

THE HABITATS REGULATION APPRAISAL OF THE HIGHLAND WIDE LOCAL DEVELOPMENT PLAN

Neil Huggan

From: Andrew Brown [Andrew.Brown@snh.gov.uk]
Sent: 03 May 2011 17:46
To: Neil Huggan
Cc: Anne Murray; Crispin Hill; George Hogg
Subject: Highland wide Local Development Plan - Habitats Regulations Appraisal (HRA)

Dear Neil

Thank you for sending Scottish Natural Heritage the document 'Proposed Changes to the Highland-wide Local Development Plan resulting from the Habitats Regulations Appraisal of the Plan' (3rd May 2011). This summarises the mitigation intended to be applied to text, maps and policies of the plan in order that there would be no adverse effects on the integrity of European sites. The Council has still to complete the Habitats Regulations Appraisal Record of the plan and to formally consult SNH on it, particularly in terms of the elements of the plan for which an appropriate assessment is required.

Pending the submission of the formal HRA Record (including the appropriate assessment) to us, and our response to that, we can confirm that the document sets out the outcome of discussions with us to date with a view to the Council modifying elements of the plan in order that it would not have an adverse effect on the integrity of European sites.

A key consideration for the HRA in terms of Policy 9 A96 Corridor - Phasing and Infrastructure is the in-combination assessment of recreational impacts of development in the A96 corridor on European sites. This also requires to be considered in combination with the Council's Green Networks Draft Supplementary Guidance Document. However we understand this element of the HRA of the Highland-wide LDP is being taken forward through the HRA of the Green Networks Draft Supplementary Guidance Document, which is being assessed in combination with the Highland-wide LDP. It should be noted that this other associated HRA work has not yet been completed, and so mitigation will also in due course require to be cross-referenced through this document.

I trust this will be of assistance at this stage in sending the Plan documentation to Scottish Ministers in terms of paragraph 11 of Circular 1/2009 Appendix 1: Development Planning - The Habitats Regulations.

Yours sincerely

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**PROPOSED CHANGES TO
THE HIGHLAND WIDE LOCAL DEVELOPMENT PLAN
RESULTING FROM
THE HABITATS REGULATION APPRAISAL OF THE PLAN**

This document has been produced to summarise the proposed changes to the Highland wide Local Development Plan (HwLDP) as a result the Habitats Regulations Appraisal (HRA) discussions held in collaboration with Scottish Natural Heritage (SNH).

The HwLDP was assessed in terms of its Likely Significant Effect (LSE) on the Natura sites within the Plan area. Some of the Policies of the HwLDP were able to immediately be screened out as having no LSE on the Natura sites, but portions of the Vision and a significant number of the Policies were deemed to have an LSE on Natura sites in their current form.

Further assessment work was therefore undertaken with SNH in order to determine what mitigation would be appropriate to factor out the LSEs of the remaining elements of the Plan. The results of this collaborative work are a series of proposed modifications to the Vision and Policies in the form of wording changes and additional text. These modifications principally clarify or amplify the Plan's consideration of the Natural heritage of the area in general, and Natura sites in particular.

This assessment concluded that with the proposed safeguarding and mitigation the Highland wide Local Development Plan will not adversely affect the integrity of any Natura site.

The Council intends to complete the Habitats Regulations Appraisal Record (HRAR) for the Highland wide Local Development Plan, including the necessary cross-referencing to mitigation contained within the related HRAR for the Council's Green Networks Supplementary Guidance, by early-mid summer 2011. Once finalised, these documents will be provided to the Reporter in both electronic and hard-copy formats.

SUMMARY OF PROPOSED MITIGATION/CHANGES

Table 1 – Proposed Changes to Vision to safeguard Natura sites

The undernoted table summarises the results from discussions with SNH regarding the required mitigation - in the form of changes to elements of the Vision - in order to ensure that there will be no Likely Significant Effects on Natura sites from the implementation of the Highland wide Local Development Plan.

Document Section	Title	Proposed Mitigation	Reasoning
3	Introduction & Context	<p>Insert two new paragraphs:</p> <p>3.8.3 The following sections outline the Highland Council's Vision for the Highland area as a whole and for the three areas which will be the subject of future Local Development Plans. These Visions are not policies <i>per se</i>; rather they are an expression of what the Highland area could be like in 2030. Where reference has been made to individual projects, these are either dealt with in more detail within the body of this plan, or will be considered within the forthcoming Local Development Plan for the relevant area. In all cases, these projects will be subject to the necessary assessments, including Habitats Regulations Appraisals where appropriate.</p> <p>3.8.4 Planning applications will be assessed against all the policies and legislation relevant to the particular proposal and location. Conformity with a single policy does not necessarily indicate that a proposed development would be acceptable.</p>	<p>Paragraph 3.8.3 has been placed in section preceding Section 4 to clarify that the following 'Visions' are not policies <i>per se</i>, and that any projects or proposals identified within the Visions will either be considered with respect to HRA within the body of this Plan, or identified and dealt with by the forthcoming LDPs for the relevant area.</p> <p>Paragraph 3.8.4 clarifies that conformance with one policy does not necessarily indicate conformance with the Development Plan, to ensure that protective policies such as Policy 58 are properly taken cognisance of.</p>
5	Caithness & Sutherland Vision	Amend wording on Figure 1 to read "Caithness and Sutherland Vision" on map and text below.	New wording reflects that the map is part of the Vision and in combination with new paragraph 3.8.4 provides additional safeguarding
6	West Highland and Islands Vision	Amend wording on Figure 2 to read "West Highland and Islands Vision" on map and text below.	New wording reflects that the map is part of the Vision and in combination with new paragraph 3.8.4 provides additional safeguarding

7	Inner Moray Firth Vision	Amend wording on Figure 3 to read "Inner Moray Firth Vision" on map and text below.	New wording reflects that the map is part of the Vision and in combination with new paragraph 3.8.4 provides additional safeguarding
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Table 2 – Proposed Changes to Policies to safeguard Natura sites

The undernoted table summarises the results from discussions with SNH regarding the required mitigation - in the form of changes to a number of Policies and their associated text - in order to ensure that there will be no Likely Significant Effects on Natura sites from the implementation of the Highland wide Local Development Plan.

Policy	Policy Title	Proposed Mitigation	Reasoning
5	Former Longman Landfill Site	AMEND text: "The potential for other uses including retail and residential will also be examined as well as the potential environmental impact of proposals, particularly to ensure that there would be no adverse effects on the integrity of the Inner Moray Firth SPA/Ramsar site."	The revised wording ensures that the SPA/Ramsar is considered in advance and offered the appropriate level of protection.
6	Muirtown and South Kessock	AMEND text: "The Council will support masterplan-led development proposals in the short term which fit with the existing Inverness Local Plan for development in this area, whilst seeking to ensure that they deliver improvements to the transport network, including improvements at the Telford Street Retail Park roundabout, and do not result in adverse effects on the integrity of the Moray Firth SAC." [NB: Local Nature Reserve to be added to map and identified as being within the allocation to ensure it is taken in to account]	The revised wording ensures that the impact of any proposed developments contained within a future masterplan must take cognisance of the effects on the Moray Firth SAC.
8	Ness-side and Charleston	AMEND 1 ST SENTENCE: "The Council will support the masterplanning of land allocated at Ness-side and Charleston in tandem with the work being carried out to identify options for the river and canal crossing that do not adversely affect the integrity of the River Moriston SAC." [Additional text will be added to 9.21.1 to explain link to R Moriston is via salmon using R Ness to access.]	Ensures that the SAC is offered the appropriate level of protection within the proposed masterplan with regard to the [as yet undefined] river and canal crossing.

Policy	Policy Title	Proposed Mitigation	Reasoning
9	A96 Corridor - Phasing and Infrastructure	<p>AMEND text in 10.5:</p> <p>...The strategy must also ensure that designated sites for the natural, built and cultural heritage and protected species are safeguarded and enhanced. <i>In particular, the impacts on Loch Ashie SPA, Moray Firth SAC, River Moriston SAC and Urquhart Bay Woods SAC will need to be assessed by Scottish Water as part of an appropriate assessment for the provision of additional water supply and waste-water treatment facilities for the A96 Corridor. A green network...</i></p> <p>[additional text in <i>italics</i>]</p> <p>AMEND policy text:</p> <p>Developments set out in the early period of this Local Development Plan (2011-2016) will only be supported subject to the provision of interim infrastructure improvements as set out in the Plan. <i>In respect of water supply and waste water treatment, the infrastructure improvements for development provided for in this plan should not adversely affect the integrity of the Moray Firth SAC, Loch Ashie SPA, River Moriston SAC and Urquhart Bay Woods SAC either alone or in combination with other plans or projects.</i> When planning applications are being determined for these early phases...</p> <p>[additional text in <i>italics</i>]</p>	<p>The revised text in 10.5 and within the Policy itself highlight the need for Scottish Water to consider these Natura sites with respect to abstraction for the Corridor's water supply requirements and with regard to the required quality from the additional waste water treatment facilities.</p> <p>In addition, the potential cumulative recreational impacts from the A96 Corridor developments have been taken into account by a separate Appropriate Assessment of the Green Networks (GN) Supplementary Guidance which promotes a Coastal Trail, Landward Trail and North-South Links along the length of the A96 Corridor'</p> <p>The recreational impacts of individual HwLDP policies are dealt with under the relevant Policy (e.g. the potential impact on Loch Flemington SPA under Policy 13 – Tornagraim)</p>
10	Beechwood Campus	<p>ADD new bullet point under Natural, Built and Cultural Heritage:</p> <ul style="list-style-type: none"> • avoidance of any adverse effects on the integrity of the Inner Moray Firth SPA and Ramsar site. 	<p>Ensures that the SPA/Ramsar is offered the appropriate level of protection with regard to the developer requirements for the Campus.</p>
12	Stratton	<p>REPLACE 'impacts on the' with 'effects on the Inner Moray Firth SPA/Ramsar, the' in bullet point 3 of Natural, Built & Cultural Heritage.</p>	<p>Ensures that the SPA/Ramsar is offered the appropriate level of protection with regard to the developer requirements for Stratton.</p>

Policy	Policy Title	Proposed Mitigation	Reasoning
13	Tornagrain	<p>ADD a new bullet point in Natural, Built & Cultural Heritage:</p> <ul style="list-style-type: none"> avoidance of any adverse effects on the integrity of Loch Flemington SPA, including from cumulative recreational disturbance. 	<p>Additional text ensures that the SPA is offered the appropriate level of protection with regard to the developer requirements for Tornagrain.</p> <p>NB: There is also an <i>Access Management Plan</i> in existence relating to the Outline Planning Application and this takes cognisance of the need to avoid adverse effects on the qualifying interests of the Loch Flemington SPA.</p>
14	Whiteness	<p>ADDITIONAL sentence: "Renewables-related developments will be subject to the production of a masterplan which should ensure that there are no adverse effects on the integrity of the Moray Firth SAC and Inner Moray Firth SPA/Ramsar."</p>	<p>The National Renewables Infrastructure Plan [NRIP] considers HRA but only suggests that: "It is likely that Habitats Regulations Appraisal will be required at the project level". The revised wording reflects this.</p>
16	Sandown	<p>AMEND WORDING: "The Council will support development at Sandown (as shown on Map 9) in the short term subject to a suitable developer masterplan and a Recreational Access Management Plan which should ensure that there is no adverse effect on the integrity of the Inner Moray Firth SPA/Ramsar site. The masterplan should address issues including: housing density, phasing and an access solution that provides unfettered links to the Delnies development area to the west and shared arrangements wherever possible."</p>	<p>The requirement for a Recreational Access Management Plan (RAMP) will mean that the recreational impacts of the development on the nearby Natura sites are considered and dealt with accordingly. This approach is in line with SNH's advice of Feb 2010 regarding the development at Delnies (Policy 17).</p>
17	Delnies	<p>Revised policy wording of bullet point 3 of Natural, Built & Cultural Heritage:</p> <ul style="list-style-type: none"> Protection of the near by Inner Moray Firth SPA/Ramsar and Whiteness Head SSSI, including through the approval of an Recreational Access Management Plan; 	<p>Word 'design' could be misinterpreted. Revised wording is stronger as a result.</p> <p>SNH's response to the Delnies proposal dated 5 February 2010 (B487458) advised Likely Significant Effects but given inclusion of RAMP, no adverse impact on the integrity of the site.</p>

Policy	Policy Title	Proposed Mitigation	Reasoning
20	Croy Expansion	ADD new bullet point under Natural, Built & Cultural Heritage: <ul style="list-style-type: none"> Avoidance of any adverse effects on the integrity of the Loch Flemington SPA and Kildrummie Kames SSSI. 	Ensures that any as yet unidentified potential hydrological links from this allocation to L Flemington are considered. This, in conjunction with the regulatory regime administered by SEPA, should result in no LSE on the integrity of the SPA.
23	Cawdor Expansion	Amend bullet point to read: <ul style="list-style-type: none"> Recreational Access Management Plan to be prepared in order that any adverse effects on the integrity of the Cawdor Woods SAC are avoided. 	Amended bullet point clarifies the scope of the Recreational Management Plan to offer protection to the SAC.
37	Wider Countryside	ADD additional sentence: "All proposals should still accord with the other general policies of the Plan."	Provides additional safeguarding (similar to Policy 36) through reference to other policies, including Policy 58 which provides protection for Natural heritage.
44	Tourism	REPLACE "the proposal will promote responsible access to, interpretation, effective management or enhancement of Natural, built and cultural heritage" WITH "the proposal will safeguard, promote responsible access, interpretation and effective management or enhancement of Natural, Built and Cultural heritage features"	Revised wording highlights requirement for Tourist developments to safeguard the "Natural heritage" of the area, which under Policy 58 incorporates Natura sites.
45	Tourist Accommodation	REPLACE "...that it can be achieved without adversely affecting the landscape character of the area." WITH "...that it can be achieved without adversely affecting the landscape character or the Natural, Built and Cultural Heritage features of the area."	Revised wording highlights requirement for proposal for Tourist Accommodation to consider the impact on the "Natural heritage" of the area, which under Policy 58 incorporates Natura sites.
47	Siting and Design of Communications Infrastructure	REPLACE first bullet point with: <ul style="list-style-type: none"> Equipment is sited and designed as sensitively as possible, with particular regard to the impacts on Natural, Built and Cultural Heritage features, landscape character and views. 	Ensures that Natura concerns are dealt with as well as the (implied) visual impact.

Policy	Policy Title	Proposed Mitigation	Reasoning
48	Safeguarding Inbye/AppORTioned Croftland	AMEND bullet point 4 with the following wording: <ul style="list-style-type: none"> in terms of other policy considerations, such as accordance with settlement pattern or impact on a Natural, Built or Cultural Heritage feature, they can be considered acceptable 	The revised wording requires development to consider the effects on the Natural heritage features which, as defined by Policy 58, includes Natura sites.
50	Coastal Development	REPLACE 'conservation' in second sentence with 'Natural, Built or Cultural Heritage'.	The revised wording assesses the impact on the Natural heritage rather than generic 'conservation' concerns, and so in line with Policy 58, which includes the Natura sites.
51	Aquaculture	ADD bullet point under 'the Natural, built and cultural heritage, taking into consideration': <ul style="list-style-type: none"> Habitats and species, including designated sites and protected species. 	Revised wording ensures that when Natural heritage is being considered, the need to assess the impact on habitats and species is highlighted.
53	Principle of Development in Woodland	ADD a new sentence to the policy: All proposals affecting woodland will be assessed against conformity with The Scottish Government's Policy on Control of Woodland Removal.	Incorporates check against conformity with the Scottish Government's Policy on Control of Woodland Removal. This Policy explicitly states that there is a statutory requirement to prevent deterioration of Natura sites and to take measures to maintain or restore relevant Natural habitats.
54	Minerals	Amend last paragraph: "The Council will expect all minerals developments to avoid or satisfactorily mitigate any impacts on residential amenity, the Natural, Built and Cultural heritage, and infrastructure capacities."	Ensures that avoidance of any impacts is the primary consideration rather than adequate mitigation.
56	Peat and Soils	ADD a new sentence at the end: Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland.	Ensures that the hydrological connections between areas subject to consideration for peat extraction under this policy and nearby areas of peat within Natura sites are explicitly considered.

Policy	Policy Title	Proposed Mitigation	Reasoning
63	Geodiversity	AMEND last sentence to read: "The Council will also support improvement of accessibility and interpretation as an educational or geotourism resource, where it is possible to sympathetically integrate development, geodiversity and other existing interests."	Captures need to address Natura and other existing interests as well.
70	Electricity Transmission Infrastructure	AMEND first sentence to read: "...will be supported if assessed as not having a significantly detrimental impact on the environment, including Natural, Built or Cultural Heritage features". AMEND third sentence to read: "...where they would not have a significantly detrimental impact on the environment, including Natural Built or Cultural heritage features".	Clarifies that "Environment" will also include "Natural, Built or Cultural Heritage" features from Policy 58.
71	Waste Management Facilities	AMEND bullet point 1 to cross-reference Longman waste management site with Policy 5: <ul style="list-style-type: none"> Former Longman landfill site, Inverness [also see Policy 5] 	Because the Longman Site is adjacent to a Natura site, explicitly cross-referencing with [the revised] Policy 5 Former Longman Landfill Site will ensure Natura interests are considered.
73	Pollution	AMEND first paragraph of policy to read '...appropriately mitigated to the satisfaction of the Local Authority in consultation with SEPA.'	Revised wording [in line with Policy 74 Air Quality] requires the LA to decide if the mitigation is 'satisfactory' rather than simply being assumed to be 'appropriate' by the developer.
78	Public Access	AMEND bullet point to read: <ul style="list-style-type: none"> Ensure alternative access provision that is no less attractive, is safe and convenient for public use, and which safeguards Natural, Built and Cultural Heritage features. 	Ensures Natura sites and their qualifying interests are also considered.
79	Long Distance Routes	ADD ', with due regard to the impact on the Natural Heritage features along these routes.' to the last sentence.	Revised wording ensures that proposals for routes take cognisance of impacts on Natural heritage, including Natura interests.

Policy	Policy Title	Proposed Mitigation	Reasoning
	Glossary	ADD Natura: The term given to Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). These internationally important sites are designated under two of the most influential pieces of European legislation relating to nature conservation, the Habitats and Birds Directives.	Clarification purposes.