

Caithness and Sutherland Local Development Plan
DRAFT Habitats Regulations Appraisal – COMMITTEE VERSION
October 2015

This committee version of the draft Habitats Regulations Appraisal (HRA) is not a completed record, but it shows the steps being taken to produce one. We have been working closely with SNH on this draft HRA; work is well advanced but ongoing.

The methodology being used has been agreed with SNH and is set out in this document. Section 4 outlines the agreed methodology and sets out the work we are currently doing alongside SNH. Section 5 outlines the agreed steps that are being carried out for screening the effects of sites and policies on Natura sites. Section 6 outlines the agreed methodology that is being used for Appropriate Assessment

The draft HRA record and Appropriate Assessment will be completed and will be published for consultation alongside the Caithness and Sutherland Proposed Local Development Plan.

Foreward

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 as amended.

It is the Highland Council's responsibility to consider whether the policies and proposals within the Caithness and Sutherland Local Development Plan (CaSPlan) are likely to have any significant effect on the 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 CaSPlan where necessary.

During the preparation of this document and the consideration of relevant representations on the CaSPlan, The Highland Council has had early engagement and discussions with and input from Scottish Natural Heritage (SNH) 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 where appropriate.

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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 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 policies and proposals within the Caithness and Sutherland Local Development Plan (CaSPlan) are likely to have a significant effect on any Natura site, either individually or in combination with other plans or projects. For those policies and proposals that would have a likely significant effect, an appropriate assessment has been carried out to ascertain whether the Local Development Plan 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.
- 1.4 The HRA record includes mitigation identified as necessary to include in the plan. The assessment concludes XXX
- 1.5 The HRA record will be placed on the Council’s website alongside the Proposed CaSPlan. The accompanying Action Programme for the local development’s plans policies and proposals as necessary will include cross-references to requirements in this HRA record.
- 1.6 It must be advised that this HRA record including appropriate assessment 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

¹ Commission 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

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

Development Plan which must be read alongside CaSPlan and all the relevant supplementary guidance.

2. Caithness and Sutherland Local Development Plan Vision and Spatial Strategy

2.1 The Highland wide Local Development Plan (HwLDP) sets the strategic planning policy context for the Caithness and Sutherland Local Development Plan (CaSPlan). The HwLDP contains the main policies for determining planning applications in the Highlands. CaSPlan is the second of three new area Local Development Plans for 3 sub areas – The Inner Moray Firth, Caithness and Sutherland and West Highland and Islands. The purpose of the area Local Development Plans is to set out plans and proposals for delivering development reflecting on the unique characteristics and attributes of these three areas.

2.2 The vision for Caithness and Sutherland is set out below:

- **Growing Communities:** A network of successful, sustainable and socially inclusive communities where people want to live, which provide the most convenient access to key services, training and employment and are the primary locations for inward investment.
- **Employment:** A strong, diverse and sustainable economy characterised as being an internationally renowned centre for renewable energy, world class engineering, land management and sea based industries and a tourist industry that combines culture, history and adventure.
- **Connectivity and Transport:** Enhanced communications, utilities and transport infrastructure that support communities and economic growth, with development anchored to existing or planned provision.
- **Environment and Heritage:** High quality places where the outstanding environment and natural, built and cultural heritage is celebrated and valued assets are safeguarded.

2.3 CaSPlan will replace the elements of the Sutherland Local Plan (2010) and the Caithness Local Plan (2002) which have been continued in force by the Town and Country Planning (Continuation in force of Local Plans) (Highland) (Scotland) Order 2012.

- 2.4 The Plan area extends to 7,876 sq km and is an area of high quality natural environment and diverse historic background. The current population of the plan area is 37,020 and is expected to decline to 35,556 by 2031. The current population density is 5.1 people per square kilometre compared to the Highland population density of 8.7 people per square kilometre.
- 2.5 This Habitats Regulations Appraisal (HRA) considers all the policies, proposals and vision statements set out in the LDP. 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).
- 2.6 CaSPlan can be viewed online at XXX.

3. Background Information about European Sites

- 3.1 The CaSPlan area contains or is close to a total of 47 Natura Sites that could potentially be affected by the plan. These comprise a combination of 3 Ramsar sites, 15 Special Protection Areas (SPAs) and 29 Special Areas of Conservation (SACs). Each of these Natura sites has been screened to determine the likelihood of being directly or indirectly affected by development sites specifically identified in the plan. The Natura sites shown on the map and listed in the table below are those that may be potentially affected by the plan, along with reasons for their selection. The remaining Natura sites within or close to the plan area which are unlikely to be affected are listed in Appendix X.
- 3.2 For more details of Natura sites located within or close to the plan area see SNH's Sitelink web application and interactive map.

Insert: Figure 1: Natura Sites Potentially Affected by the Plan

Table 1: Natura Sites Potentially Affected by the Plan

Natura Site	Reasons for Selection
Special Areas of Conservation	
Special Protection Areas	
Special Protection Areas and Ramsars	

4. Methodology for Assessment

- 4.1 After consulting the Habitats Regulations Appraisal of Plans – Guidance for Plan-making Bodies in Scotland Version 3 (January 2015) 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 has also been consulted regarding the wording of policies and proposals 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 CaSPlan have been identified and mapped. The mapping is included within the Highland-wide Local Development Plan Proposals Map. All policies and proposals in the plan have been screened both individually and cumulatively to determine the possible effects that may arise due to their implementation. Policies which have been identified as having no effect or are unlikely to have a significant effect have been detailed and reasons for this have been given.
- 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 sites and are therefore protected under the relevant statutory regimes. Ramsar interests have therefore been considered alongside their equivalent SPA for the purposes of this assessment and also documented together within this report. As a result, the Ramsar interest 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 Version 3” (2015).

5 Screening Process

5.1 Discussions took place with SNH to screen out the elements of CaSPlan that would not be likely to have a significant effect alone on Natura sites listed in Table 1 above. As a result, the policy tools (detailed in Table 2); policies (detailed in Table 3); projects referred to in, but not proposed by, the plan (detailed in Table 4); and proposals (detailed in Table 5) screened out are listed below, along with a brief explanation of the reasons for this.

Policy Tools and Policies

Table 2: Policy tools of CaSPlan screened out individually as having no, or minimal effect on Natura sites

Policy Tool	Reason(s) for 'screening out'

Table 3: Policies of CaSPlan screened out individually as having no, or minimal, effect on Natura sites

Policy	Reason(s) for 'screening out'

Projects referred to in, but not proposed by, the Plan

5.2 CaSPlan makes reference to a number of specific proposals for projects referred to in, but not proposed by the plan to enable the plan to take account of their spatial planning implications. These projects are listed below along with the responsible body for implementing them.

Table 4: Projects screened out of CaSPlan because although they are referred to in the Plan, they are not proposed by the Plan.

Project	Competent Authority Proposer

[Type text]

Proposals

5.3 The following proposal sites have been screened out for the following reason/s:

Aspects which make provision for change but which could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives for the site.

5.4 Accordingly these sites are screened out, both alone and in combination, as they have no effect on any European site.

Table 5: Proposals with No Effect on Natura sites and therefore Screened Out Both Alone and In Combination

Settlement	Proposal Site

5.5 The following proposal sites have been screened out alone for the following reason/s:

Aspects which make provision for change but which could have no significant effect alone on a European site (minor residual effects), because any potential effects would be so restricted that they would not undermine the conservation objectives of the site.

5.6 Accordingly these sites are screened out alone, but require consideration in-combination, firstly within the plan, and secondly with other plans or projects.

Table 6: Sites with Minor Residual Effects only and therefore Screened Out Alone

Settlement	Proposal Site

5.7 The following proposal sites are screened in as they are likely to have a significant effect on a Natura site alone, therefore appropriate assessment is required. The table below identifies those sites screened in along with the Natura site/s they are likely to significantly affect.

[Type text]

[Type text]

Table 7: Sites with likely significant effect which therefore require appropriate assessment alone

Natura 2000 Designation	Settlement																			
	Natura Site/Site Reference																			
Special Areas of Conservation																				
Special Protection Areas																				
Special Protection Areas and Ramsars																				

5.8 The following proposal sites are screened in as they are likely to have a significant effect on a Natura site in-combination, therefore appropriate assessment is required. The table below identifies those sites screened in in-combination, along with the Natura site/s they are likely to significantly affect.

[Type text]

Table 8: Sites within the Plan with likely significant effect which require appropriate assessment In-Combination

Natura 2000 Designation	Settlement																				
	Natura Site/Site Reference																				
Special Areas of Conservation	River Thurso																				
Special Protection Areas	East Caithness Cliffs																				
Special Protection Areas and Ramsars	Dornoch Firth and Loch Fleet																				

[Type text]

5.9 The following proposal sites (from tables 6 and 8) would have a minor residual effect, screened out alone and in-combination with other aspects of the plan, but require consideration for likely significant effect in-combination with other plans or projects.

Table 9: Sites which require further consideration for likely significant effect in-combination with other plans and projects

Settlement	Propsoal Site	Natura site on which MRE

In-Combination Assessment of CaSPlan with other Relevant Plans

5.10 The table below sets out other relevant plans that may have in-combination effects with CaSPlan.

Table 10: Other relevant plans that may have in-combination effects with CaSPlan.

Other Plan/Project	Responsible Authority	LSE in combination with CaSPlan? (Y/N?)	Justification

6 Appropriate Assessment

6.1 This part of the HRA record sets out the assessment of those elements of the plan screened in from Tables 6 and 7 alone or in-combination likely to have a significant effect on those Natura sites identified as being potentially affected by the plan as shown in Figure 1 and Table 1 in light of their conservation objectives, including consideration of mitigation measures.

Special Areas of Conservation

Site Name	
Designation	
Date of Designation	
Qualifying Interests	
Conservation Objectives	
Condition of the qualifying interests	
Factors currently influencing the site	
Vulnerabilities to change through the potential effects of the plan	
Extent of Natura Site	Map
Settlement/Site Reference	Impacts and Mitigation
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>

[Type text]

Special Protection Areas

Site Name	
Designation	
Date of Designation	
Qualifying Interests	
Conservation Objectives	
Condition of the qualifying interests	
Factors currently influencing the site	
Vulnerabilities to change through the potential effects of the plan	
Extent of Natura Site	Map
Settlement/Site Reference	Impacts and Mitigation
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>

[Type text]

Special Protection Area and Ramsar

Site Name	
Designation	
Date of Designation	
Qualifying Interests	
Conservation Objectives	
Condition of the qualifying interests	
Factors currently influencing the site	
Vulnerabilities to change through the potential effects of the plan	
Extent of Natura Site	Map
Settlement/Site Reference	Impacts and Mitigation
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>
	<p><i>Potential Impact:</i></p> <p><i>Mitigation:</i></p> <p><i>Residual Impact:</i></p>

7 Conclusion

7.1 All Natura sites potentially affected by CaSPlan have been identified and mapped, and all policies, policy tools and proposals contained within the plan have been screened both individually and cumulatively to determine the likelihood of significant effects on these Natura sites that may arise due to their implementation.

[Type text]

Appendix 1

In agreement with SNH the Natura sites listed below have been screened out of the HRA as there is no link or pathway between the qualifying interests and development sites in the plan, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives for the site.

Special Areas of Conservation
Special Protection Areas
Special Protection Area and Ramsars