



Habitats Regulation Appraisal Record

*Inverclyde Local Development Plan 2014 –
Supplementary Guidance on Renewable Energy*

November 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 that 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 been 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, including one on Renewable Energy.
- 1.6** This Supplementary Guidance on Renewable Energy updates the one adopted with the Local Development Plan following the new Scottish Planning Policy being published in June 2014. It supplements Policy INF1 in the Inverclyde Local Development Plan 2014 by setting out the different types of renewable energy technology that may be developed in Inverclyde, the relevant policy, guidance and legislation and the position of renewable energy in Inverclyde currently. Specifically, the spatial framework and criteria will require to be used alongside Policy INF1, together with all other relevant policies and criteria in the Local Development Plan and the other considerations set out in the Supplementary Guidance, to assess wind energy applications. The aim of the Supplementary Guidance is to locate renewable energy developments where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily.
- 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. The 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 it should be subject to further appraisal because it 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 Renewable Energy and the Environmental Report.
- 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 Renewable Energy.

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

2.2 Three European Sites 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.
- Black Cart Special Protection Area, which was designated in 2000 to protection the population of Whooper swans that winter on the Black Cart.

Two of the 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. The Black Cart falls wholly within Renfrewshire Council area.

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

STAGE 3: Information about European Sites

2.4

| TABLE 1: EUROPEAN SITES POTENTIALLY AFFECTED BY INVERCLYDE LDP 2014 DRAFT SG ON RENEWABLE ENERGY | | | |
|--|---------------------------------------|--|-----------------------|
| Information | Site 1 | Site 2 | Site 3 |
| Site name | Inner Clyde Estuary – Inverclyde Part | Renfrewshire Heights – Inverclyde Part | Black Cart |
| Designation status | SPA/RAMSAR | SPA | SPA |
| Date of designation | Classified 27/03/2000 | Classified 14/12/2007 | Classified 07/12/2000 |

| | | | |
|---|---|---|---|
| Qualifying interests | Redshank (<i>Tringa totanus</i>)(over-wintering) | Hen harrier (<i>Circus cyaneus</i>) | Whooper swan (<i>Cygnus cygnus</i>) (over-wintering) |
| 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 | <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 | Favourable 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. | <ul style="list-style-type: none"> • Maintenance of water quality • Disturbance from recreational activities • Potential for bird-strike from air traffic associated with Glasgow Airport, which abuts the southern boundary of the SPA |
| Vulnerabilities to change / | <ul style="list-style-type: none"> • Potential for disturbance of the species from wind turbine development in close proximity to | <ul style="list-style-type: none"> • Potential for disturbance and habitat loss from wind turbine development. | <ul style="list-style-type: none"> • Potential collision risk during migration to and from the Black Cart SPA |

| | | | |
|-------------------------------|-----------|--|--|
| potential effects of the plan | the site. | | |
|-------------------------------|-----------|--|--|

STAGE 4: Discussion with SNH

- 2.5** Following informal discussions about the content of the Draft SG with SNH in November 2014 and January 2015, it was agreed that it was likely to have significant effects on one or all of the SPAs identified. It was also agreed that, subject to screening, an appropriate assessment would likely be necessary, but that simple mitigation measures may be appropriate to negate any likely significant effects.

STAGE 5: Screening

- 2.6** The SG aims to locate renewable energy developments where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily, using the Spatial Framework and criteria along with Policy INF1 of the LDP. European sites fall into Group 2 in the Spatial Framework, where wind farms may be appropriate in some circumstances, where it can be demonstrated that any significant effects on the qualities of the areas can be substantially overcome by siting, design, or other mitigation. Proposals will also be assessed against Policy INF1. This promotes development required for the generation of renewable energy unless any economic, environmental and social benefits are outweighed by significant adverse effects upon a number of criteria including natural heritage designations, where it is stated that international and national designations should not be compromised. There are also a number of other considerations set out in the SG and all these considerations are illustrated in figures 1 and 2 and diagrams 1 to 4, which accompany the SG.
- 2.7** Based on the aim of the SG, the criteria set out and Policy INF1, it is not possible to screen the SG out as having no likely significant effects on the Inner Clyde Estuary SPA/Ramsar site, the Renfrewshire Heights SPA or the Black Cart SPA.
- 2.8** 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. However, as it is not possible to exclude the SG as not likely to have a significant effect on the European sites identified, no in-combination assessments are required.

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

2.9 It is not appropriate to use mitigation measures to screen the SG out; therefore, an appropriate assessment has been undertaken as set out below.

2.10 Through the screening stage, it has not been possible to rule out likely significant effects. Table 2 below, sets out how the SG could have an impact on the European Sites identified in stage 2.

2.11

| TABLE 2: THE NEED FOR APPROPRIATE ASSESSMENT | | | |
|--|--|---|---|
| SG | Inner Clyde Estuary SPA/Ramsar site | Renfrewshire Heights SPA | Black Cart SPA |
| Locate renewable energy developments where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily | The development of wind turbines would not take place within the Inner Clyde Estuary and there would be no habitat loss due to the SG, as it only applies to onshore wind turbine development. Disturbance of the qualifying species from the development of wind turbines in close proximity to the Inner Clyde Estuary SPA/Ramsar cannot be objectively ruled out. | The development of wind turbines within the Renfrewshire Heights SPA, potentially leading to a loss of habitat and disturbance of the qualifying species cannot objectively be ruled out. | The SG would not lead to the development of wind turbines within the Black Cart SPA, but collisions with Whooper swans during their migration to and from the Black Cart SPA cannot objectively be ruled out. |

STAGES 8 & 9: The Appropriate Assessment and Amending the plan

2.12 The SG was amended as set out in table 3 below. Further mitigation measures within the LDP are also identified to ensure there will be no adverse effects on site integrity from the implementation of the SG.

2.13

| TABLE 3: MITIGATION APPLIED | | | | |
|-----------------------------|-------------------------|---------------------------|-----------------------------------|-------------------------|
| SG Aim | European sites affected | Likely significant effect | Mitigation measure | Risk of LSE persisting? |
| Locate renewable | Inner Clyde | Yes, disturbance | The Supplementary Guidance states | No |

| | | | | |
|---|---|--|---|---|
| energy developments where the technology can operate efficiently and environmental and cumulative impacts can be addressed satisfactorily | Estuary SPA/Ramsar site Renfrewshire Heights SPA Black Cart SPA | of species, habitat loss, Population of the species. | that any development for wind energy generation will only be permitted where it can be demonstrated that it will not have any adverse effect on the integrity of the Inner Clyde Estuary SPA/Ramsar site, the Renfrewshire Heights SPA or any other Natura Site outwith Inverclyde where there is ecological connectivity. | The Supplementary Guidance on Renewable Energy will form part of the LDP once adopted and will have that status in decision making. The LDP (including all the SG, written statement and proposals maps) and its policies need to be read as a whole. All policies will be considered together in the decision making process for planning applications. The mitigation in the SG makes it clear that the developer must demonstrate that wind energy proposals will not have any adverse effect on the integrity of European sites, in line with Policy ENV1, before development will be permitted. |
| | | | Policy ENV1 states that development which could have a significant effect on a Natura site will only be permitted where an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or there are no alternative solutions and there are imperative reasons of overriding public interest, including those of a social or economic nature. | |

Stages 10 & 11: Preparing a draft of the Habitats Regulations Appraisal Record and Consultation

- 2.14** A Draft HRA was prepared and sent to SNH, along with the Draft SG and Draft ER, for consultation on 30 January 2015. SNH indicated in their response that they welcomed the inclusion of the mitigation caveat in the SG and agreed with the conclusions of the appraisal at that stage.

Stages 12 & 13: Proposed Modifications and Modifying and completing the appraisal record

- 2.15** Following consultation on the Draft SG, some minor changes were made and the Revised SG was subject to a second consultation from 5 June to 17 July 2015. Further minor modifications were then made based on the responses to the second consultation in the finalised SG. The changes in the Revised SG and the finalised SG were screened out as being unlikely to have any significant effects on the identified European Sites (the Inner Clyde Estuary SPA/Ramsar site, the Renfrewshire Heights SPA or the Black Cart SPA).
- 2.16** A copy of the Revised SG and a table showing the comments received to the consultation and the Council's intended further changes in response to them was sent to SNH in August 2015 to discuss their likely significant effects and whether any further assessment or change to the HRA was required. They agreed that the changes in the Revised and finalised SG were unlikely to have any significant effects and that the HRA did not require to be amended.

CONCLUSION

- 3.1** It was not possible to exclude the Supplementary Guidance on Renewable Energy through screening as unlikely to have significant effects on the Inner Clyde Estuary SPA/Ramsar site, the Renfrewshire Heights SPA or the Black Cart SPA. The likely effects have been subject to Habitats Regulations Appraisal in view of the sites' conservation objectives and addressed through an amendment to the document, along with other measures in the Inverclyde Local Development Plan 2014. These mitigation measures will ensure there are no significant effects on the integrity of the Inner Clyde Estuary SPA/Ramsar site, the Renfrewshire Heights SPA or the Black Cart SPA. This conclusion relies on appropriate assessment being undertaken in support of planning applications that are likely to have significant effects on the integrity of these sites.

APPENDIX 1: Map of Special Protection Areas - Inverclyde