

Dounreay Planning Framework 2

Habitats Regulations Appraisal

Final Record

March 2015

**(as submitted to Scottish Ministers in March 2015;
also as accompanying DPF2 as subsequently adopted in April 2015)**



Foreword

This document has been prepared under the requirements of the EU Habitats Directive and has applied the requirements set out by Scottish Government Policy in the Conservation (Natural Habitats, &c.) Regulations 1994 as amended.

It is the Highland Council's responsibility to consider whether the policies and proposals within the Dounreay Planning Framework 2 are likely to have any significant effect on Special Protection Areas (including potential SPAs), Special Areas of Conservation (including possible and candidate SACs) and Ramsar sites, having regard to the qualifying interests and conservation objectives of those sites.

Where a likely significant effect has been identified, either individually or in combination with other plans or projects, appropriate assessment has been undertaken and mitigation measures provided to reduce the likely significant effect and avoid adversely affecting the integrity of the site. This has involved incorporating mitigation and making changes to the Dounreay Planning Framework where necessary.

During the preparation of this document and the consideration of relevant representations on the Dounreay Planning Framework 2 (DPF2), The Highland Council has had early engagement and discussions with and input from Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA) which have helped identify and address any potential effects. In addition, data provided by SNH has been referred to in order to identify the need for and inform the definition of mitigation measures. Mitigation measures and relevant changes have been developed in conjunction with SNH or SEPA where appropriate.

A Habitats Regulations Appraisal draft record was prepared in association with an early draft of DPF2. Mitigation identified in the draft record was subsequently incorporated into the formal Consultation Draft DPF2 and public consultation on that was undertaken from 15 November 2013 to 16 January 2014.

Following the consideration of comments received on Consultation Draft DPF2, modifications were made to DPF2. The Habitats Regulations Appraisal Draft Record was therefore revisited in consultation with Scottish Natural Heritage and this Final Record prepared prior to adoption of DPF2 as a statutory part of the Development Plan.

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1. Introduction and Context

- 1.1. In October 2005 the European Court of Justice¹ ruled that all land use plans in the United Kingdom likely to have a significant effect on European sites (Natura sites), either Special Protection Areas (including proposed SPAs) or Special Areas of Conservation (including possible and candidate SACs), can only be approved after an appropriate assessment of the policies and proposals has been undertaken under the provision of Article 6(3) of the Habitats Directive 1992². The Directive states that 'any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives'. The directive goes on to say that the plan shall only be agreed if there is no adverse effect on the integrity of any European site after mitigation is considered.
- 1.2. Scottish Ministers have extended the requirement for appropriate assessment to Ramsar sites listed under the International Convention on the Conservation of Wetlands of International Importance, and to proposed SPAs and candidate SACs before they are fully classified. Hereafter in this appraisal, the term 'Natura site' should be taken as not only referring to SPAs and SACs but also to proposed SPAs, candidate SACs and Ramsar sites.
- 1.3. The purpose of this Habitats Regulations Appraisal (HRA) record is to consider whether the elements of the Dounreay Planning Framework 2 are likely to have a significant effect on any Natura site, either individually or in combination with other plans or projects. For those elements that would have a likely significant effect, an appropriate assessment would need to be carried out to ascertain whether the planning framework would not adversely affect the integrity of these sites. Where it is not possible to ascertain that no adverse effects will occur, the plan cannot be adopted except in the most exceptional of circumstances as defined in law.
- 1.4. The HRA record includes mitigation identified as necessary to include in the plan. The assessment concludes that with appropriate safeguarding and mitigation that has been added to the development framework, the Dounreay Planning Framework 2 will not have a likely significant effect on any Natura site and therefore will not adversely affect the integrity of any Natura site. The record ends by identifying that all elements of the development brief as finalised, are not likely to have a significant effect on a Natura Site.
- 1.5. The HRA Record will be placed on the Council's website alongside the Dounreay Planning Framework 2.
- 1.6. It must be advised that this HRA record has been compiled using the best available information, and any subsequent planning applications will require further assessment to ensure that the integrity of Natura sites will not be adversely affected. This is a requirement of Policy 57 of the Highland-wide Local Development Plan which must be read alongside any relevant area Local Development Plan, any retained in force elements of any adopted Local Plan and all the relevant supplementary guidance.

¹Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, Case C. 6/04 in the second chamber of the European Court of Justice, judgment 20th October 2005

²Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora.

2. Aims and Objectives of the Dounreay Planning Framework

- 2.1. The [Highland-wide Local Development Plan](#) (HwLDP) contains the parent policy to which the Dounreay Planning Framework 2 is giving additional guidance. This parent policy has been subject to Habitats Regulations Appraisal through the [Habitats Regulations Appraisal of the Highland-wide Local Development Plan](#). In that HRA the policy was screened out as not having a likely significant effect but it was noted that, “No revised Framework Plan has been produced to date. Therefore an appropriate assessment if necessary will have to be undertaken prior to adopting any new Framework Plan.”. The parent policy is set out below:

Policy 24 Dounreay

The Council will support proposals which meet the requirements of the updated Planning Framework for Dounreay. This document is being prepared by the Council in partnership with Dounreay Site Restoration Limited and will be adopted as Supplementary Guidance to this Plan.

The main principles of the Dounreay Planning Framework will be:

- the timely, safe and environmentally acceptable decommissioning, restoration and after-use of the Dounreay site;
- phasing through to the interim end point, setting out the developments required for decommissioning and restoration towards achieving the site end state, including new build, adaptation, demolition and remediation;
- sufficient flexibility to respond to changing constraints whilst not placing undue restrictions on the site operator;
- indication of potential new interim uses and end uses for parts of the site in support of economic regeneration of the area;
- and developer requirements as set out in Appendix 5 of the Revised Environmental Report of the plan, relating to Policy 24: Dounreay. The Council will work with the Nuclear Decommissioning Authority towards the early identification of opportunities for the economic reuse of existing Dounreay facilities and land.

- 2.2. The document will be used by the Highland Council when considering Dounreay’s planning applications and to regulate and control future decommissioning and restoration proposals. It is intended that the DPF2 will be Supplementary Guidance (SG) to the Highland-wide Local Development Plan (HwLDP) and will be part of the development plan to assist the Highland Council in making decisions on future planning applications. It is based upon the principles set out in Policy 24 of the HwLDP.
- 2.3. The area covered by the planning framework extends to 92.9ha and is an area which is currently subject to decommissioning from its former use as a nuclear power research site. There is limited population in the area directly covered by the planning framework.
- 2.4. This Habitats Regulations Appraisal (HRA) considers all the elements set out in the development framework. Where a planning application for development gives rise to likely significant effects on a Natura site beyond the scope of that considered in this HRA, an appropriate assessment will be required to be undertaken as set out in Policy 57 of the Highland-wide Local Development Plan. This could include development

proposals on sites allocated in the LDP (giving rise to potential effects that were not foreseen in this HRA) and development proposals on sites not allocated in the LDP (giving rise to potential effects beyond those considered for the policy framework in this appropriate assessment).

2.5. The Dounreay Planning Framework 2 can be viewed online at:

http://www.highland.gov.uk/info/178/local_and_statutory_development_plans/201/planning_guidance_for_particular_developments/3

3 Background Information about European Sites

3.1 The area covered by the Dounreay Planning Framework 2 corresponds with the Dounreay allocation in the Highland-wide Local Development Plan and contains no Natura sites, however there may be connectivity with a small number of Natura sites. Each of these Natura connected sites that may be affected have been screened to determine the likelihood of being directly or indirectly affected by the development framework. In the case of the Dounreay Planning Framework 2, the following sites are in close proximity to the development framework area; Map 1 on Page 8 shows these :

Table 1: All Natura Sites in proximity of the Dounreay Planning Framework 2

<u>Special Areas of Conservation (SAC)</u>	
Broubster Leans	River Thurso
Caithness & Sutherland Peatlands	
<u>Ramsar Sites</u>	
Caithness Lochs	Caithness & Sutherland Peatlands
<u>Special Protection Areas (SPA)</u>	
Caithness Lochs	North Caithness Cliffs
Caithness & Sutherland Peatlands	

3.2 In agreement with SNH the Natura Sites listed below have been screened out of the Habitats Regulations Appraisal as there is no link or pathway between the qualifying interests and the development brief area, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives of the site:

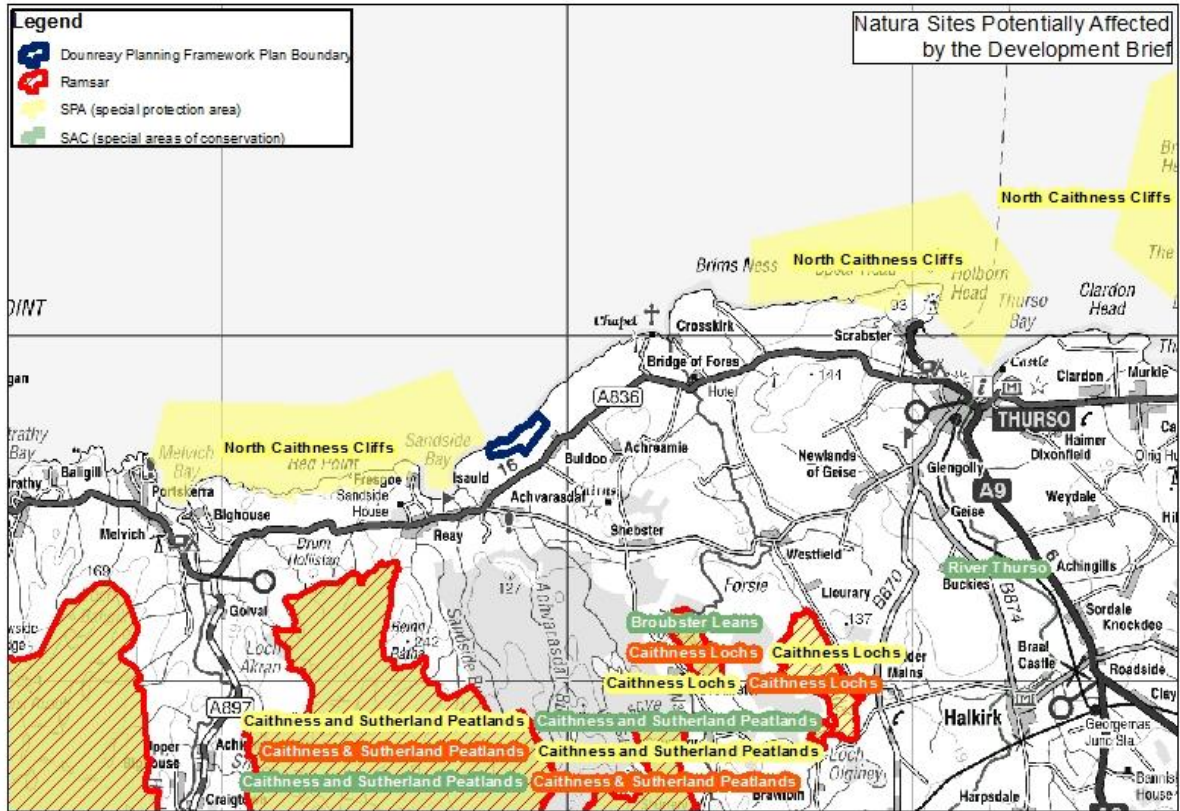
Table 2: Natura Sites screened out as there is no link or pathway between the qualifying interests and the Dounreay Planning Framework

<u>Special Areas of Conservation (SAC)</u>	
Broubster Leans	River Thurso
Caithness & Sutherland Peatlands	

3.3 For full details of the Natura sites located near to the development framework area, please see SNH's 'Sitelink' web application and interactive map:

<http://gateway.snh.gov.uk/sitelink/index.jsp>

<http://www.snh.org.uk/snhi/>



Map 1: All Natura Sites in proximity of the Dounreay Planning Framework 2

4 Methodology for Assessment

- 4.1 After consulting the [Habitats Regulations Appraisal of Plans – Guidance for Plan-making Bodies in Scotland](#) provided by Scottish Natural Heritage (SNH), the following methodology was established.
- 4.2 Highland Council worked closely with SNH to carry out this appraisal, gaining the background information regarding qualifying interests and conservation objectives of Natura sites required to conduct an effective appropriate assessment. SNH have also been consulted regarding the wording of elements of the guidance and the mitigation measures for any potential adverse effects on site integrity to ensure that the mitigation measures provided are tailored to the conservation objectives and qualifying interests.
- 4.3 All Natura sites potentially affected by the Dounreay Planning Framework 2 have been identified and mapped. The mapping is included within the Highland-wide Local Development Plan (2012) Proposals Map but the Council has also checked for, and made sure that it has used for purposes of this HRA, up-to-date information. The elements of the planning framework have been screened both individually and if appropriate cumulatively to determine the possible effects that may arise due to their implementation. Where elements of the planning framework have been identified as having no effect or are unlikely to have a significant effect, these have been detailed and reasons for this have been given. If it was not possible to rule-out significant effect, straightforward mitigation was identified and added to that element of the planning framework. Where this occurred, that element was then rescreened (see Table 3). Any remaining elements of the planning framework likely to have a significant effect have been identified as requiring an appropriate assessment.
- 4.4 Likely significant effect is defined as any effect that may reasonably be predicted as a consequence of a plan or project that may undermine the conservation objectives of the features for which the site was designated.
- 4.5 Paragraph 211 of the Scottish Planning Policy (2014) notes that Ramsar sites are also Natura 2000 sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes. The two Ramsar sites identified in Table 1 above are both also SPAs. However a qualifying feature for Caithness and Sutherland Peatlands Ramsar is Greylag goose (breeding), which is not a qualifying feature for Caithness and Sutherland Peatlands SPA. This is designated for 12 other breeding bird species. Allowing for this, Ramsar interests have been considered alongside their equivalent SPA for the purposes of this assessment and also documented together within this report. As a result, the Ramsar interests should be adequately protected by consideration of the effects on their ‘partner’ SPA site in line with the advice given in paragraph 1.12 of the Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland.
- 4.6 The following table summarises the elements of the plan screened in this Habitats Regulations Appraisal and the outcome (see key below for colour coding):

Table 3. Summary of the elements of the Dounreay Planning Framework 2 screened out

Name of Supplementary Guidance	Element Screened	Outcome of Screening
Dounreay Planning Framework 2	About this guidance	See Table 4
	Background	See Table 4
	Planning Policy Framework	See Table 4
	Dounreay Site Planning Application Strategy	See Table 4
	The Dounreay Site	See Table 5

	Restoration Programme	
	The Dounreay Site Decommissioning Works	See Table 4
	Environmental Protection During Decommissioning and Restoration Works	See Table 4
	Socio-Economic Benefits of Decommissioning	See Table 4
	Developer Requirements	See Table 4
	The Way Forward	See Table 5

Key:

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

5 Screening of elements of the supplementary guidance for likely significant effects – (a) no mitigation required

5.1 Discussions with SNH took place to screen out the elements of the Dounreay Planning Framework 2 that would not be likely to have a significant effect alone on Natura sites noted in Section 3 (above). As a result, the elements (detailed in Table 3) of the supplementary guidance screened out are listed below, along with a brief explanation of the reasons for this.

Table 4. Elements of the Dounreay Planning Framework 2 screened out individually as having no effect on Natura sites, or any effect is too general to assess

Section Title	Description of Section	Reason(s) for 'screening out'
About this guidance	This section sets out how the document will be used once it is adopted, how the document has been prepared and the main principles of the development framework.	This section of the guidance is too general and is introductory in nature.
Background	This section provides some planning history for the site, explains the role of the original Dounreay Planning Framework and sets out the reasons for and benefits of updating it.	This section of the guidance is too general and is introductory in nature.
Planning Framework Policy	This section sets out the policy framework that has influenced the production and content of the guidance.	This section of the guidance is too general and is introductory in nature.
The Dounreay Site Planning Application Strategy	This section sets out how the guidance will be implemented.	This section of the guidance is too general and is introductory in nature.
The Dounreay Site Decommissioning Works	This section of the guidance sets out the on going work which is being carried out in decommissioning the Dounreay site.	This section of the guidance makes provision for change but a protective caveat for relevant Natura sites is included in the Developer Requirements section and, through application of that caveat, such change could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not undermine the conservation objectives for the site.

Section Title	Description of Section	Reason(s) for 'screening out'
Environmental Protection During Decommissioning and Restoration Works	This section sets out the regulatory issues related to the site which are related to the decommissioning process.	This section is intended to protect the natural environment and therefore it is unlikely to have a significant environmental effect on a European Designated site.
Socio-Economic Benefits of Decommissioning	This section sets out the role that decommissioning plays in delivering economic growth and social sustainability.	For this section it is not possible to identify effects on a particular European designated site because the policy is too general.
Developer Requirements	This section sets out the developer requirements as identified through the Strategic Environmental Assessment process carried out on the development framework area as part of the Highland-wide Local Development Plan.	This section, which includes a protective caveat for relevant Natura sites, is intended to protect the natural environment and therefore it is unlikely to have a significant environmental effect on a European Designated site.

Key:

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

6 Screening of elements of the supplementary guidance for likely significant effects – (b) straightforward mitigation required

6.1 After further rounds of discussion with SNH, revised wording for elements of the Supplementary Guidance were agreed to allow these aspects to be mitigated and then screened out. The results of these discussions, including the wording changes to the Supplementary Guidance which have been included in it as mitigation, are summarised in Table 5.

Table 5. Elements of the Dounreay Planning Framework 2 to which straightforward mitigation measures were applied and were then screened out individually as having no effect on Natura sites, or any effect is too general to assess

Title of Section	Purpose of Section	Proposed Mitigation	Reasoning
The Dounreay Site Restoration Programme	The purpose of this section is to clearly set out the programme for decommissioning including the potential site end state.	In the part of this section entitled "Site End State" it sets out the path towards and aspirations for the end state of the development brief site post decommissioning. The first sentence in the fourth paragraph should be augmented to include the following: "...while not adversely affecting the integrity of the Caithness and Sutherland Peatlands SPA/Ramsar, the Caithness Lochs SPA/Ramsar and the North Caithness Cliffs SPA". This mitigation has been included in DPF2.	In the main this section of the guidance makes provision for change but which could have no significant effect on a European site. The revised text makes it clear that while there is potential to re-develop the site for business/industrial uses, that this should take due consideration of the Natura sites which have connectivity to the area covered by the development brief.
The Way Forward	The purpose of this section is to clearly set out how the guidance will be taken forward. This section also sets out the Council's view on the end uses of the site.	In the part of the section entitled "End Uses of Site" it sets out the Council's vision for the end uses of the Dounreay site. The first sentence in this section should be augmented to include the following: "...while not adversely affecting the integrity of the Caithness and Sutherland Peatlands SPA/Ramsar, the Caithness Lochs SPA/Ramsar and the North Caithness Cliffs SPA". The mitigation has been included in DPF2.	In the main this section of the guidance makes provision for change but which could have no significant effect on a European site. The revised text makes it clear that while there is potential to re-develop the site for business/industrial uses, that this should take due consideration of the Natura sites which have connectivity to the area covered by the development brief.

Key:

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

7 In combination assessment

7.1 Any element of a plan that is screened out alone as having minor residual effects should also be screened for the likelihood of significant effects in combination arising from other elements of the same plan, or from other plans or projects. In this case all elements of the Dounreay Planning Framework 2 have been screened out alone - with or without mitigation - as having no effect or whose effect is too general to assess. Therefore in this case there is no need to carry out an in-combination assessment as part of the screening stage, either within the plan or with other plans or projects.

8 Conclusion

- 8.1 All Natura sites potentially affected by the Dounreay Planning Framework 2 have been identified and mapped (via the Local Development Plan), and all elements of the supplementary guidance have been screened individually to determine the likelihood of significant effects on these Natura sites that may arise due to their implementation.
- 8.2 Elements of the Dounreay Planning Framework 2 which have been identified as having no effect, or where any effect is too general to assess, have been listed and detailed in Section 5, Table 4, including reasons for the decision to screen them out.
- 8.3 Elements of the Dounreay Planning Framework 2 remaining screened in after the initial review as having the potential to have likely significant effect where it has been possible to identify straightforward mitigation measures have been listed and detailed in Section 6, Table 5. This table then includes the mitigation contained within the Dounreay Planning Framework 2 and reasons then for the decision to screen them out.
- 8.4 There were no remaining elements of the guidance likely to have a significant effect either alone or in combination which were identified as requiring an appropriate assessment. There was no requirement to screen cumulatively within the plan or with other plans or projects as the Dounreay Planning Framework 2 has been screened as having no minor residual effects.
- 8.5 As a result the Highland Council concludes that, with the mitigation set out in this Habitats Regulations Appraisal Record, which is incorporated into the finalised framework proposed for adoption, the Dounreay Planning Framework 2 will have no likely significant effects on Natura sites either individually or in combination with other plans and projects and therefore will not adversely affect the integrity of Natura sites again either individually or in combination with other plans and projects.
- 8.6 The following table summarises the elements of the plan assessed through this Habitats Regulations Appraisal and the outcome (see key below for colour coding):

Table 6: Summary of outcomes of the Habitats Regulations Appraisal

Name of Supplementary Guidance	Element Assessed through HRA	Outcome of HRA (see key below)
Dounreay Planning Framework 2	About this guidance	
	Background	
	Planning Policy Framework	
	Dounreay Site Planning Application Strategy	
	The Dounreay Site Restoration Programme	
	The Dounreay Site Decommissioning Works	
	Environmental Protection During Decommissioning and Restoration Works	
	Socio-Economic Benefits of Decommissioning	
	Developer Requirements	
	The Way Forward	

Key:

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

END
