



Scottish Natural Heritage
All of nature for all of Scotland

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7 December 2009
Our ref: CNS/LP/HI (B470584)

H.C. PLANNING AND DEVELOPMENT SERVICE		
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FILE REF:		

Dear Sir

**Town and Country Planning (Development Planning) (Scotland) Regulations 2008.
Examination of the West Highland & Islands Local Plan Deposit Draft
Request for Further Information**

Please find attached a Written Statement from Scottish Natural Heritage relating to the Appropriate Assessment of the above plan as undertaken by The Highland Council.

Thank you for the copy of your Councils Statement on this matter

Yours faithfully,

[Redacted signature]

Fraser Symonds
Operations Manager: West Highland

[Redacted contact information]



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Town and Country Planning (Development Planning) (Scotland) Regulations 2008.

Examination of the West Highland & Islands Local Plan Deposit Draft

Written Statement from Scottish Natural Heritage on The Highland Council's Appropriate Assessment (Conservation (Natural Habitats, &c.) Regulations 1994 as amended)

1. Background:

1.1 At the time of publication of the Local Plan Deposit Draft in December 2008 Highland Council had not undertaken an Appropriate Assessment of the plan for instances where policies and proposals within the plan, either alone or in combination, could have a significant effect upon adjoining or nearby Natura sites. As a consequence this Deposit Draft plan fails to fully comply with the Conservation (Natural Habitats, &c.) Regulations 1994 as amended. As a result, SNH submitted an objection to the plan but indicated that it would be willing to help the Council develop the required Appropriate Assessment and would withdraw its objection upon satisfactory completion of this task, i.e. when the Council could ascertain that there would be no adverse effect on the integrity of Natura sites from the proposals and policies of the plan, either alone or in combination.

1.2 Since publication of the Deposit Draft an Appropriate Assessment has been produced by Highland Council. It is a comprehensive document involving assessment of policies, proposals and Settlement Development Areas where these may affect Natura sites, either alone or in combination and either directly or indirectly. In accordance with the Habitats Regulations the Council consulted SNH on the document.

2. SNH evaluation of current Appropriate Assessment

2.1 The Local Plan contains specific developer requirements for Proposals (allocations), SDA Objectives for individual Settlement Development Areas and General Policies against which all applications will be considered. To be in accordance with this Local Plan development proposals will need to comply with both overall Plan Policy and, in cases where they lie within Settlement Development Areas, with the site specific Developer Requirements/SDA Objectives. Highland Council has presented its Appropriate Assessment to ensure compatibility between these two aspects and we commend the thoroughness of the approach.

2.2. Policies.

2.2.1 The policies of this plan set the overall context within which development may or may not be acceptable in terms of impact upon Natura Sites. It is important that the Policies as well as specific site requirements are compliant with the Conservation (Natural Habitats, &c.) Regulations 1994 as amended and that there is no conflict between them.

individual drainage proposals which are not linked to a public sewer but which demonstrate that there will be no '*significant environmental or health problems*' will not lead to cumulative effects which could cause adverse effects to the integrity of aquatic Natura sites. However the reference to Highland Council having a 'preference' for drainage to land rather than water is a potential weakness. We therefore support the Council's intention to include an objective within every SDA with potential drainage straight to an aquatic SAC where connection to a public sewer is not technically possible to "ensure drainage to land". With these two measures in place we consider that the Appropriate Assessment is robust in this respect and accordingly no further modifications to individual SDA developer requirements beyond those presently commended to the reporter are necessary. However not all relevant SDAs have this objective in place. The sites and Settlement Development Areas involved are listed at the end of this statement.

2.3. Settlement Development Areas

2.3.1 A total of 14 Settlement Development Areas within Lochaber and a further 37 in Skye and Lochalsh are considered to have a potential significant effect upon a nearby Natura site. Thirty three SACs / Ramsar sites and 8 SPAs throughout the plan area are involved and each has been assessed and standardised mitigation measures applied. We conclude that these individual assessments generally provide guidance on mitigation which should prevent proposals which could have an adverse impact upon the integrity of the site. We do note however, the dependency upon mitigation measure 8.2 for the Natura sites with drainage issues. This measure as set out does not fully replicate the revised Policy 7 and unless this reflects the reference to demonstrating there will be no '*significant environmental or health problems*' the mitigation measure does not provide adequate assurance.

2.3.2 We note within the site specific appraisals that there are a number of errors but none of these appear to affect the outcome.

2.3.3 SNH has agreed with Highland Council that a developer requirement/SDA objective should be added where a SDA is adjacent to a marine SAC where otter are a qualifying feature to require an otter survey for applications, except for modest extensions and alterations to existing buildings, within 250m of a watercourse, coast, loch or pond. SNH will assist the Council to identify the relevant settlements for inclusion of this developer requirement in the post-examination plan.

3. Conclusion

SNH considers that the submitted Appropriate Assessment, combined with the Council's commended changes as detailed in the Summary of Unresolved Issues, and the additional issues highlighted above would, when taken together, constitute a valid and robust Assessment which would demonstrate that the Plan will not lead to adverse effects upon Natura sites and thus would comply with the relevant Regulations. Although strictly speaking the process of Appropriate Assessment is not fully complete until the Council is minded to adopt the Plan, SNH will be pleased to withdraw its objection now to this matter as set out in our letter of 13 February 2009 if Highland Council confirm they are content with the recommendations as set out above.

Fraser Symonds
Operations Manager: West Highland

