



Habitats Regulation Appraisal Record

***Inverclyde Local Development Plan 2014 –
Supplementary Guidance on Enabling Development***

February 2015



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INTRODUCTION

- 1.1 Habitat Regulation Appraisal assesses the likely impact of plans on relevant 'European Sites'. In Scotland, European Sites consist of Special Protection Areas (SPA), classified under the Birds Directive (2009), Special Areas of Conservation (SAC), designated under the EC Habitats Directive (1992), and 'candidate' Special Areas of Conservation (cSAC). Scottish Government policy affords the same level of protection to proposed SACs and SPAs which have been approved by Scottish Ministers for formal consultation. Therefore effects on these sites should also be appraised.
- 1.2 All plans not directly connected with or necessary to the management of a European site, but likely to have a significant effect on such a site, are required under Article 6(3) of the EC Habitats Directive (1992) to undergo an 'appropriate assessment' of their implications in view of that site's conservation objectives. The effect may be a direct consequence of the plan, or arise in combination with other plans or projects. The plan-making body may only approve the plan if the assessment shows it will not adversely affect the integrity of the site concerned. The only allowable exception is where the provisions of Article 6(4) of the Directive are met i.e. there are no alternative solutions and the plan is necessary for imperative reasons of overriding public interest. Where this is the case, compensatory measures must be taken to ensure the coherence of the Natura 2000 network is protected.
- 1.3 This procedure is applied in Scotland through The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and is known as the 'Habitats Regulations Appraisal' of plans. The Habitats Regulation Appraisal encompasses both the 'screening' process for determining whether an 'appropriate assessment' is required, as well as any 'appropriate assessment'. An 'appropriate assessment' is only required where the authority determines – through the 'screening process' - that the plan is likely to have a significant effect on a European site.

PLAN CONTEXT

- 1.4 The Planning etc. (Scotland) Act 2006 sets out how development should be directed across Scotland. This consists of a hierarchy of three types of development plans, which apply at different scales. At the national level there is the National Planning Framework, currently NPF3 (2014), which sets out in broad terms how the Scottish Ministers consider development and the use of land could and should occur. At the regional level, there are four Strategic Development Plan Areas covering the cities of Aberdeen, Dundee, Edinburgh and Glasgow and their

wider hinterlands. A Strategic Development Plan has or will be drawn up for each of these areas. At the local level, Planning Authorities are required to prepare a Local Development Plan for their area. Where a planning authority is also part of a Strategic Development Plan Area, the Local Development Plan is required to accord with the relevant Strategic Development Plan.

- 1.5** The Inverclyde Local Development Plan 2014 was prepared by Inverclyde Council under The Planning etc. (Scotland) Act 2006. It was adopted on the 29th of August 2014 and accords with the approved Glasgow and the Clyde Valley Strategic Development Plan (May 2012). The Local Development Plan 2014 sets out strategies, policies, and proposals for the protection, future development, and use of land in Inverclyde. Supplementary guidance provides detailed material associated with policies in the Plan, allowing it to focus on the spatial strategy and the main policies and proposals. Supplementary guidance has a statutory basis and should be read in conjunction with the Plan. Five Supplementary Guidance documents were adopted with the Local Development Plan.
- 1.6** The Supplementary Guidance on Enabling Development supplements Policy HER6 in the Inverclyde Local Development Plan 2014 by setting out the specific criteria for achieving compliance with Policy HER6 and the supporting information needed to demonstrate this. In particular, the criteria clarifies when a listed building will be considered at risk of being lost, when a proposal is the 'only means' and the 'minimum necessary' to restore and secure the long term future of a listed building and how public benefits can be secured. The guidance does not address those issues which relate to enabling development, but are covered elsewhere in the Plan.
- 1.7** 'Land Use Plans', including Supplementary Guidance, are required to have their impact on European Sites assessed by Part IVA (regulations 85A – 85E) of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended. Supplementary Guidance therefore, is required to be subject to a Habitats Regulation Appraisal.
- 1.8** The Appraisal will be carried out with regard to:

 - The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended);
 - Planning Circular 1:2009, Development Planning Appendix 1: The Habitats Regulations;
 - Habitats Regulations Appraisal of Plans, Guidance for Plan-Making Bodies in Scotland, version 2;
 - Habitats Regulations Appraisal Advice Sheet 1: Aligning Development Planning procedures with Habitats Regulation Appraisal (HRA) requirements; and
 - Habitats Regulations Appraisal Advice Sheet 2: Screening General Policies and Applying Simple Mitigation Measures.
- 1.9** The staged appraisal process suggested in the Habitats Regulations Appraisal Guidance will be used in the report. Stage 1 of the Guidance advises on whether the plan is one that should be checked for its effects on European sites. Stages 2 to 4 provide the evidence base for the

appraisal and suggest early, but discretionary, discussions with Scottish Natural Heritage about the method and scope of the appraisal. Stages 5 - 7 systematically 'screen' all aspects of the plan to identify whether, and if so which, aspects of the plan should be subject to further appraisal because they would be likely to have a significant effect on the European sites, taking account of mitigation measures that can be incorporated into the plan as part of the appraisal process. Stages 8 and 9 are the 'Appropriate Assessment', if required, and help to identify mitigation measures and procedures to ascertain that the Plan would not adversely affect the integrity of the European sites. Stages 10 – 13 deal with consultation on the draft appraisal record; how to take account of changes to the Plan; and how to finalise the appraisal process and record.

1.10 The Habitats Regulation Appraisal Record is being published in conjunction with the Inverclyde Local Development Plan 2014 – Supplementary Guidance on Enabling Development.

1.11 Hereafter, the following acronyms are used in this report:

- 'HRA' for Habitats Regulation Assessment;
- 'ER' for Environmental Report;
- 'SNH' for Scottish Natural Heritage;
- 'SPA' for Special Protection Areas;
- 'Regulations' for The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended);
- 'LDP' for Inverclyde Local Development Plan 2014;
- 'SG' for Inverclyde Local Development Plan 2014 – Supplementary Guidance on Enabling Development.

THE APPRAISAL

STAGE 1: Deciding if the plan should be subject to HRA

2.1 The SG is a land use plan that is required under Part IVA (regulations 85A – 85E) of the Regulations to have its impact on relevant European Sites assessed through the HRA process.

STAGE 2: European Sites in Inverclyde

2.2 There are two European Sites that could be affected by the SG.

- Inner Clyde Estuary Special Protection Area, which was designated in 2000 to protect the population of Redshanks that winter on the sandbanks in the river. This site was also designated as a Ramsar site in 2000, which is an International designation which protects wetlands. Although Ramsar sites are not regulated under European legislation, Scottish Ministers, as a matter of policy, have extended the requirement for Habitat Appraisal to Ramsar sites listed under the International Convention on the Conservation of Wetlands of International Importance.
- Renfrewshire Heights Special Protection Area, which was designated in 2007 to protect the population of Hen Harriers present in the area.

Both sites span areas between Inverclyde and adjoining Authority areas. The Inner Clyde Estuary SPA falls within Inverclyde, Renfrewshire, West Dunbartonshire and Argyll and Bute council areas, the Renfrewshire Heights SPA falls within Inverclyde, Renfrewshire and North Ayrshire Councils.

2.3 A map showing the location and extent of the two SPAs is included in Appendix 1.

STAGE 3: Information about European Sites

2.4

TABLE 1: EUROPEAN SITES POTENTIALLY AFFECTED BY INVERCLYDE LDP 2014 SG ON ENABLING DEVELOPMENT		
Information	Site 1	Site 2
Site name	Inner Clyde Estuary – Inverclyde Part	Renfrewshire Heights – Inverclyde Part
Designation status	SPA/RAMSAR	SPA
Date of designation	Classified 27/03/2000	Classified 14/12/2007
Qualifying	Redshank (<i>Tringa totanus</i>)(over-wintering)	Hen harrier (<i>Circus cyaneus</i>)

interests		
Conservation objectives	<p>To avoid deterioration of the habitats of the qualifying species (listed above) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site; • Distribution of the species within site; • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species; • No significant disturbance of the species 	<p>To avoid deterioration of the habitats of the qualifying species (listed above) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site; • Distribution of the species within site; • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species; • No significant disturbance of the species
Site condition	Favourable - Maintained	Unfavourable Declining
Factors currently influencing the site	<ul style="list-style-type: none"> • Industrial activity (Ocean Terminal) • Dredging (not thought to conflict with nature conservation interest at current level) • Water quality 	<ul style="list-style-type: none"> • Disturbance from recreational activities • Habitat loss through inappropriate land management and agricultural practices.
Vulnerabilities to change / potential effects of the plan	<ul style="list-style-type: none"> • Potential for disturbance of the species from wind turbine development in close proximity to the site. 	<ul style="list-style-type: none"> • Potential for disturbance and habitat loss from wind turbine development.

STAGE 4: Discussion with SNH

- 2.5** Following informal discussions about the content of the SG with SNH in February 2015, it was agreed that the SG was unlikely to have significant effects on either of the SPAs and that, subject to screening, an appropriate assessment may not be necessary.

STAGE 5: Screening

- 2.6** The SG gives more detail as to the conditions under which proposals for enabling development will be supported. This is limited to listed buildings identified as at moderate, high or critical risk on the buildings at risk register at the time of application that have not previously been granted planning permission for enabling development. The enabling development may be on another site in the applicant's ownership, in order to mitigate any impacts on the setting of the listed building from the development. A map showing the current buildings at risk in Inverclyde is shown in Appendix 2.
- 2.7** The SG could be applied to any listed building identified as at moderate, high or critical risk within Inverclyde, and the development may be in a different area. Buildings that meet this criteria will also change over the lifetime of the SG. This means it is not possible to know where, when or how the SG may be implemented, where potential effects may occur or if any European site may be affected (Step 3e).

STAGES 6 & 7: Applying mitigation measures at screening stage and deciding on the need for Appropriate Assessment

- 2.8** As the SG has been 'screened out', further mitigation measures are not necessary at this stage.
- 2.9** There are a number of other plans that could potentially have an impact on the European Sites identified in this Assessment such as the approved Glasgow and Clyde Valley Strategic Development Plan and the Renfrewshire Local Development Plan: Proposed Plan. However as no policies or proposals were identified under Step 3 (d) of the screening process as having minor residual effects on the European sites identified, no cumulative or in-combination assessments have been carried out.
- 2.10** Following consultation with SNH on the outcome of the screening exercise, agreement was reached that, as it is not possible to know what, if any, effect the SG will have on any of the European sites identified, the SG is unlikely to have a significant effect on any European Site either alone or in combination with other Plans or Projects. An Appropriate Assessment, therefore, is not required.

CONCLUSION

- 3.1** The Inverclyde Local Development Plan: Supplementary Guidance on Enabling Development is unlikely to have a significant effect on any European site, a conclusion that was reached after consultation with SNH. As the plan is unlikely to have any significant effects, no appropriate assessment, or cumulative or in-combination assessments were carried out.

Appendix 1: Map of Special Protection Areas - Inverclyde

