



Scottish Natural Heritage
Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad

Brian Archibald
Development Plan Officer
Directorate for Planning and Environmental Appeals
The Scottish Government
4 The Courtyard
Callendar Business Park
Callendar Road
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FK1 1XR

14 December 2009
Your ref: LDPE/270/2
Our ref: CNS/LP/HI/SUTH/SLP

Dear Mr Archibald

The Town and Country Planning (Development Planning) (Scotland) Regulations 2008
The Highland Council – Sutherland Local Plan
Notice: request for further information
(Conservation (Natural Habitats, &c.) Regulations 1994 as amended)
Issue Numbers – 6, 35, 40, 44, 47, 102

Further to your letter of 16 November 2009, and previous letter of 3 September, I can now confirm SNH's position in relation to the specified issue numbers and consequent modifications to the Plan.

We have now seen a revised Appropriate Assessment of the Deposit Draft Sutherland Local Plan – Examination Draft Version 2 (December 2009). It is our view that this Assessment when combined with the proposed changes to General Policies, development factors and Settlement and Site Plans now constitutes a complete and accurate Assessment which demonstrates that the Plan will not lead to adverse impacts upon the interest features of Natura sites and therefore complies with the relevant Regulations. SNH is pleased to confirm that its objection to this matter as set out in our letter of 22 January 2009, including the issue numbers specified above, would be satisfied if the commended changes referred to by the Council in Version 2 of its Appropriate Assessment document are incorporated into the Local Plan. Further observations and recommendations for improvement of the Appropriate Assessment to be taken up in the post-examination version are included in Annex 1.

We would like to express our thanks for your forbearance while we worked through the Appropriate Assessment process with The Highland Council. We would also like to



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thank the Council, and in particular David Cowie, for his hard work and diligence in this matter.

If you require any further information please do not hesitate to contact Valerie Wilson at this office.

Yours sincerely



Dave Mackay
Operational Manager, North Highland

cc David Cowie, The Highland Council

Annex 1

Comments on Appropriate Assessment of the Deposit Draft Sutherland Local Plan, Examination Draft Version 2 (December 2009)

General comments

This is a comprehensive document, improving on previous versions. The use of tables within the sections on individual Natura sites also makes it clearer to follow.

Foreword and Introduction & Context (pp2-4)

The following sentence (p4) could be improved in a later version by re-wording as follows: "Hereafter in this assessment, the term 'Natura site' should be taken as not only referring to SPAs and SACs but also to **proposed** SPAs and SACs and Ramsar sites for the purposes of this assessment."

There is reference (Foreword – 3rd paragraph and Introduction and Context – 3rd paragraph) to 'try to' ascertain no adverse effect on site integrity. This should be changed to conclude **no** adverse effect on site integrity. Indeed this is clear in the next two paragraphs of the Introduction and Context.

Aim and Objectives (p5)

In terms of other plans that may have an 'in combination' effect, reference could have been made to adjacent Local Plans e.g. Ross and Cromarty East Local Plan. However it may be concluded that there are no likely significant in-combination effects from these adjacent plans.

List of Natura Sites (p6)

This is a complete listing, including the recently announced Foinaven proposed SPA.

Methodology for Assessment (p7)

Again references to 'trying to' establish whether or not there would an adverse effect on the integrity of a Natura site should be amended as noted above.

Proposed Policy Modifications (pp8-13)

This section now includes the latest versions of the relevant general policies as being further commended.

Policy 4.3 is as we have discussed with the Council, and we welcome this.

Policy 7 is as commended following representation from SEPA. It allows for drainage other than to a public sewer only if this would not result in or add to significant environmental problems. The 'preference' in such cases is then for discharge to land rather than water. Elsewhere the Council is commending that a developer requirement be added to ensure drainage to land where no public sewer solution exists for Settlement Development Areas (SDAs) and allocations within Natura catchments and we welcome this. SNH would welcome this developer requirement being included for or encompassing relevant allocations of 25 or more units if this could be constructed in phases of less than 25 units which would be interpreted as 'single developments' under this policy.

Screening Process (pp14-15)

In terms of in-combination effects this has been amplified to refer to the commended modification to Policy 4.3 and this is to be welcomed.

Table 3 (p16)

The inclusion of this table which clearly sets out Natura sites against settlements and clarifies the screening process is helpful and welcomed.

The Strathy Point SAC might be added here against the settlement of Strathy, for completeness and can then be screened out at this stage. It is not necessary to assess the settlement at Strathy against SAC Invernaver due to the separation distance between them.

Tables 5-7 (pp20-21)

These tables list Natura sites against policies, which is summarised in Table 2. It could be refined to reflect that water policies (7 and 9) may not have a likely significant effect on all the Natura sites listed, e.g. montane SACs, but this is a detailed point and would not alter the mechanics of this assessment.

Table 8 (pp22-24)

This has helpfully been expanded to explain why policies are screened in or out for appropriate assessment, and where they are screened in, why it is concluded that there would be no adverse effect on the integrity of sites. The statement added after the table in regard to a commendation about viewing all policies together is relevant and useful to add here.

Safeguarding Policies (pp25-26)

The preamble to this could explain why these other policies are listed here. It is presumably because policies in both the Structure Plan and Local Plan must be considered for any development proposal, and so part of the case for no one policy having an adverse effect on site integrity is other policies that must be read together, not only in the Local Plan, but also the Structure Plan.

In this regard Policies G6 Conservation and Promotion of the Highland Heritage and G8 Precautionary Principle from the Highland Structure Plan are not listed here and might we presume be added.

Conclusions (p27)

The table here would benefit from a heading - perhaps 'Natura sites not included in the AA'.

Mitigation Measures (pp28-30)

This is a most important part of the document, especially as cross-references are made to the stated mitigation in the detailed appraisal of settlements and allocations.

- 9.1 This refers to the additional 'drainage to land' development factor and this is welcomed. We are assuming that such a development factor for SDAs includes any allocations within these SDAs, including those for 25 or more units as discussed above re Policy 7. Mention should also be made here of the Dornoch Firth and Loch Fleet SPA / Ramsar site.
- 9.2 This refers to future connection to a public sewer and is to be welcomed, assuming that where interim private arrangements are made pending a future public sewer connection that these would drain to land.
- 9.3 This mitigation is unclear – (a) it is termed a preference only, and (b) in general terms a sea loch could be a Natura site just as a freshwater catchment could be a Natura site. However this particular mitigation does not appear to be relied upon in any of the detailed assessment of SDAs and allocations and so the overall conclusion is not affected.
- 9.4 We welcome this change and associated commendation re flood risk at Invershin and South Bonar Industrial Estate.

- 9.5 We assume this relates to the further commended changes to Policy 4.3, that this relates in particular now to effects alone and in combination being considered under this policy. Also that in the event of tension between policies in the plan, a proposal that is not ascertained to have no adverse effects on site integrity will not be in accordance with the plan. We welcome these additional commended changes to this policy.
- 9.6 We note this specific mitigation in respect of open space, e.g. Embo.
- 9.7 This additional mitigation re recreational impact around Dornoch and Embo is to be welcomed. However, it should be clarified in the post-examination version that this relates both to recreational impacts on the sand dunes (Dornoch Firth and Morrich More SAC features), and recreational disturbance to wintering birds (Dornoch Firth and Loch Fleet SPA and Ramsar features). This is a point of clarification which should be worked through the relevant tables and text. As an explanation; the features being assessed against recreational impacts should include those generically classed as sand dunes and are coastal terrestrial features, and although the impacts from recreation are indirect they are very real in this area at present. Sand banks which are generally sub-tidal or intertidal might also be at risk from by recreational pressures and although this is not currently a problem the opportunity now exists to consider how recreational use of the intertidal and sub-tidal coast might be managed in future.
- 9.8 This additional mitigation re otter for the Dornoch Firth and Morrich More SAC and the Durness SAC is to be welcomed

Dornoch Firth and Loch Fleet SPA and Ramsar (pp32- 39)

We are pleased to see the Assessments of the settlements potentially affecting these sites have been amalgamated.

Recreational disturbance should be added to the first bullet points under 'potential impacts' for Dornoch and Embo (pages 37 and 38). This is flagged up in general under 9.7. Mitigation of recreational impacts which could affect the wintering or breeding bird features should then be included here (pages 37 and 38 Dornoch and Embo). This could be in the form of a Recreation Management Plan as is included for the Dornoch Firth and Morrich More SAC on p49.

Dornoch Firth and Morrich More SAC (pp40-51)

This section is comprehensive and complete. The reference to 'sand banks' in Dornoch mitigation should be changed to 'sand dunes'.

Moray Firth SAC (pp51- 58)

This is complete and adequate for the part of the site which falls within the Sutherland Local Plan area. We welcome again the across-the-board reference to 'drainage to land' (9.1).

River Evelix SAC (pp59-61)

The additional two Conservation Objectives which relate to freshwater pearl mussels and which were latterly added to the River Oykel SAC (see below) should also be added to this site in the post-examination version. These are:

- Distribution and viability of freshwater pearl mussel host species
- Structure, function and supporting processes of habitats supporting freshwater pearl mussel host species.

However the proposed mitigation in terms of commended changes is still sufficient.

River Oykel SAC (pp61-68)

This is now complete, subject to adding further Conservation Objectives for freshwater pearl mussel in the post-examination version as follows –

- Distribution and viability of freshwater pearl mussel host species
- Structure, function and supporting processes of habitats supporting freshwater pearl mussel host species.

However the proposed mitigation in terms of commended changes is still sufficient.

Durness SAC (pp72-76)

This is now complete.