



Scottish Natural Heritage Dualchas Nàdair na h-Alba

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

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Our ref: SEA 00500 Environmental Report
22 November 2010

Dear Simon

Environmental Assessment (Scotland) Act 2005: The Highland Council – 00500 - Supplementary Guidance on Green Networks in Highland - Environmental Report

Thank you for sending us a copy of the Green Networks Supplementary Guidance SEA Environmental Report for our comments. We will be providing comments on the Draft Green Networks: Supplementary Guidance as part of our response to the Highland wide Local Development Plan (HwLDP) consultation. We do not repeat our comments here, and so this response should be read in combination with our response to the Draft Supplementary Guidance.

Our detailed comments on the SEA ER are provided in the Annex to this letter. This is a very commendable effort and we are pleased to note that the majority of our comments at the scoping stage have been fully taken on board. The aim of seeking to ensure, via the SEA process, that positive opportunities from green networks are maximised is a good approach.

We do however have significant concerns about the approach taken to assessing the cumulative (and individual) impact of expanding the path network with reference to the protection of designated sites and protected species vulnerable to disturbance by recreation. These could be more thoroughly assessed by the report.

The primary example of this is the proposed Coastal Trail, the route of which will run alongside the Inner Moray Firth SPA and Ramsar site. This proposal has already been assessed as likely to have a significant effect on the SPA and Ramsar interests and, as you will be aware, early discussions indicate that without adequate mitigation (which is still to be discussed with us) this proposal could adversely affect the integrity of this site. You are reminded that this Supplementary Guidance is subject to the provisions of regulation 85B of The Conservation (Natural Habitats, &c.) Regulations 1994, as amended (The Habitats Regulations).



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This means that the guidance cannot be adopted until the Council has concluded, following consultation with us, that its provisions will not have an adverse effect on the integrity of any European site, both alone and in combination with other plans and projects. Thus as part of the appropriate assessment, the consequences of the proposals within the HwLDP Proposed Plan for growth in the A96 Corridor must be considered in combination with this aspect of the Green Networks Supplementary Guidance.

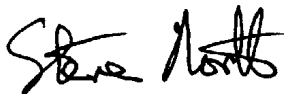
We note that the ER on page 37 and Appendix 3 (page 6) acknowledges that the Green Networks Supplementary Guidance will require an appropriate assessment under the Habitats Regulations Appraisal with particular reference to the proposed Inverness-Nairn Coastal Trail. We believe the ER should be more cautious in its assessment regarding the SEA Objective for the maintenance and enhancement of designated wildlife sites/biodiversity/valuable habitats and protected species pending the outcome of the appropriate assessment. The outcome of this assessment should also feed back into the supplementary guidance itself and also potentially into the HwLDP Proposed Plan so that any necessary mitigation measures are incorporated.

In addition to this specific example, there are likely to be other instances brought about by the general principle of enhancing path networks in specific areas where valuable habitats or species may be disturbed. It would have been useful for the ER to set out generic mitigation measures to reconcile social and environmental goals. One such measure might be for paths to seek to avoid disturbing areas of high environmental and species value in the first instance, but if there is no alternative route and there is an imperative need for the path link, then adequate mitigation measures should be incorporated.

In addition, regarding Natura sites, you are reminded that if a Habitats Regulations Appraisal (HRA) of the proposal fails to conclude that there would be no adverse effect on the integrity of a Natura site, that there are no alternative solutions and that the proposal must go ahead for imperative reasons of overriding public interest, then the Highland Council must notify Scottish Ministers of this. If the proposal is given effect in such circumstances then any necessary compensatory measures must also be taken to ensure the overall coherence of the Natura 2000 network is protected, (regulations 85C and 85E of the Habitats Regulations).

I trust these comments will be of assistance to you as you work towards finalising the Green Network Supplementary Guidance. Please contact Anne Murray or Phil Baarda in the first instance if you wish to discuss any matters in more detail (anne.murray@snh.gov.uk / phil.baarda@snh.gov.uk). In particular we would be happy to discuss further with you the appropriate assessment work for the proposed Coastal Trail, including possible mitigation measures.

Yours sincerely



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Annex A: Detailed comments on Green Networks: Supplementary Guidance Environmental Assessment

General

The assessment in Appendix 3 and summarised on pp39-40 takes the guidance as a whole and considers it against the 10 SEA Objectives. While it may not be necessary to go down to the level of detail of the 19 green network principles in the guidance (pp7-8) individually, perhaps some issues could have been teased out more clearly if the assessment was based on the 3 sets of general, environmental and social principles, i.e. if each SEA Objective was considered against headings of 'General principles', 'Environmental principles' and 'Social principles'.

Detailed

Section	Comment
Page 7	5 th para – The HRA re the Coastal Trail will inform whether or not there is a significantly adverse affect on the Natura sites adjacent to the proposed route.
Page 11	1 st para – typo – refers to Highland wide LDP rather than this supplementary guidance
Page 11	Context – it may have been worth saying a few words too about the A96 corridor, for which this SG provides more detail
Page 12	1 st para – typos re 'policies' instead of 'programmes'
Page 15	Note the EU Wild Birds Directive (79/409/EEC) should now be referred to as the European Birds Directive (2009/147/EC)
Page 16	The UK Protection of Badgers Act 1992 should be referred to as: Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004).
Page 20	WEWS – RBMPs will help maintain and improve water quality.
Page 21	Note the Nature Conservation (Scotland) Act was 2004
Page 21	Note the Scottish Climate Change Bill should be updated to the Climate Change (Scotland) Act 2009
Page 22	The Scotland River Basin Management Plan was approved in December 2009.
Page 23	With reference to golf courses it would be worth referring to the Scottish Golf Environment Group who have produced best practice advice on a number of topics including Nature Conservation and Golf Course Development. See http://www.sgeg.org.uk/advice.html for further information.
Page 28	It would be helpful if the Natural Heritage Futures series was included here – these are listed in the ER for HwLDP or see our website – http://www.snh.gov.uk/about-snh/what-we-do/nhf/
Page 28	The River Basin Management Plans listed here have all been approved now.
Page 29	2 nd para – we recommend that Special Landscape Areas are included here.
Page 30	2 nd para – peatland is also one of the most prominent habitat types in Highland.
Page 30	3 rd para – typo re repeat of the phrase negative trends.
Page 30	Table 2, Biodiversity, flora and fauna - remove ref to landscape character.
Page 30	Table 2, Human Health – change green space to green network.
Page 37	'Effect on Natura 2000 sites' – this section is noted, and some tightening up of wording would be useful. We recommend 'The Habitats Regulations Appraisal will be completed separately and will include an appropriate assessment of the likely significant effects, alone and in combination, of the provisions of this guidance on the

	<p>conservation objectives of nearby Natura sites with a view to ensuring that there would be no adverse effects on the integrity of the sites upon adoption of this guidance’.</p> <p>The Moray Firth SAC can be removed from the list of sites. There is no likely significant effect on the qualifying features of this site re the Green Network Supplementary Guidance.</p>
Page 38	Map – add designation types (SAC, SPA and Ramsar) to the site names. Add an OS backdrop or grid lines and major settlements as a point of reference to the map.
Page 42	SEA Objective 1 - re the coastal trail the text for this objective should be informed by the HRA process.
Page 47	<p>Monitoring – Biodiversity –</p> <ol style="list-style-type: none"> 1. It is more accurate if the indicator was the number of applications that <u>affected</u> designated nature conservation sites. 2. For species, an indicator could be the number of applications that required a protected species survey – and of that number, how many needed a mitigation plan in order to be acceptable.
Appendix 2 – Page 5 Cultural Heritage	Row 1 - Refer also to Special Landscape Areas. Also it is important to note that Historic Scotland leads on Gardens and Designed Landscapes and are now the data source for information about these sites.
Appendix 2, Page 7, Biodiversity, Flora and Fauna	This should be changed to reflect that up to date Site Condition Monitoring data is available from SNH on request.
Appendix 2 Map – p22	SPAs – this needs updating to include the recently classified SPAs.
Appendix 2 Maps	A map of Special Landscape Areas needs adding. Also perhaps a map of inventoried woodland could be added. Reorder maps so that all the designated sites maps are together.
	With reference to protected species refer to online species sightings data maps such as our interactive map which is based on the NBN Gateway – http://www.snh.gov.uk/publications-data-and-research/environmental-data/map/
Appendix 3 Preferred Option, Sea Objective 1: Biodiversity	A +/- score under short, medium and long term and under regional would be useful to identify the potential risk of a new path having an adverse effect on an area of high biodiversity value, especially species vulnerable to disturbance by recreation. The case of the Inner Moray Firth SPA and Ramsar is quoted here, but the conflict could arise elsewhere and so an approach to resolve this would be helpful to set out in the guidance. See comment in covering letter.
Appendix 3 Preferred Option, SEA Objective 9: Landscape and scenic values	Add National Scenic Areas.