



Natural Heritage Guidance

Technical Advice Note 7

Contents

1.	Introduction	1
2.	Natural Heritage	1
3.	Legal Obligations	1
4.	Definition of Favourable Conservation Status	2
5.	Biodiversity Principle	3
6.	Precautionary Principle	4
7.	Site Protection Systems	5
8.	Protected Species	6
9.	Badgers	7
10.	Common Otter	8
11.	Breeding Birds	10
12.	Habitats	11
13.	Planning Conditions and Agreements	11
14.	Environmental Impact Assessment (EIA)	13
15.	Strategic Environmental Assessment (SEA)	14
16.	Habitats Regulations Appraisal (HRA)	16
17.	Further Information	17
18.	Other Useful Contacts	17
19.	Acronyms	19
	APPENDIX A – Designated Site Locations	20
	APPENDIX B – Example Protected, Priority or Important Species in Aberdeen	21
	APPENDIX C – Example Protected, Priority or Important Bird Species in Aberdeen	22

1. Introduction

This guidance has been designed to support the Natural Heritage Policy NE8 of the Local Development Plan and to assist planning officers and others involved in development to assess the natural heritage implications of a development proposal, and to help them avoid recommending for approval, works which may lead to damage of important natural heritage in Aberdeen. This guidance will also help to plan ahead and potentially avoid delays that could occur if any surveys were required after an application is submitted.

2. Natural Heritage

Natural heritage includes biodiversity and geodiversity; they are inter-related and have influenced the way we live.

Biodiversity is short for biological diversity and is the diversity among and within all our plants and animals in the natural environment.

Geodiversity is the diversity of minerals, rocks, soils, fossils and landforms, and includes the geological processes that make up the landform and the underlying structure of the Earth.

Together they shape our landscapes and provide the foundation for where humans live and interact, plus, provide the resources that are required for food, water, shelter, medicine, fuel for example, and overall quality of life.

3. Legal Obligations

The following legislation, obligations and plans are the main legal obligations that the Council needs to consider for the protection of natural heritage.

Legal Obligations	Description
EU Birds Directive (79/409/EEC) 1979	Protects all birds occurring naturally on the European territory of the EU, lists in Annex 1 those species requiring special conservation measures, and requires special measures for other regularly occurring migratory species.
Wildlife and Countryside Act 1981 (as amended) (WACA 1981)	Covers protection of wildlife (birds, and some animals and plants), the countryside, National Parks, and the designation of protected areas, and public rights of way.
Habitats Directive (92/43/EEC) 1992	Sets out a duty to restore natural habitats and wild species at a 'favourable conservation status', and introduces robust protection for those habitats and species of European importance.
The Conservation (Natural Habitats &c.) Regulations 1994 (as amended)	The 1994 Regulations transpose the Habitats Directive into UK law. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

Convention on Biological Diversity	To assist in halting the decline in biodiversity, the UK Government signed up to the United Nations Convention on Biological Diversity 1992.
UK Biodiversity Action Plan	The UK BAP has been developed to assist the UK meet the requirements of the Convention on Biological Diversity.
North East Scotland Local Biodiversity Action Plan	The NELBAP helps to assist the Council in meeting its UK and EU legal obligations at a local level.
Nature Conservation (Scotland) Act 2004	The Council has a duty, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions through the Act. The Act makes amendments to the WACA 1981 strengthening legal protection for protected species.

4. Definition of Favourable Conservation Status

The following box 1 provides an explanation of the term 'favourable conservation status' from the Habitats Directive (Article 1) which is used in Policy NE8 of the Local Development Plan. The explanation includes a definition for both habitats (Article 1(e)) and species (Article 1 (i)) from the Habitats Directive as they are both inter-linked.

Box 1: Definition of Favourable Conservation Status (Article 1)

<p>Article 1(e): The conservation status of a natural habitat will be taken as 'favourable' when: -</p> <ul style="list-style-type: none"> • its natural range and areas it covers within that range are stable or increasing; and • the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future; and • the conservation status of its typical species is favourable as defined in Article 1(i). <p>Article 1(i): The conservation status will be taken as 'favourable' when: -</p> <ul style="list-style-type: none"> • population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats; and • the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future; and • there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.
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5. Biodiversity Principles

Development should not lead to a loss of biodiversity and ideally should enhance it. Important habitats and species should be protected from harmful development. Any adverse effects should be avoided, minimised and/or compensated, and every opportunity should also be taken to create improvements for biodiversity, so making a significant contribution to the achievement of national, regional and local biodiversity targets. Regardless of the scale of the proposal, there is usually some scope for wildlife conservation and opportunities for enhancement. The following general principles should be taken into consideration.

5.1 Initial Survey

An initial or walk over survey provides a quick assessment of the ecological interest of a site and helps to identify the need for further habitat and species surveys. This approach will save time and help to speed up the planning process.

This survey should be conducted early on in the planning of a development so that it can inform the layout and design of the development to minimise impact on, plus, enhance biodiversity.

Along with a site survey, a desktop survey should also be conducted to gather existing information about the site including habitat and species records. The North East Scotland Biological Records Centre (NESBReC) has a wide range of records and can be located at www.nesbrec.org.uk. The site owner, local residents and groups could also provide further information. Other useful contacts are provided in section 18.

5.2 Timing of Surveys and Works

For a given species (including protected species) wildlife surveys must be carried out at the correct time of year and by a suitably experienced surveyor. To avoid unnecessary delays at a later stage in the application procedure, it is therefore advisable to ensure all survey requirements are identified as soon as possible and must be conducted before submitting an application.

In order to avoid unwittingly consenting development which is damaging to wildlife habitats, ensure that previous wildlife survey work relating to the site was also carried out at the appropriate time of year for the species in question. A recommendation on a planning application should not be done until the appropriate survey is complete.

Although it is illegal to disturb some animals, careful timing of operations may allow work to proceed e.g. by avoiding the nesting/breeding season. This may be covered by a condition attached to a planning consent.

It may also be necessary to visit more than once and at different times of the day to identify the full range of species present.

Planning ahead and taking into account the correct times of year for surveys can help to prevent delays in the application process.

Previous survey data should not be relied upon for new planning applications. When required, new surveys should be requested for each new application and should be based on current data.

Guidance on bats is provided in separate Supplementary Guidance, while guidance on badgers, European otter and breeding birds can be found in sections 9, 10 and 11 consecutively.

The Biodiversity Planning Toolkit is a very useful interactive tool to help planners with different types of planning applications and developments, plus, provides case studies for example. It can be found at the following link: -

<http://www.biodiversityplanningtoolkit.com/biodiversity.asp>

5.3 *Incorporate Existing Habitats and Create New Ones*

Aim to protect and incorporate existing habitat features such as hedges, trees, ponds, streams, wetlands and even old buildings or walls into the plans. These can be expanded and enhanced (such as by provision of bat and bird boxes, planting native species etc) as part of mitigation measures.

Consider Sustainable Urban Drainage Systems (SUDS), even for small-scale plans such as new driveways. This will help to reduce erosion and pollution in streams, as well as reducing flood risk. Guidance on buffer strips adjacent to water bodies is also provided in separate Supplementary Guidance.

If habitat loss is unavoidable, the habitat could be replaced nearby. Roosting sites could be created by including bat lofts and grassland created by using topsoil and/or turf moved from the site.

5.4 *Link Natural Features*

Ensure natural, functioning green links between habitats are not broken, as these can be vital for the continued existence of many animal populations. Where proposals affect wildlife corridors, consider whether the ecological viability of the corridor will be affected.

Take the opportunity to create new links where possible. Consider the ecological purpose of the link and ensure its design is suitable to serve this. This will help maintain the Green Space Network. Guidance on open space is also provided in separate Supplementary Guidance.

5.5 *Ensure Ecological Conditions are Met*

Monitoring wildlife protection and enhancement during and after construction is vital, but resources are often limited. For significant works, a consultant could be contracted to check progress (agreed at time of planning consent). For smaller projects, members of the public and interest groups could be involved, improving community ownership of local greenspaces. However, their role must be very clearly defined and supported by ACC Officers.

6. Precautionary Principle

The loss of habitats due to development on non-designated sites, and habitat degradation due to site damage by extractive industries or environmental engineering for flood control are on-going concerns. The full effects of land use planning on rates of decline are still not fully known.

In the meantime, the precautionary principle calls for close adherence to nature conservation principles on all development sites, and particularly where there is

uncertainty on the impact to internationally or nationally important habitats and species.

Planning authorities should apply the precautionary principle where the impacts on nationally or internationally significant natural heritage resources are uncertain but there is sound evidence for believing that significant irreversible damage could occur.

The precautionary principle should not be used to stop development unnecessarily, however, modifications to the proposal which would eliminate the risk of irreversible damage should be considered.

Where development is constrained on the grounds of uncertainty, the potential for research, surveys or assessments along with good mitigation and compensatory measures to remove or reduce uncertainty should be considered.

7. Site Protection Systems

There are a number of site protection systems (designations) in Aberdeen, including those at international, national and local level. Table 1 notes the various site protection systems found within the City of Aberdeen.

Table 1: Site Protection Systems in the City of Aberdeen

Designation	Status & Source	Number	Responsible Body
Special Area of Conservation (SAC)	Statutory – Habitats Directive (92/43/EEC) & the Conservation (Natural Habitats &C.) Regulations 1994	1	Scottish Natural Heritage
Site of Special Scientific Interest (SSSI)	Statutory – Wildlife and Countryside Act 1981 & the Nature Conservation (Scotland) Act 2004	4	Scottish Natural Heritage
Local Nature Reserve (LNR)	Statutory – National Parks and Access to the Countryside Act 1949	4	Local Authority
Local Nature Conservation Sites (LNCS)	Non-statutory – Local Authority	45	Local Authority

Statutory designated sites are those recognised at international level such as the European Commission’s Special Area of Conservation (SAC), and those recognised at UK and Scottish level, for example a Site of Special Scientific Interest (SSSI) and a Local Nature Reserve (LNR). Non-statutory designated

sites are set at a local level to further protect locally important landscape settings and valuable wildlife habitats.

Appendix A notes the locations of all designated sites currently found in Aberdeen.

The following link at Scottish Natural Heritage's (SNH) website provides further details including maps of relevant designated sites: <http://gateway.snh.gov.uk/sitelink/>

8. Protected Species

This section covers protected, priority or important species that are relevant to Scotland, and in some cases, found in Aberdeen City.

European Protected Species (EPS) are plants and animals (other than birds) that are protected by law through the European Union (EU). They are listed in Annexes II and IV of the EU Habitats Directive and are fully protected under Schedule 6 of the Wildlife and Countryside Act 1981. Table 1 includes EPS that are found in and around Aberdeen City.

Table 1: Protected Species under European and British Law

Common Name	Scientific Name
Bats, Typical (all species)	Vespertilionidae
Otter, Common	Lutra lutra
Dolphins, porpoises and whales (all species)	Cetacea

While the above table 1 contains species that are known to occur in Aberdeen, in time, some species that are found in Aberdeenshire may be also be found in the City, for example, water vole.

Some species which are not classed as EPS, but have other levels of protection, priority or importance, including a separate list of some bird species, are found in Appendix B and C. This list is not comprehensive.

Guidance on bats is provided in separate Supplementary Guidance.

Further details on protected species can be found on SNH's website at the following link: - <http://www.snh.gov.uk/planning-and-development/advice-for-planners-and-developers/protected-animals/>

9. Badgers

This section provides information that will be needed for the consideration of the effects of planning and development on badgers.

9.1 General Information About Badgers

Badgers are reasonably widespread throughout the UK, but due to their mainly nocturnal habits, are rarely seen. They have long been persecuted largely from practices such as digging and baiting and as a result, are protected through the Badgers Act 1992.

9.2 Badgers And Legislation

Badgers and their setts are protected through the Protection of Badgers Act 1992 (as amended).

It is an offence to: -

- Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;
- Interfere with a sett by damaging or destroying it;
- Obstruct access to, or any entrance of, a badger sett;
- Disturb a badger when it is occupying a sett.

It would still be considered an offence if any of the above resulted from a person being 'reckless'.

A badger sett is defined in the Act as '**any structure or place which displays signs indicating current use by a badger**'. This can include culverts, pipes and holes under sheds, piles of boulders, old mines and quarries etc. 'Current use' also includes setts that are only used seasonally or occasionally.

Badgers are also listed under schedule 6 of the Wildlife and Countryside Act 1981 (as amended). Schedule 6 lists those "Animals that may not be Killed or Taken by Certain Methods" and this schedule refers to Section 11 of the Act that states the "Prohibition of certain methods of killing or taking wild animals". In effect this means that it is an offence to take or kill a badger by the means listed under Section 11 (see offences).

They are also protected by the Protection of Animals (Scotland) Act 1912, The Wild Mammals (Protection) Act 1996 and included in Appendix III of the Bern Convention.

9.3 Badgers And Land Use Planning

Where badgers are or likely to be present, the planning authority may require a survey, paid by the developer, so that they can consider the presence of badgers, the importance of a sett and the implications of its loss or disturbance, as well as, the likely effects of any development on the occupants.

SNH may be contacted for advice if there is uncertainty over the whether the proposed mitigation measures are sufficient to avoid an offence under the relevant legislation.

Full guidance can be found at the following link: -

<http://www.snh.org.uk/publications/online/wildlife/badgersanddevelopment/development.asp>

9.4 Badgers And Licensing

For the purposes of development as defined under the Town and Country Planning (Scotland) Act 1997, licences are available from SNH for certain purposes to permit actions that might otherwise constitute an offence in relation to badgers or their setts.

A license must be obtained from SNH for work that may cause disturbance to a badger or involves the damage or destruction of a sett.

Licences will not normally be issued during the breeding season – 30 November to the 1st of July.

Developers should consider activities that may cause disturbance, damage or destruction to occur outside this period.

Licences are usually only issued after full planning permission has been granted so that there is no conflict with the planning process.

More information on badgers and development including a link to the appropriate form can be found at: -

<http://www.snh.org.uk/publications/online/wildlife/badgersanddevelopment/development.asp>

10. Common Otter

This section provides information that will be needed for the consideration of the effects of planning and development on otters.

10.1 General Information About Otters

Otters are semi aquatic, shy and secretive mammals that are rarely seen. It is estimated that about 90% of the British population are in Scotland, however, because of their decline in Europe, this population are important internationally.

10.2 Otters And Legislation

Otters are classed as European Protected Species (EPS) and are protected by the EC Habitats Directive, which is transposed into the Conservation (Natural Habitats, &c.) Regulations 1994.

The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 1997 enhances protection even further and states that it is illegal to: -

- Deliberately or recklessly kill, injure or take (capture) an otter;
- Deliberately or recklessly disturb or harass an otter;
- Damage, destroy or obstruct access to a breeding site or resting place of an otter (shelter).

Otters shelters are legally protected whether an otter is present or not.

10.3 Otters And Land Use Planning

Given that otters are sufficiently widespread in Scotland, planners and developers would be expected to consider them as a matter of course in relation to almost every development project affecting riverine or coastal environments.

Where otters are or likely to be present, the planning authority may require a survey, paid by the developer, so that they can consider the presence of otters, the importance of a holt, couch or other significant aspect of otter habitat and the implications of its loss or disturbance, as well as, the likely effects of any development on otters themselves.

SNH may be contacted for advice if there is uncertainty over the whether the proposed mitigation measures are sufficient to avoid an offence under the relevant legislation.

Full guidance can be found at the following link: -

<http://www.snh.org.uk/publications/on-line/wildlife/otters/default.asp>

10.4 Otters And Licensing

If it is suspected that otters are present at a site for development, then a survey will be recommended. If evidence of otters is found, then the surveyor will be required to identify the possible impacts of the development on otters. If the impacts cannot be avoided then the development may result in an offence being committed. A license will, therefore, be required to proceed. Licenses will only be granted if strict tests are met. The three tests are: -

1. That there is a licensable purpose for which licenses can be granted. A licence may be granted 'to preserve public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'.

If this is satisfied 2 further tests must be satisfied: -

2. That there is no satisfactory alternative to the granting of a licence; and
3. That the action authorised will not be detrimental to the maintenance of the population of the EPS concerned at a favourable conservation status in their natural range.

Licences are usually only issued after full planning permission has been granted so that there is no conflict with the planning process.

More information on otters and development including a link to the appropriate form can be found at: -

<http://www.snh.gov.uk/protecting-scotlands-nature/species-licensing/mammal-licensing/otters/dev/>

11. Breeding Birds

This section provides information that will be needed for the consideration of the effects of planning and development on breeding birds.

11.1 General Information About Breeding Birds

There are about over 250 wild birds that are either resident species or regularly migrate to Britain. Birds live in different types of environments including woodland; coastal and marine; upland; freshwater; lowland and farmland; and urban.

11.2 Breeding Birds And Legislation

All birds including their eggs and nests are protected through the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly: -

- kill, injure or take a wild bird;
- take, damage, destroy or interfere with a nest of any wild bird whilst it is in use or being built (or at any time for a nest habitually used by any bird listed in Schedule A1);
- obstruct or prevent any wild bird from using its nest;
- take or destroy an egg of any wild bird;
- disturb any wild bird listed on Schedule 1 whilst it is building a nest or is in, on, or near a nest containing eggs or young, or whilst lekking;
- disturb the dependent young of any wild bird listed on Schedule 1;
- harass any wild bird listed on Schedule 1A.

Details of the relevant Schedules can be found at the following link: -

<http://www.snh.gov.uk/docs/B469673.pdf>

Bird species that are rare or vulnerable to disturbance or persecution receive more protection. For example, the peregrine falcon is protected by special penalties in Schedule 1 part 1 of the Wildlife and Countryside Act 1981.

11.3 Breeding Birds And Land Use Planning

Birds can be disturbed or displaced or they could lose their habitat as a result of development.

To comply with the law, developers should delay works to safeguard existing nesting sites that may affect breeding birds and their young.

Surveys are encouraged to establish if there are breeding birds at the development site. Trees and shrubs are popular breeding sites for blackbirds for example, whereas roofs including soffits, gutters and eaves are popular with sparrows, starlings, house martins, swallows and swifts. Tall buildings may also be important breeding sites for species such as the peregrine falcon. Breeding of most bird species usually occurs between April and August.

A nest can be destroyed quite legally if the bird has finished breeding, the young have fledged and the bird is no longer using it. However, developers are encouraged to provide new opportunities for birds to nest in through the

inclusion of appropriate planting, the provision of swift bricks, swallow and house martin nest cups and bird boxes.

12. Habitats

Whilst many important wildlife habitats may be protected through site protection system such as a SAC, SSSI, or LNCS, some habitats occur outside these designated areas. Often these habitats are in areas of low overall wildlife value such as close-mown amenity grassland. These sites may be the only place for some species to live in that area, so their protection and conservation is important for the biodiversity of the whole City.

These habitats are hedgerows, mature or veteran trees, standing dead wood habitats, species-rich grassland, wetland habitats, and woodlands and spinneys. Other more man-made habitats include parks, gardens, railway embankments, roadside verges, disused quarries, landfill sites, buildings and bridges.

These habitats together form green corridors which allow species to move from one place to another, preventing habitat fragmentation and isolation of species. Green corridors allow species to adapt to climate change.

Applicants may need to demonstrate that long-term management will be carried out and that responsibilities for this are clearly identified. Monitoring of the outcomes of habitat and species works and their management will be required. In many cases submission of a Management Plan will be a condition or planning obligation.

Further advice on green corridors and open space requirements can be found in the Open Space Supplementary Guidance.

13. Planning Conditions and Agreements

The use and implementation of planning conditions and agreements is a mechanism for improving and protecting biodiversity in Aberdeen City. Aberdeen's biodiversity network is fragmented and many habitats and species are isolated. Developers may be required to undertake or contribute to works necessary to enhance or protect the nature conservation value of the environment related to the development. This could include surveys, impact assessment and monitoring. It is also recognised that access to wildlife is an important quality of life requirement for many urban residents, so improving public access to and facilities within nature conservation sites may also be required.

Developer obligations may involve the following: -

- surveys of protected or locally scarce species
- habitat creation, restoration or management
- improvements in public access to and use or enjoyment of wildlife sites
- improvements to the connectivity and robustness of wildlife corridors, especially at junctions of two corridors
- improvement to habitat of significant species
- establishment and monitoring of habitats

- setting aside and preparing land for natural regeneration

13.1 Avoiding and minimising damage

Developers should in the first case seek to avoid or minimise harm. Where development takes place that unavoidably damages biodiversity, measures should be taken to ensure that the total ecological resource remains at least at the current level. The following hierarchy of measures should be used to improve the effects of development on biodiversity: -

Avoidance - not carrying out development within a sensitive area, for example through careful siting or by limiting extent of development.

Mitigation - reducing an unavoidable impact to a minimum, for example through the use of protective fencing or through phasing and timing of works.

Compensation - offsetting impacts which cannot be avoided by creating new habitats and/or by managing or restoring existing ones and/or by improving access and use of nature conservation sites.

13.2 Compensation

In cases where compensatory measures are sought, it will not always be necessary to replace damaged or lost habitats with the same habitat, since in many cases this will not be feasible or desirable. The needs of biodiversity should indicate the kind of habitat that it is appropriate to create, restore or manage in compensation.

Compensatory habitats should be larger than the habitats they are replacing, because newly created habitats take time to establish and become of the same quality as the lost habitat. It is recommended that replacement habitats should be twice the size of the habitat they are replacing.

Compensatory habitats will also require establishment maintenance and after care.

13.3 Habitat 'Translocation'

Habitat 'translocation' (i.e. moving a habitat to another site because is in the way of a development) is not an acceptable form of mitigation. There is no evidence that it succeeds, and the 'translocated' habitat changes during the process to become a different habitat. However, if a habitat is irretrievably damaged or lost through development, it may be appropriate to use it as a source of material for habitat creation elsewhere in the biodiversity network.

This is a compensatory measure and should, therefore, be a last resort.

14. Environmental Impact Assessment (EIA)

This section provides information on a process which identifies the environmental effects (both negative and positive) of development proposals. It aims to prevent, reduce and offset any adverse impacts.

14.1 Determining EIA Requirement

There is a statutory requirement that, for developments of particular scale or on particularly sensitive sites, an EIA is carried out. Such projects are listed in schedules 1 and 2 of the Environmental Impact Assessment (Scotland) Regulations (1999) and examples are outlined below.

A Schedule 1 development will always require an EIA, because, by virtue of its nature or scale, it is always likely to have significant environmental affect, for example: -

- groundwater abstraction;
- disposal of hazardous waste; and
- installation for the intensive rearing of poultry or pigs.

A Schedule 2 development will require an EIA if it is likely to have significant effects on the environment by virtue of factors such as its size, nature or location, for example: -

- urban development including car parks and leisure centres; and
- drilling for water supplies;

But must also be a development which: -

- a) meets one of the relevant criteria or exceeds one of the relevant thresholds listed in the second column of the table in Schedule 2; or
- b) is located wholly or in part in a 'sensitive area' as defined in regulation 2(1) (e.g. SSSI, SAC).

A full list of Schedule 1 and Schedule 2 developments can be found at: -

<http://www.opsi.gov.uk/legislation/scotland/ssi1999/19990001.htm>

14.2 Screening

Where an EIA is likely to be required, the council must determine whether the application falls within the criteria listed in either Schedule 1 or 2 of the regulations, and, for those that fall within schedule 2, whether the project will have a significant effect on the environment. It is the responsibility of the local authority to ensure that applications are screened. Guidance on how to decide whether projects are likely to have a significant environmental effect is given in Schedule 3 of the regulations at the above website. Criteria include the use of natural resources, the production of waste, and the absorption capacity of the natural environment.

14.3 Scoping

Where an EIA is required, the local authority can provide a 'scoping opinion' on the impacts and issues that are likely to be significant, and therefore, should be addressed by the EIA, and is encouraged to do so where one is requested. The planning authority must seek advice from a statutory consultee (e.g. SEPA or SNH) before issuing a 'scoping opinion'.

15. Strategic Environmental Assessment (SEA)

This section provides information on a process for the early identification and assessment of the likely significant environmental effects, both positive and negative, of certain plans, programmes and strategies developed by the public sector.

15.1 Legal Framework

In 2004, the Environmental Assessment of Plans and Programmes (Scotland) Regulations transposed the European Union Directive 2001/42/EC into Scots law requiring SEA for certain plans and programmes prepared, developed, amended and altered by Responsible Authorities. The Environmental Assessment (Scotland) Act 2005 came into force 20 February 2006 and replaced the 2004 Regulations. This Act stipulates that the full environmental impacts of all new strategies, programmes and plans developed by the public sector are properly considered. However, any plans or programmes that commenced between 21 July 2004 and 19 February 2006 will still be controlled by the 2004 Regulations.

15.2 Plans Requiring SEA

SEA applies only to plans, programmes and strategies (PPS) of a public nature. Applications for *projects* of large scale or with likely significant environmental effects are covered under the Environmental Impact Assessment (Scotland) Regulations 1999 (see section 14, page X).

SEA applies to:

1. Any plan which is likely to have a significant environmental effect, and which relates to matters of public character;
 - a) Which is prepared for agriculture, fisheries, forestry, energy, industry, telecommunications, transport, tourism, town and country planning, waste management and water management, and sets the framework for future development consents that require Environmental Impact Assessment in accordance with EIA Directive 85/337/EEC, or;
 - b) Is a plan or programme determined to have significant effects on nature conservation sites protected under Habitats Directive 92/43/EEC, or;
2. Any of the above plans which determine the use of small areas at local levels, and minor modifications to plans and programmes. These shall only require an environmental assessment where the member states determine that they are likely to have significant environmental effects;
3. Any plans or programmes not included in any of the above cases but set the framework for future development consents. These will require SEA if they are likely to have significant environmental effects; and
4. Any other plans or programmes out with those listed in 1-3 above; and which neither relate to an individual school nor to an exempted plan or programme. These will require SEA if they are likely to have significant environmental effects.

15.3 Stages in the SEA Process

There are a number of stages in the SEA process and they include pre screening or screening, scoping, environmental report and post adoption statement.

15.3.1 Pre-screening or Screening

The step pre-screening decides whether or not a PPS is excluded from having to undertake a SEA. Pre-screening is undertaken for those PPS for which there is no doubt will give rise to no or minimal environmental effects.

For screening, certain PPS will always be subject to SEA, as given their nature they are considered likely to give rise to significant environmental effects. However, there are also PPS where this is uncertain and for which SEA will only be required if they have significant environmental effects. The key question "is this PPS likely to have significant effects on the environment?" is answered using the screening process. This is a key step in identifying whether a PPS is a qualifying one under the Act.

15.3.2 Scoping

The scoping stage identifies the environmental issues to be taken into consideration during decision-making.

15.3.3 Environmental Report

The Environmental Report is the main reporting mechanism for describing and evaluating the significant effects, both positive and negative, on the environment of implementing the PPS. The effects of alternatives to the PPS are also outlined and evaluated in the report, as well as actions to prevent, reduce and, as fully as possible, offset any significant adverse effects. The Environmental Report is thus the key consultation document and is prepared for publication alongside the draft PPS. Feedback from the statutory consultation bodies during the scoping stage is incorporated into the environmental report.

To avoid risk of a legal challenge, the environmental statement must contain all information required in Schedule 4 of the regulations.

15.3.4 Post Adoption Statement

Before a qualifying PPS can be formally adopted, it is a requirement of the Environmental Assessment (Scotland) Act 2005 that the Environmental Report, and the outcome of consultations upon it, is taken into account. The Act also requires that once the PPS is adopted, a statement is published which explains how the Responsible Authority has taken the SEA process into account and how environmental considerations have been integrated into the PPS.

16. Habitats Regulations Appraisal

This section provides information on the habitats regulation appraisal process which requires competent authorities to assess certain plans or projects that affects a Natura (European) site. This process helps to decide whether to undertake an appropriate assessment or not.

16.1 Legal Framework

The Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") states that 'development proposal unconnected with the nature conservation management of a Natura 2000 site is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated.'

16.2 Natura 2000 Sites

Natura 2000 sites include a Special Protected Area (SPA) and Special Area of Conservation (SAC). The River Dee is a SAC and is, therefore, a Natura 2000 site.

16.3 When an Appropriate Assessment is Required

An Appropriate Assessment is required when a **plan or project** affecting a Natura site:

- Is not connected with management of the site for nature conservation, and
- Is likely to have a significant effect on the site (either alone or in combination with other plans or projects).

16.4 Competent Authority

As the competent authority, the Council, with advice from Scottish Natural Heritage, decides whether an Appropriate Assessment is required or not.

16.5 Three Steps

There is no set format that a Habitats Regulations Appraisal has to follow, and the level of information required depends very much on the individual circumstances of a case.

However, when considering whether a proposal will affect a Natura Site, the following three steps can be taken: -

1. Step One – Is the proposal directly connected with or necessary for site management for nature conservation?

IF YES, PERMISSION MAY BE GRANTED.

IF NO, GO TO STEP TWO.

2. Step two – Is the proposal likely to have a significant effect on the site?

IF NO, PERMISSION MAY BE GRANTED.

IF YES, GO TO STEP THREE. An Appropriate Assessment will also be required. The Council carries out the appraisal with advice from SNH.

3. Step three – Can it be ascertained that the proposal will not adversely affect the integrity of the site?
IF YES, PERMISSION MAY BE GRANTED.

IF NO OR NOT SURE, PERMISSION MUST BE REFUSED. If it cannot be ascertained that a proposal will not adversely affect the integrity of a Natura site, the proposal can only proceed if: -

- There are no alternative solutions; AND
- There are imperative reasons of over-riding public interest for doing so.
- Such reasons are limited to those outlined in regulation 49 of the Habitats Regulations.
- Scottish Ministers must be consulted.
- Any necessary compensatory measures must be taken to secure coherence of the Natura site network.

SNH has more information on Habitats Regulations Appraisal which can be accessed via the following link: -

<http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/international-designations/natura-sites/habitats-regulations-appraisal/>

17. Further Information

Local Planning Office

Aberdeen City Council
Business Hub 4
Ground Floor North
Marischal College
Broad Street
ABERDEEN, AB10 1AB
Tel: 01224 523470
Email: pi@aberdeencity.gov.uk
Web: www.aberdeencity.gov.uk/planning

18. Other Useful Contacts

Scottish Natural Heritage (SNH)

Inverdee House
Baxter Street
Torry
ABERDEEN, AB11 9QA
Tel: 01224 266500
Email: grampian@snh.gov.uk
Web: www.snh.gov.uk/planning-and-development

Scottish Environment Protection Agency (SEPA)

Inverdee House
Baxter Street
Torry
ABERDEEN, AB11 9QA
Tel: 01224 266600
Web: www.sepa.org.uk

SEA Gateway

Area 1 H (Bridge)
Victoria Quay
Edinburgh
EH6 6QQ
Tel: 0131 244 5094
Email: SEA.Gateway@scotland.gsi.gov.uk

North East Scotland Biological Records Centre (NESBReC)

Room G29
University of Aberdeen
23 St. Machar Drive
Aberdeen
AB24 3RY
Tel: 01224 273633
Email: nesbrec@aberdeenshire.gov.uk
Web: www.nesbrec.org.uk

National Biodiversity Network (NBN) Gateway

Web: www.nbn.org.uk

Royal Society for the Protection of Birds (RSPB)

10 Albyn Terrace
Aberdeen
AB10 1YP
Tel: 01224 624824
Web: www.rspb.org.uk

North East Scotland Local Biodiversity Action Plan (NELBAP)

The James Hutton Institute
Craigiebuckler
Aberdeen
AB15 8QH
Tel: 01224 395189
Web: nesbiodiversity.org.uk

19. Acronyms

ACC	Aberdeen City Council
EEC	European Economic Community
EIA	Environmental Impact Assessment
EPS	European Protected Species
EU	European Union
HRA	Habitats Regulations Appraisal
LNCS	Local Nature Conservation Site
LNR	Local Nature Reserve
NELBAP	North East Scotland Local Biodiversity Action Plan
NESBReC	North East Scotland Biological Records Centre
PPS	Plans, Programmes and Strategies
SAC	Special Area of Conservation
SEPA	Scottish Environment Protection Agency
SNH	Scottish Natural Heritage
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Urban Drainage System
SEA	Strategic Environmental Assessment
UKBAP	United Kingdom Biodiversity Action Plan
WACA	Wildlife and Countryside Act 1981

Appendix A – Designated Site Locations

Designated Site Location	SAC	SSSI	LNR	LNCS
Balnagask to Cove		✓ ¹		✓
Tullos Hill				✓
River Don Corridor			✓	✓
Balgownie/Blackdog Links				✓
Loirston Loch				✓
Kincorth Hill			✓	✓
River Dee Corridor	✓			✓
Scotstown		✓	✓	✓
Corby Loch		✓		✓
Den of Leggart				✓
Westburn of Rubislaw				✓
Rubislaw				✓
Hilton Wood				✓
Grandholme Moss				✓
Stoneyhill Wood				✓
Walker Dam and Rubislaw Link				✓
Allan Park Pond				✓
West Cults Woodland				✓
Deeside Old Railway				✓
Hazlehead Park				✓
Den Wood, Hazlehead				✓
Bucksburn				✓
Den of Maidencraig			✓	✓
Culds Den				✓
Culds Quarry				✓
Hillhead Road				✓
Farburn Wood				✓
Three Hills				✓
Den of Moss-Side				✓
Foggieton				✓
Murtle Den				✓
West Hatton				✓
Woodlands Wood, Beidleston				✓
Moss of Auchlea				✓
Rotten of Gairn				✓
Peterculter				✓
Culter Burn				✓
Little Hill, Caskieben				✓
Kinaldie Den				✓
Culter Compensation Dam				✓
Old Manse Wood				✓
Baads Moss				✓
Leuchar Moss				✓
Southlasts Mire				✓
Aberdeen – Inverness – Kittybrewster Railway Line				✓
Rubislaw Quarry				✓

¹ There are 2 SSSI's at this designation – one at Nigg Bay (geological) and the other at Cove cliffs (biological).

Appendix B – Example Protected, Priority or Important Species in Aberdeen

Common Name	Annex 4 EC Habitats Directive	Schedule 5 WACA 1981	UK BAP Priority Species	UK Species of Conservation Concern	Scottish Biodiversity List	North East LBAP Species	Locally Important Species	Protection of Badger	Main Habitat
Atlantic salmon				●					Rivers & Marine
Badger								●	Woodland
Brown Hare			●						Grassland, Farmland
Common toad				●					Various near fresh water
Common vole					●				Grassland, Farmland
Dolphin (all species)	●	●							Marine
Freshwater pearl mussel		●							Rivers
Lamprey (all species)				●					Rivers & Marine
Otter	●	●	●						Freshwater & Marine
Palmate newt				●					Ponds
Porpoise	●	●							Marine
Red squirrel		●	●			●			Woodland (mainly coniferous)
Whale (all species)	●								Marine
Water voles		●	●			●			Freshwater
Common Pipistrelle bat	●	●	●						Buildings, Woodland, Farmland, Freshwater
Soprano Pipistrelle bat	●	●	●						Buildings, Woodland, Farmland, Freshwater
Brown long-eared bat	●	●							Woodland, Buildings
Daubenton's bat	●	●							Buildings, Woodland, Farmland, Freshwater
Coral-root orchid							●		Wet Woodland
Juniper						●			Woodland, Heath, Coastal
Sea pea							●		Coastal
Oyster plant							●		Coastal, Shingle & Sand
Wych elm						●			Woodland, Farmland, Grassland

Appendix C – Example Protected, Priority or Important Bird Species in Aberdeen

Common Name	Annex 1 EC Birds Directive	Schedule 1 WACA 1981	UK BAP Priority Species	UK Species of Conservation Concern	Scottish Biodiversity List	Main Habitat
Arctic skua			●		●	Marine
Arctic tern	●			●	●	Coastal
Barn owl		●		●	●	Buildings, Farmland
Barnacle goose	●				●	Coastal, Grassland
Bar-tailed godwit					●	Coastal
Black-headed gull					●	Coastal, Farmland
Black-tailed godwit		●			●	Coastal
Black-throated diver	●	●			●	Coastal
Brambling		●			●	Woodland
Bullfinch			●		●	Woodland
Common grasshopper warbler			●			Wetland, Grassland
Common pochard					●	Wetland
Common scoter		●	●		●	Coastal
Common starling			●			Farmland, Urban
Common swift					●	Urban, Woodland
Common tern	●			●	●	Coastal
Cornbunting			●		●	Farmland
Crossbill		●				Woodland (Coniferous)
Curlew				●	●	Coastal, Grassland
Dunlin					●	Coastal
Eider				●		Coastal
Eurasian hobby					●	Farmland, Grassland, Wetland
Eurasian siskin					●	Woodland
Eurasian woodcock					●	Woodland
Fieldfare		●				Farmland, Urban
Garganey					●	Wetland
Golden plover	●			●	●	Montane, Farmland
Goldeneye				●		Freshwater lakes, Coastal
Goshawk		●				Woodland
Great northern diver	●	●			●	Freshwater lakes, coastal
Greater scaup			●		●	Coastal
Green sandpiper		●			●	Wetland
Greenshank		●				Coastal
Grey partridge			●		●	Farmland
Hawfinch			●		●	Woodland
Hedge accentor (Dunnock)			●			Urban, Woodland
Herring gull			●		●	Coastal
Honey buzzard	●	●			●	Woodland
Hooded crow					●	Farmland, Coastal, Woodland

Common Name	Annex 1 EC Birds Directive	Schedule 1 WACA 1981	UK BAP Priority Species	UK Species of Conservation Concern	Scottish Biodiversity List	Main Habitat
House sparrow			●			Urban
Kestrel				●	●	Farmland, Grassland
Kingfisher	●	●			●	Freshwater
Lapland bunting		●				Coastal
Lapwing				●	●	Farmland, Coastal, Wetland
Lesser redpoll				●		Woodland
Linnet			●		●	Coastal, Heath, Scrub
Little tern	●	●		●	●	Coastal
Long-tailed duck		●				Coastal
Manx shearwater					●	Coastal
Merlin	●	●			●	Farmland, Heath, Woodland
Osprey	●	●			●	Freshwater, Woodland
Peregrine	●	●			●	Coastal, Urban
Pink-footed goose		● Schedule 2				Farmland
Purple sandpiper		●			●	Coastal
Red kite	●	●			●	Farmland, Woodland
Red-backed shrike			●		●	Farmland, Heath
Redshank				●		Coastal
Red-throated diver	●	●			●	Coastal
Redwing		●				Woodland, Farmland
Reed bunting			●		●	Wetland
Ring ouzel			●		●	Montane
Roseate tern	●		●		●	Coastal
Ruff	●	●			●	Wetland, Coastal
Sandwich tern	●			●	●	Coastal
Short-eared owl	●				●	Heath, Grassland
Skylark			●		●	Farmland, Grassland
Slavonian grebe	●	●		●	●	Coastal, Freshwater lakes
Smew					●	Wetland
Snipe				●		Wetland
Snow bunting		●		●	●	Coastal, Heath
Song thrush			●		●	Woodland, Urban
Spotted flycatcher			●		●	Woodland
Storm petrel	●				●	Coastal
Tree sparrow			●		●	Farmland, Woodland
Velvet scoter		●				Coastal
Water rail				●		Wetland
Whimbrel		●				Coastal
White-tailed eagle	●				●	Coastal
Whooper swan	●	●			●	Freshwater, Estuaries

Common Name	Annex 1 EC Birds Directive	Schedule 1 WACA 1981	UK BAP Priority Species	UK Species of Conservation Concern	Scottish Biodiversity List	Main Habitat
Wood sandpiper	●	●			●	Woodland, estuaries and wetland
Wood warbler					●	Woodland
Wryneck		●			●	Coastal migrant
Yellow wagtail			●		●	Grassland
Yellowhammer				●		Farmland