



## **BADGER POLICY GUIDANCE NOTE: MARCH 2007**

PLANNING & DEVELOPMENT SERVICE - THE HIGHLAND COUNCIL

### **1 Purpose & Importance**

**1.1** This policy guidance note is intended to establish good practice in relation to pre-application, design statements, design/planning briefs and outline and detailed planning applications for development proposals in areas where there is a potential to impact on badgers. It has been formulated jointly by officials of The Highland Council (THC) and Scottish Natural Heritage (SNH).

**1.2** This guidance was approved by the City of Inverness and Area Planning (Policy) Development Europe and Tourism Committee on 19 March 2007 as supplementary planning guidance for the Inverness Area and is therefore a material planning consideration in the determination of relevant planning applications.

**1.3** It follows on from the commissioning by THC, SNH and developer interests of the 2003 Inverness Badger Survey, which recommended that a strategic policy response was required to the badger issue. This was based on the premise that badgers are found throughout the open spaces within the city as well in neighbouring countryside but that these populations are vulnerable to development pressures. At present each development proposal is considered in isolation and there is no strategic approach to safeguard the badger interest or to identify effective mitigation measures for developers.

**1.4** This policy note will streamline the planning application process where badger interests are an issue by providing greater clarity and certainty for developers as to what is required from them by the Planning Authority and SNH.

### **2 Legal Background**

**2.1** Badgers are protected in UK law under the Protection of Badgers Act 1992. This is based primarily on the need to protect badgers from baiting and deliberate harm or injury. Interference with badger setts is an offence if there is damage, disturbance, destruction, or obstruction to/of setts. Exceptions to these provisions are permissible provided a licence has been issued by SNH for planning reasons however it should be stressed that licences are issued as a last resort and only after all other options for mitigation have been exhausted. For more information please refer to the guidance note entitled badgers, the law and licensing.

**2.2** The Act defines a “badger sett” as “any structure or place which displays signs indicating current use by a badger”. SNH define that “current use” for their licensing purposes means “any sett within an occupied badger territory regardless of when it may have last been used.”

**2.3** However, the Act makes no reference to impacts on badgers that may be caused by loss of foraging areas or other reduction in the “useable” size of their social group territory.

**2.4** Badgers are not a European Protected Species nor is their preferred habitat for foraging (improved pasture) listed as a protected habitat under the EC 92/43/EEC Habitats Directive.

### **3 Badger Ecology and Relevant Survey Findings**

**3.1** Badgers live in social groups which are effectively extended families. The size of a social group is dependent on habitat and availability of food but generally there are 4-6 adults per group.

**3.2** Badgers are very territorial and social groups have distinct territories which they defend. Within their territory they will have a number of setts. These setts can be categorised according to their use. However, each social group will have a main sett and a number of annex and satellite setts.

**3.3** The size of the territory is dependent on a number of factors especially the availability and density of food. Badgers eat a wide variety of food but their key foraging resource is earthworms. Therefore, they rely heavily on short grassland, for example grazed or mown grassland, for foraging. Improved pasture is especially valuable foraging land for badgers. The loss of such feeding areas can have a significant impact on the viability of a social group.

**3.4** The Inverness Badger Survey 2003 noted that the importance of a social group’s foraging territory should be considered as part of development proposals and foraging ground should be protected and enhanced where possible. The Survey also stated that if this is not possible then suitable foraging habitat should be created elsewhere.

**3.5** Further information about badger ecology is available in the best practice that will accompany this Note and also in SNH’s ‘Badgers and Development’ and ‘Naturally Scottish – Badgers’ publications and the Inverness Badger Survey 2003.

## **4 National & Highland Planning Policy**

**4.1** National Planning Policy Guideline 14: Natural Heritage, states (paragraph 20) that: “The presence of a protected species or habitat is a material consideration in the assessment of development proposals.”. Paragraph 71 goes on to urge local plans to “provide for the conservation of biodiversity and the protection and enhancement of the natural heritage outwith designated areas”.

**4.2** Paragraph 74 sets out the negotiation process that planning authorities should follow when discussing development proposals: “authorities should first seek to avoid any adverse effects on the natural heritage. Where this is not possible and other material considerations clearly outweigh any potential damage to the natural heritage, they should endeavour to minimise and mitigate the adverse effects and consider the scope for compensating measures. They should always encourage the retention and enhancement of features of natural heritage interest and seek to avoid the fragmentation or isolation of habitats.”

**4.3** The Nature Conservation (Scotland) Act 2004 introduces a new general duty on all public bodies, including THC, to further the conservation of biodiversity. It also updates the provisions of the existing Protection of Badgers Act 1992 in order to increase penalties for offences such as badger baiting and disturbance of setts.

**4.4** The Highland Structure Plan, approved by Scottish Ministers in March 2001 contains no direct reference to nationally identified protected species. However, Policy G2 states that “Proposed Developments will be assessed on the extent to which they...impact on the following resources...particularly within designated sites...habitats...species...”. Policy N4 adds that: “In respect of habitats and species, The Council will have regard to Local Biodiversity Action Plans...in the consideration of development proposals.”

**4.5** The Inverness and Nairn Biodiversity Action Plan (September 2004) establishes badgers as a local priority species although the badger is not listed as a national priority species by the UK Biodiversity Steering Group. Farmland which comprises the broad preferred habitat type for badger foraging is not listed as a national priority habitat although certain types of farmland are identified as local priority habitats.

**4.6** The Inverness Local Plan (Adopted March 2006) contains a cross reference to the local bio-diversity action plan (GP22) and a general policy GP23 which covers habitats and species (but not badgers). However, Policy 46 provides specific guidance:

“Development of Expansion Areas and management of “Green Wedges” will be informed by a comprehensive survey of Badger activity on the urban fringe and into the A96 corridor. This will provide a basis for measures aimed at minimising disturbance to the species and its habitat.”

## 5 Policy Statement

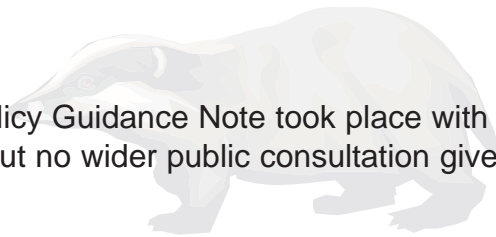
**5.1** Aim of Badger Strategy – THC will aim in processing planning applications within the area defined in Figure 2 to safeguard both the number of badger social groups and existing development allocations.

**5.2** Reconciling Competing Priorities - THC recognises that this aim will be difficult to achieve in a number of instances. In order to provide objective guidance about when and how to reconcile any conflict between badger and development interests, THC will apply the procedure outlined in Figure 1 in the processing of applications in the area defined in Figure 2.

**5.3** Where a Badger Protection Plan is required it should follow the best practice format set out in the guidance that accompanies this Note. In particular, the Badger Protection Plan should address not only the impact on the badger social group that is directly affected by the application but also any knock-on effects that the proposal and any proposed mitigation measures may have on neighbouring social groups. Developers are encouraged to consider cumulative impacts and discuss and co-ordinate their Badger Protection Plans and proposed mitigation with adjacent owners/developers.

## 6 Consultation

**6.1** Consultation on this Policy Guidance Note took place with owners and developers of relevant development sites but no wider public consultation given its technical nature.



## 7 Further Best Practice Advice

**7.1** Further advice is available on the following topics. These do not form part of THC policy but are issued with this Note to offer further best practice guidance.

- \* Best practice model Badger Protection Plan (BPP) guidance note
- \* Best practice badger survey guidance note
- \* Managing land as a foraging resource for badgers
- \* Guidance for the creation of artificial setts
- \* Badgers, the law and licensing
- \* Guidance for home-owners

## 8 Relevant Publications

Naturally Scottish Series: Badgers: Scottish Natural Heritage  
Scotland's Wildlife: Badgers and Development: Scottish Natural Heritage  
Inverness Badger Survey 2003: Dr Peter Reynolds & Mike Harris: Scottish Natural Heritage Commissioned Report F02LE01.

**PLANNING APPLICATION  
LODGED / CONSIDERED**

The applicant should assess:  
Is the application/proposal area greater than 1 hectare in isolation  
or in combination with neighbouring applications/proposals, and;  
is it within the boundary defined on Figure 2?

NO

YES

Appoint badger surveyor to assess need for  
badger survey

Is a badger survey  
required?

NO

YES

Complete a badger survey and, if  
appropriate, complete a Badger Protection  
Plan.

Liaise with THC & SNH

Can **all** of the following primary objectives be met by the application/proposal?

No loss of land area  
allocated for expansion /  
development in the adopted  
local plan

No impact on any  
badger sett

No net loss of the  
quality / quantity of  
the social group's  
foraging land

YES

NO

Can **all** of the following secondary objectives be met by the application/proposal?

No loss of development  
capacity (via amended  
layout) from allocated  
adopted plan sites

Retention of main  
sett

No net loss of foraging  
sufficient to reduce  
existing badger numbers

YES

NO

Is it likely that a satellite or annexed sett will be successfully used or can alternative, more  
productive foraging be found or created within the social group boundary that will be  
sufficient to support a viable social group?

YES

NO

Will the creation of an artificial sett:  
a) within the development site or;  
failing that b) within the social group boundary; ensure  
a viable social group?

YES

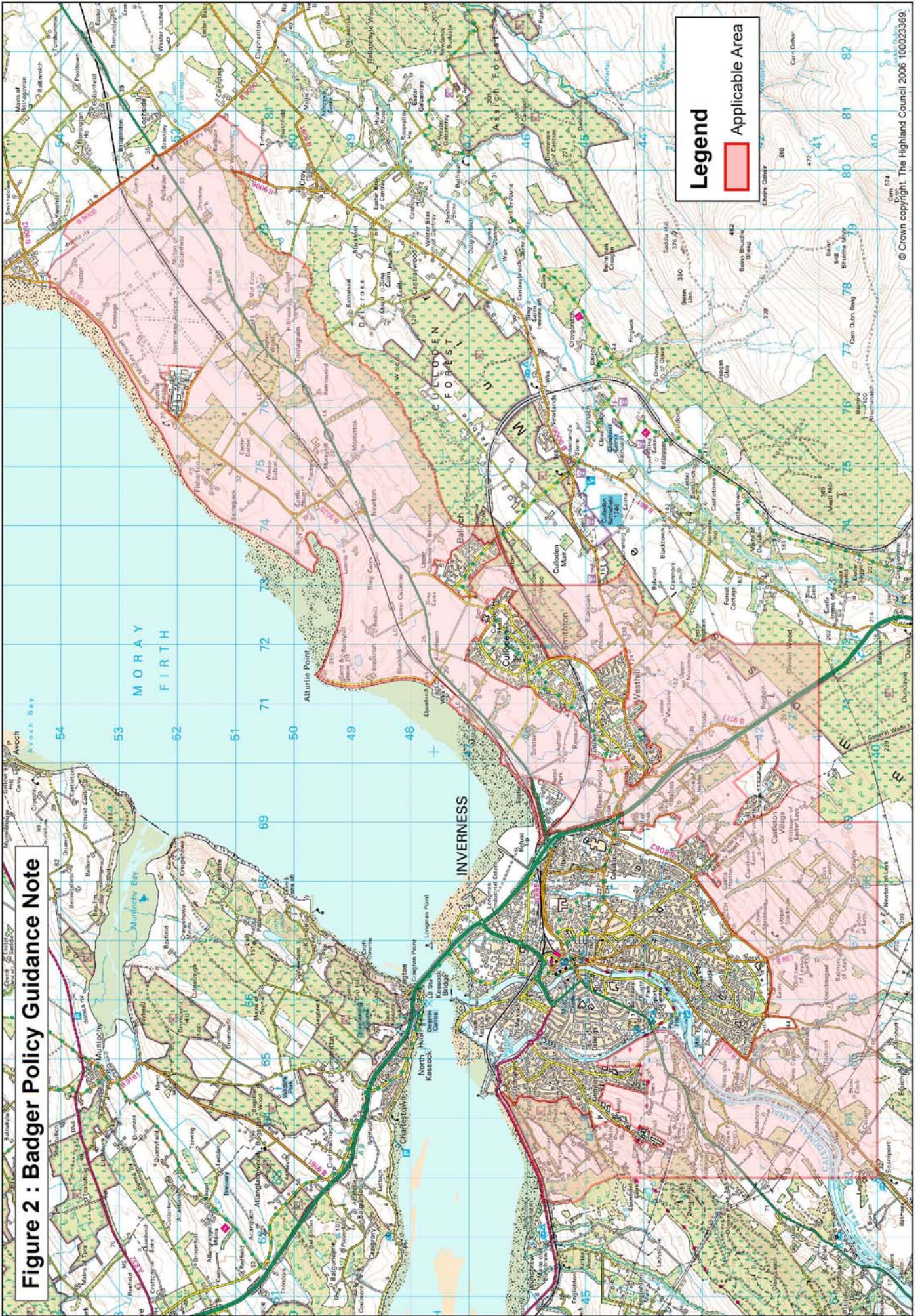
NO / Not applicable

**NO SATISFACTORY MITIGATION OF THE BADGER IMPACT IS POSSIBLE  
AND THERE IS LIKELY TO BE SIGNIFICANT IMPACT ON SOCIAL GROUP WELFARE :  
DETERMINE ANY APPLICATION : INFORM COMMITTEE ACCORDINGLY**

**BADGER INTEREST ADDRESSED  
(LODGE) PROCESS AND DETERMINE  
APPLICATION**



Figure 2 : Badger Policy Guidance Note



**Legend**  
[Red shaded area] Applicable Area