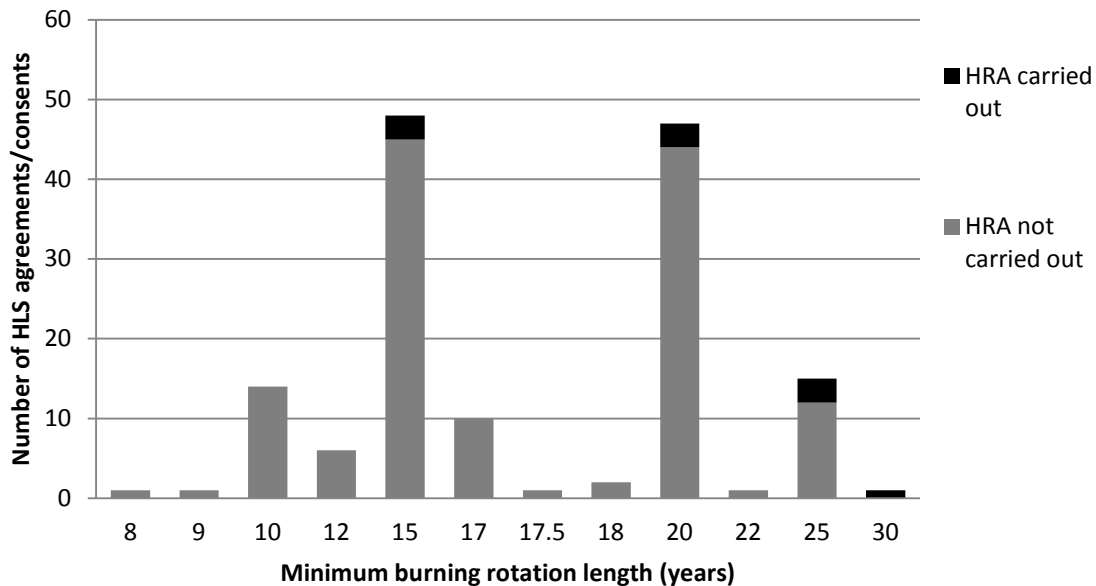
We also criticised the dropping of the prosecution and the resulting failure to take appropriate steps to rectify the damage caused by the alleged offences. The information provided by the UK Government confirms that NE had charged WMEL with a total of 45 offences. The number of alleged offences appears unprecedented in recent times and reinforces the seriousness with which NE had been taking the case. The information obtained by the RSPB from NE has shown there will be no restoration of the majority of damage to protected SAC/SPA habitats caused by infrastructure (drainage, tracks, car parks, ponds, grouse butts). The UK told the Commission that all 30 incidents of artificial drainage will be restored using agri-environment money. But the RSPB could find only 2 of those drains ear-marked for restoration in the HLS drain blocking programme.

Wider issues relating to blanket bog management on SACs and SPAs in England

In addition, the RSPB has gathered evidence to better understand the UK's answers in respect of the management of blanket bog on other upland SACs and SPAs in England. These answers did confirm that grouse moors were the only places with consent to burn blanket bog habitat in English SACs. The RSPB is not sure whether Walshaw represents a particularly intensive example or if it is typical of the historic agreements and consents from Natural England for burning of blanket bog habitat that appear to be routine on grouse moors in English blanket bog SACs.

From information provided by NE (consents up to April 2013), we estimate that there are 147 separate burning rotations allowed through 127 separate HLS agreements or consents which includes burning on blanket bog (see Figure 1).

Figure 1
Minimum burning rotations authorised by Natural England HLS agreements¹ or consents (with or without a Habitats Regulations Assessment (HRA)) on blanket bog within SACs and SPAs in England (to April 2013).



Of the 127 consents, some 117 are through HLS agreements. These 127 agreements/consents affect 7 SACs² (all designated for blanket bog) and 4 SPAs³. Only 9 of the above agreements were subject to an appropriate assessment, all since March 2012. An as yet unknown amount of agri-environment money is being used to support this damaging management practice across extensive areas of deep peat soils within the 7 SACs.

The 7 SACs with burning consents contain nearly 127,000 ha of deep peat soils (National Soil Resources Institute data) that should be managed to ensure the blanket bog it contains is in a favourable status (see Map B). Our analysis shows that SSSI units with HLS Option HL12 (a top up payment supporting, among other things, burning) cover nearly 94,000 ha (or 74%) of the deep peat soils in those SACs. The UK Government committed to review those consents once NE had completed its upland evidence review. That evidence review is now complete.

RSPB
March 2014

¹Some agreements are counted twice, because they specify different rotation lengths for different circumstances (e.g. according to whether blanket bog is active or degraded or altitude).

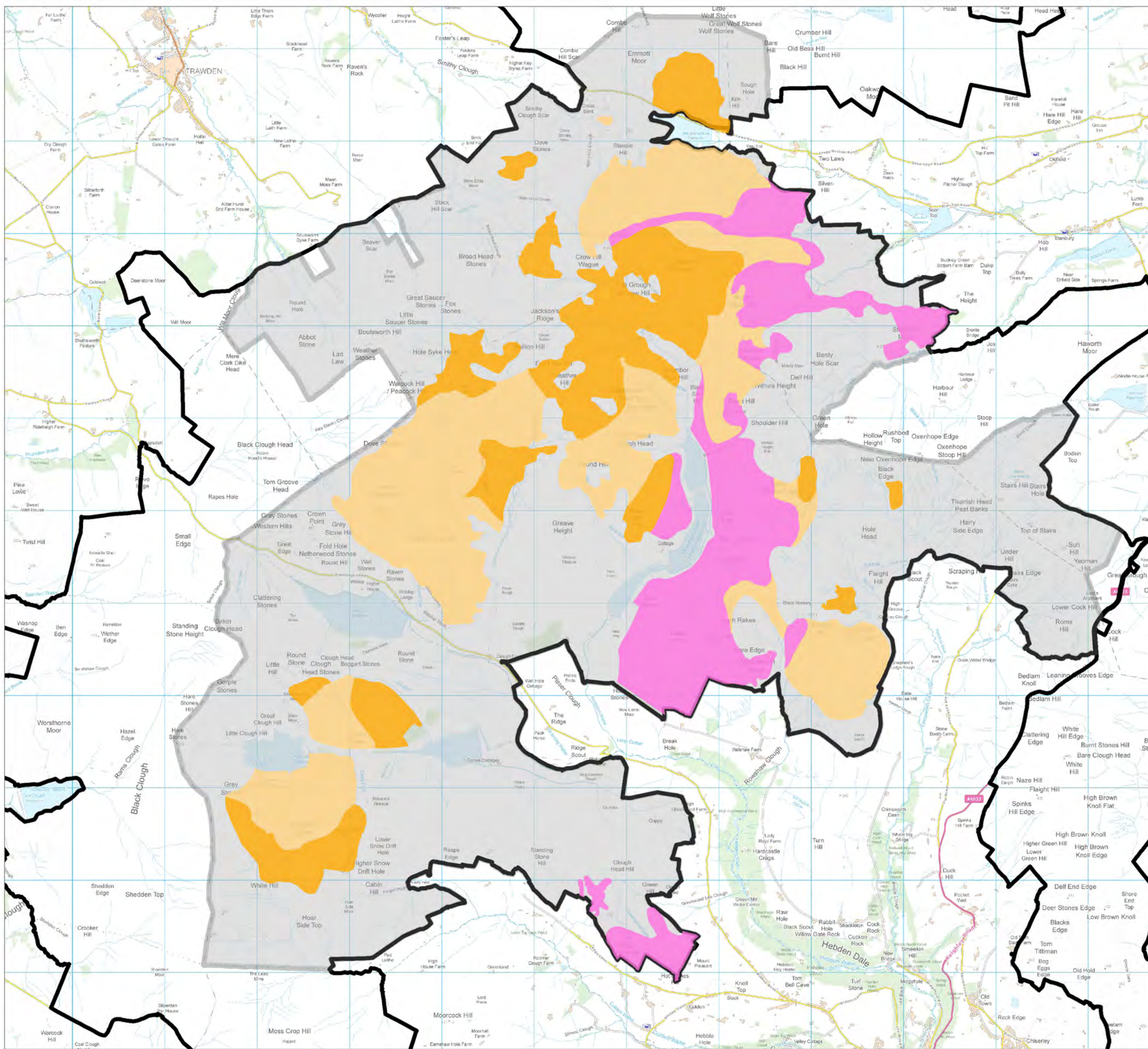
²The 7 SACs (all designated for blanket bog) are: Border Mires, Kielder-Butterburn; Ingleborough Complex; Moor House - Upper Teesdale; North Pennine Moors; North York Moors; Simonside Hills; South Pennine Moors.

³The 4 SPAs are: Bowland Fells; North Pennine Moors; North York Moors; South Pennine Moors.

Map A - Areas on the Walshaw Moor Estate within which burning can take place under the burning section of the SSSI Consent dated 1 March 2012 issued by Natural England, by habitat type

Legend:

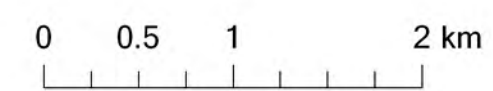
-  Burning Consent on Active Blanket Bog
-  Burning Consent on Degraded Blanket Bog
-  Burning Consent on Indicative Dry Heath
-  Walshaw Estate (approx.)
-  South Pennine Moors SAC

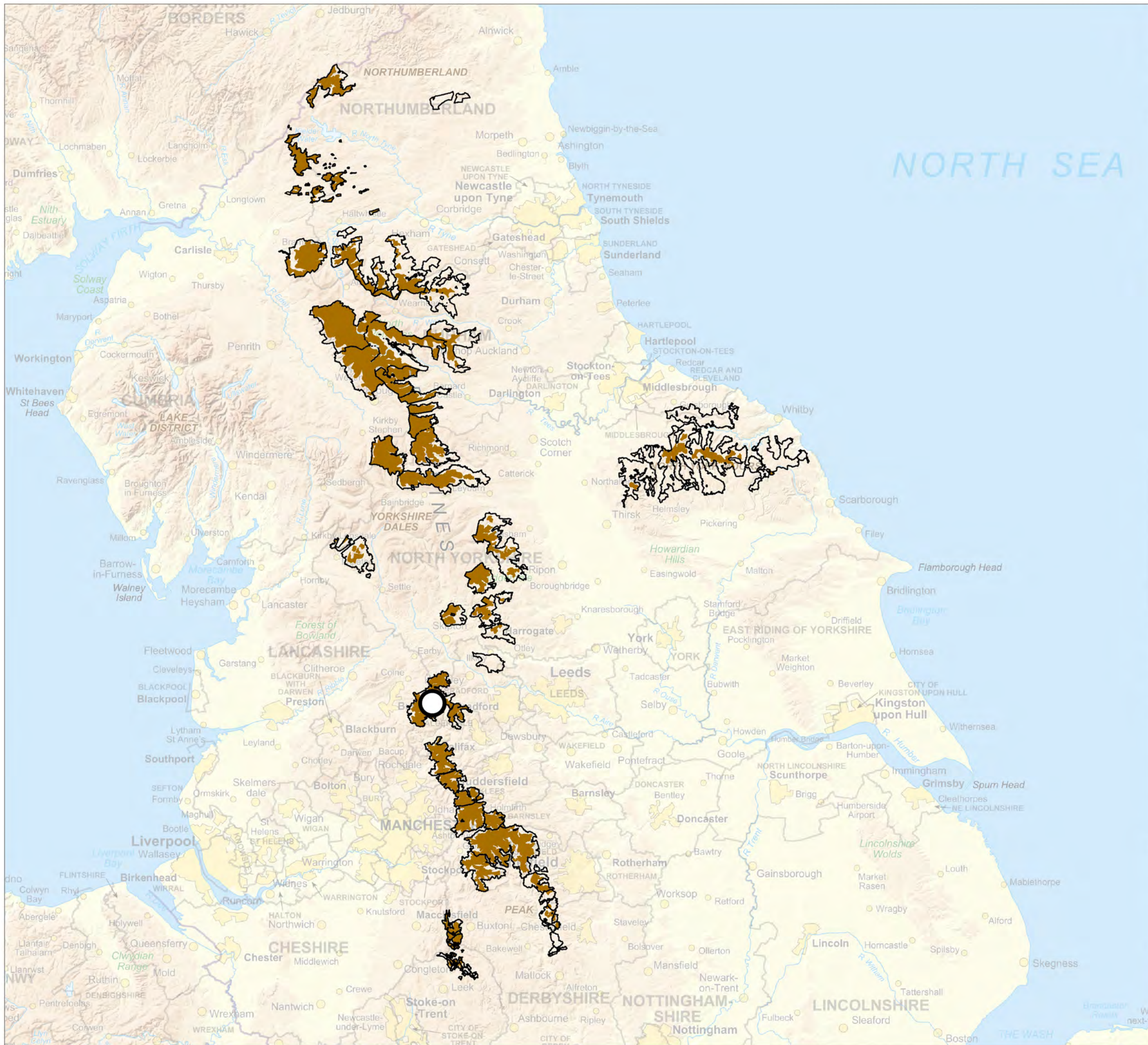


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

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Map B - Distribution of deep peat soils in Special Areas of Conservation in England where Natural England has granted consent for burning blanket bog in some part

Legend:

-  Location of Walshaw Estate
-  Blanket bog SACs in England (where SSSI consent has been granted by Natural England for burning blanket bog on some part)
-  Deep peat soils

SACs where underlying SSSI has consent to burn blanket bog:

- Border Mires, Kielder-Butterburn
- Ingleborough Complex
- Moor House-Upper Teesdale
- North Pennine Moors
- North York Moors
- South Pennine Moors
- Simonside Hills

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