

Introduction to Habitats Regulations Appraisal

NatureScot
20th May 2026

Introduction to Habitats Regulations Appraisal



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Outline and learning outcomes

Habitats Regulations Appraisal

- Where
- Why
- When

How - the 3 tests

Imperative reasons of overriding public interest

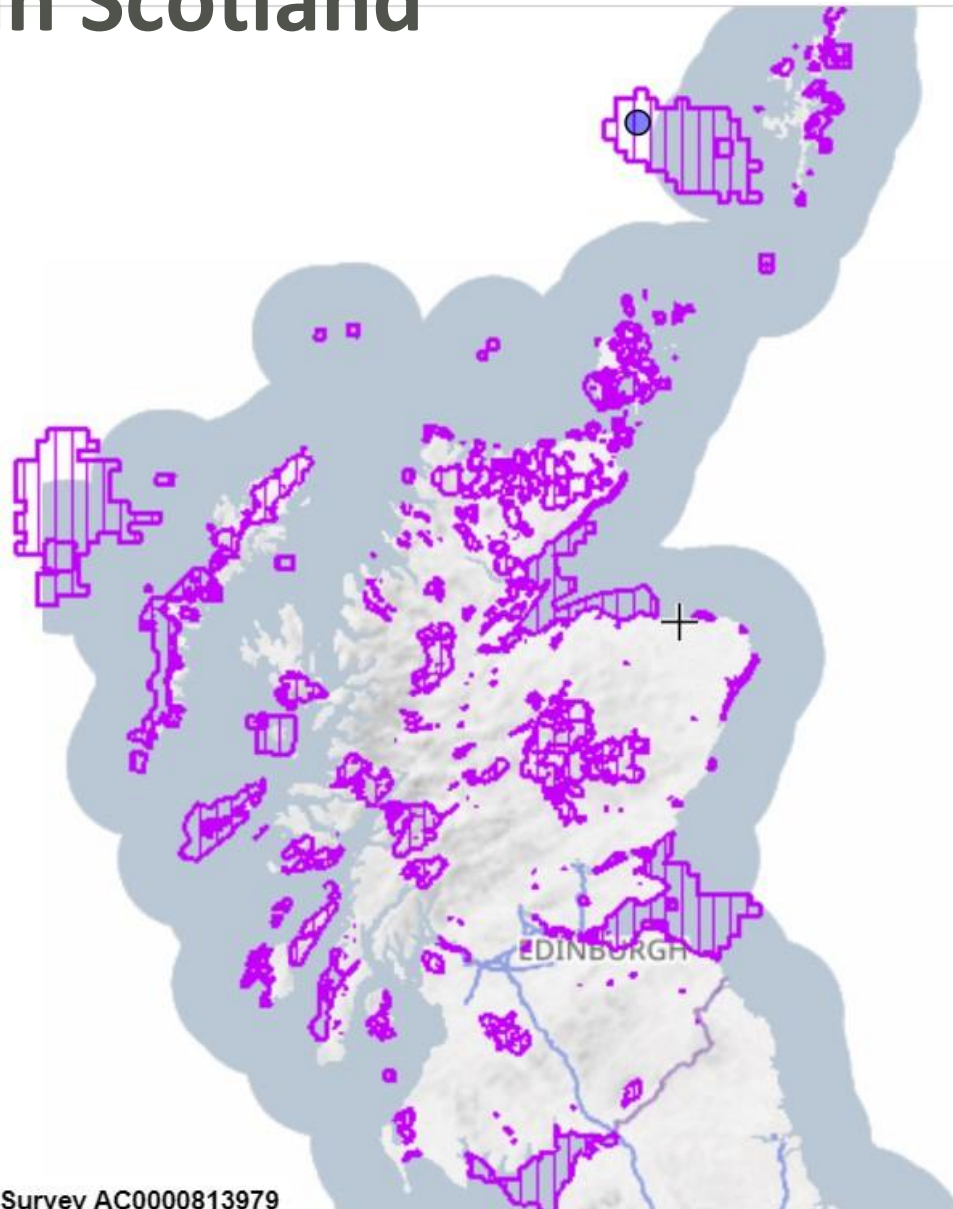
Special Protection Areas (SPAs)

Originally classified under the Birds Directive (1979)

Safeguard listed birds and migratory birds and their habitats.



SPAs in Scotland



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ights [2024] Ordnance Survey AC0000813979

Special Areas of Conservation (SACs)

Originally established
under the Habitats
Directive (1992)

Safeguard listed habitats
and species (Annex I & II
of the Directive)



SACs in Scotland



Ramsar Sites

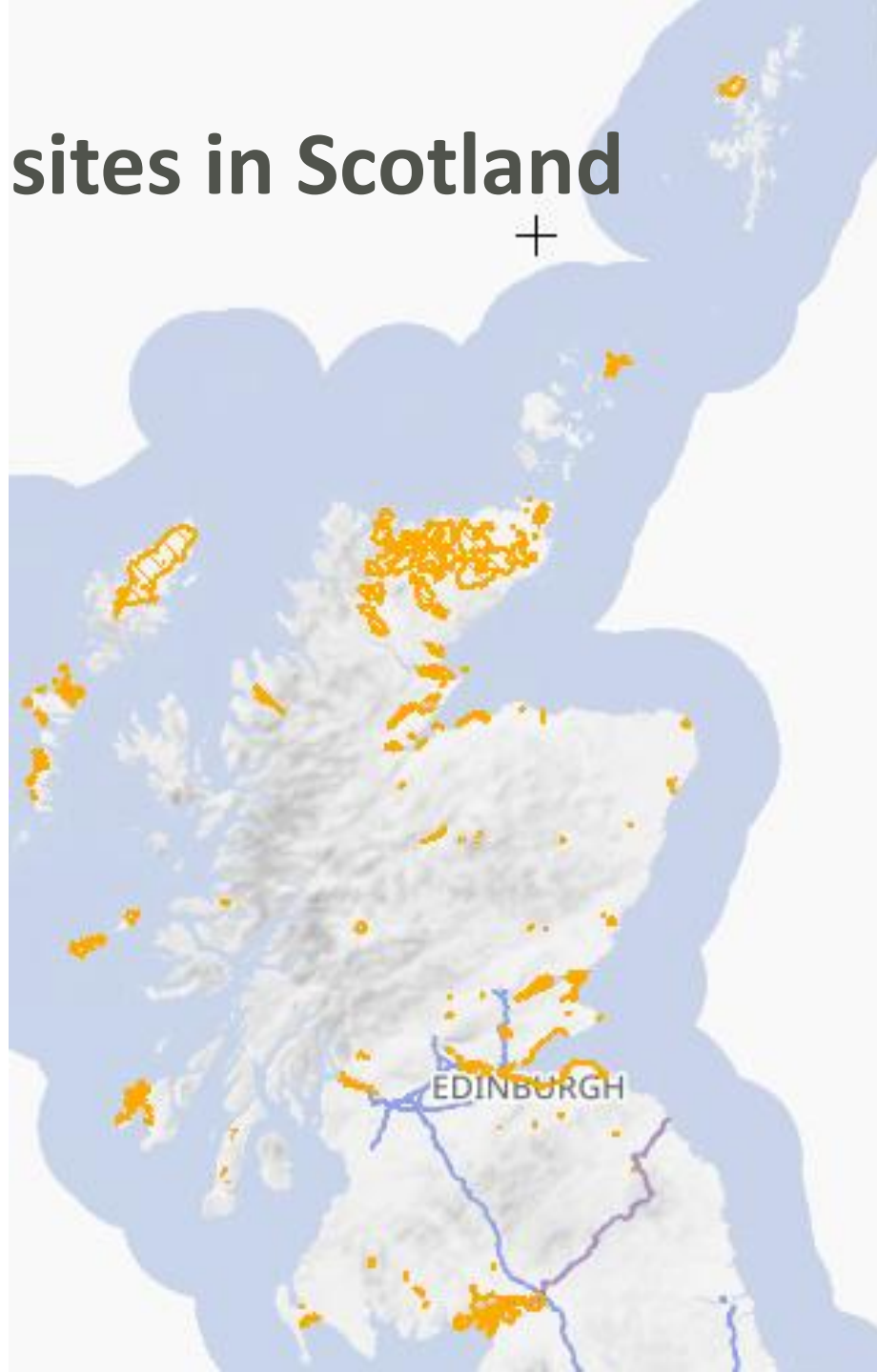
Wetlands of international importance, designated under the Ramsar Convention.

Provide protection for wetland birds, wetland habitats and associated species

Most are also SPAs and/or SACs.



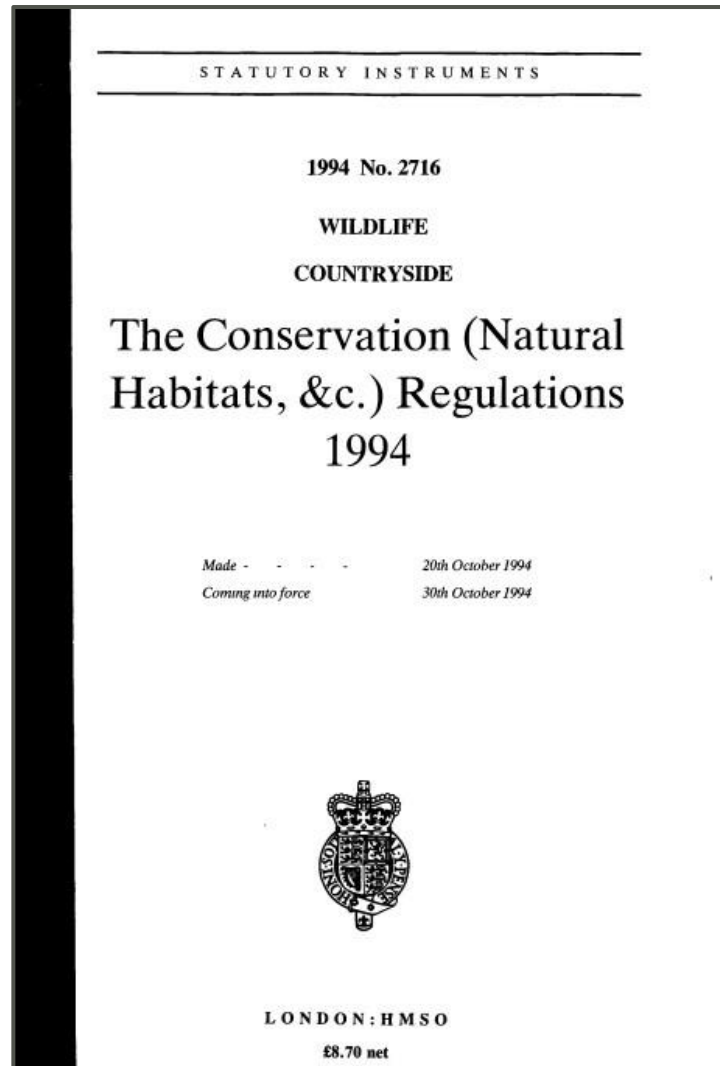
Ramsar sites in Scotland



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The Conservation (Natural Habitats, &c.) Regulations 1994 as amended



Regulation 48 of the Habitats Regulations

- (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—
- (a) is likely to have a significant effect on a European site in Great Britain or a European offshore marine site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of the site,
- shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.
- (5) In the light of the conclusions of the assessment, and subject to regulation 49, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or European offshore marine site (as the case may be)



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Competent Authority

Any authority - national or local - which is empowered to consent a proposal or to carry out work which may affect a European site:

- Minister
- Government department
- Public or statutory undertaker
- Public body of any description
- Person holding a public office

What constitutes a plan or project?

- European guidance suggests a broad interpretation.
- If an activity can potentially have an impact on a European site then it should be considered to be a plan or project (“Wightlink”, 2010)
- Includes: planning consent, EASR licences, SSSI consents, marine plans, Local Development Plans, core path plans, etc.

Information needed to carry out an HRA

- Location of the plan or project
- Information about the European site(s) potentially affected
 - qualifying interests
 - map
 - conservation objectives
 - survey information
- Details of the plan or project and its possible impacts

HRA of plans

- Generally, information gathered for SEA will also inform a plan HRA
- For LDPs, there is often enough information available early on to be able to screen allocations in or out for appropriate assessment

Habitats Regulations Appraisal (HRA)

For plans and projects that could potentially affect a European site three basic sequential tests:

- Is the proposal directly connected with or necessary to the management of the site?
- Is it likely to have a significant effect (an LSE) either alone or in combination?
- Can it be ascertained that the proposal will not adversely affect the integrity of the site?



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Is the proposal directly connected with or necessary to the management of the site?



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Next Step

Likely significant effect



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Is the proposal likely to have a significant effect on a European site either alone or in combination with other plans and projects?

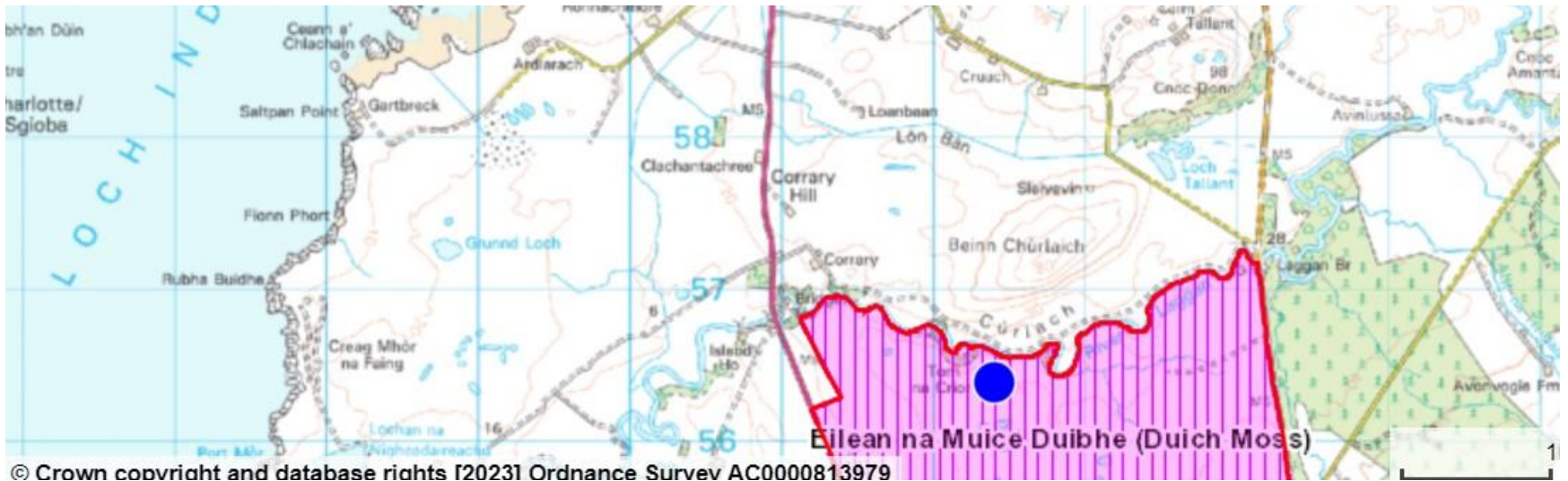
- Acts as a screening stage.
- Considered by the competent authority, although NatureScot often consulted
- Removes from further assessment proposals that clearly have no connectivity to a site's qualifying interests. Or where it is obvious the site's conservation objectives will not be undermined despite a connection.

Is the proposal likely to have a significant effect on a European site either alone or in combination with other plans and projects?

- Looking at whether there is any **connectivity** between what is being proposed and the qualifying interests of the site.
- ‘Likely’ equates to ‘probable’, not ‘certain’
- Applies to plans or projects both within a European site and outside a site
- There is no maximum buffer distance between a relevant proposal and a European site

Possible LSE Scenarios

Proposal within a European site and could impact qualifying interests within the site

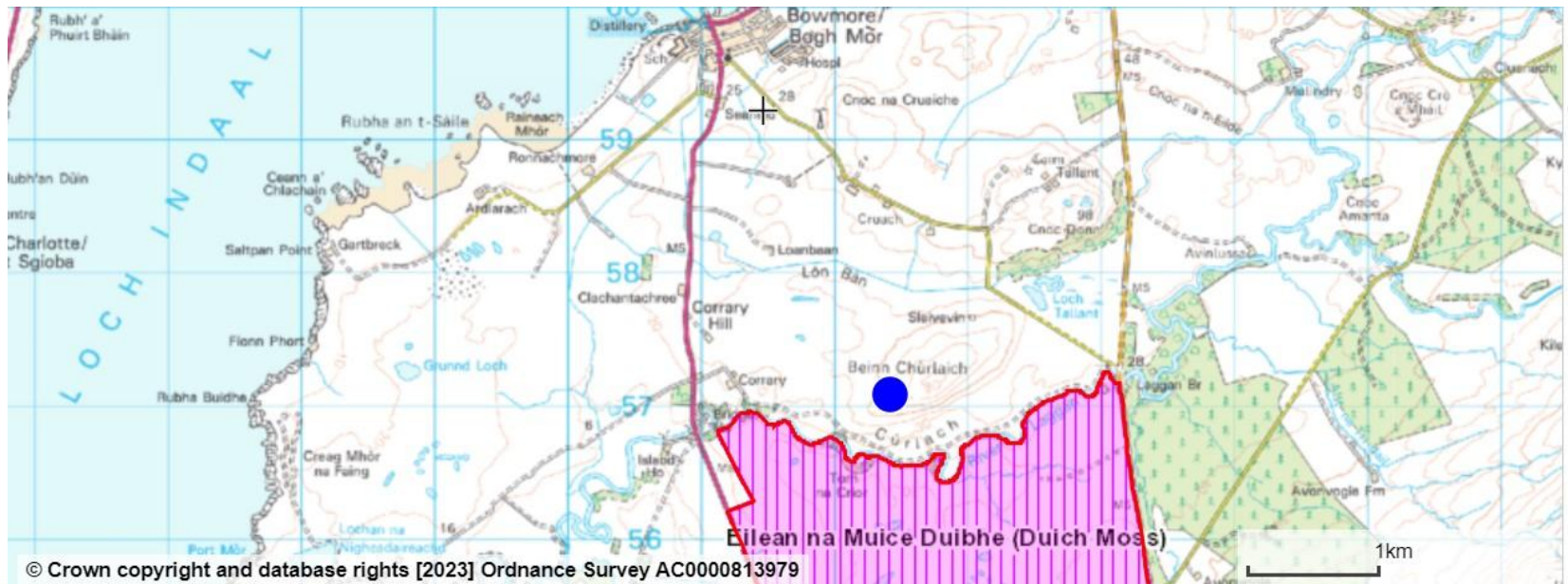


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Possible LSE Scenarios

Proposal outside a European site and could impact qualifying interests within the site

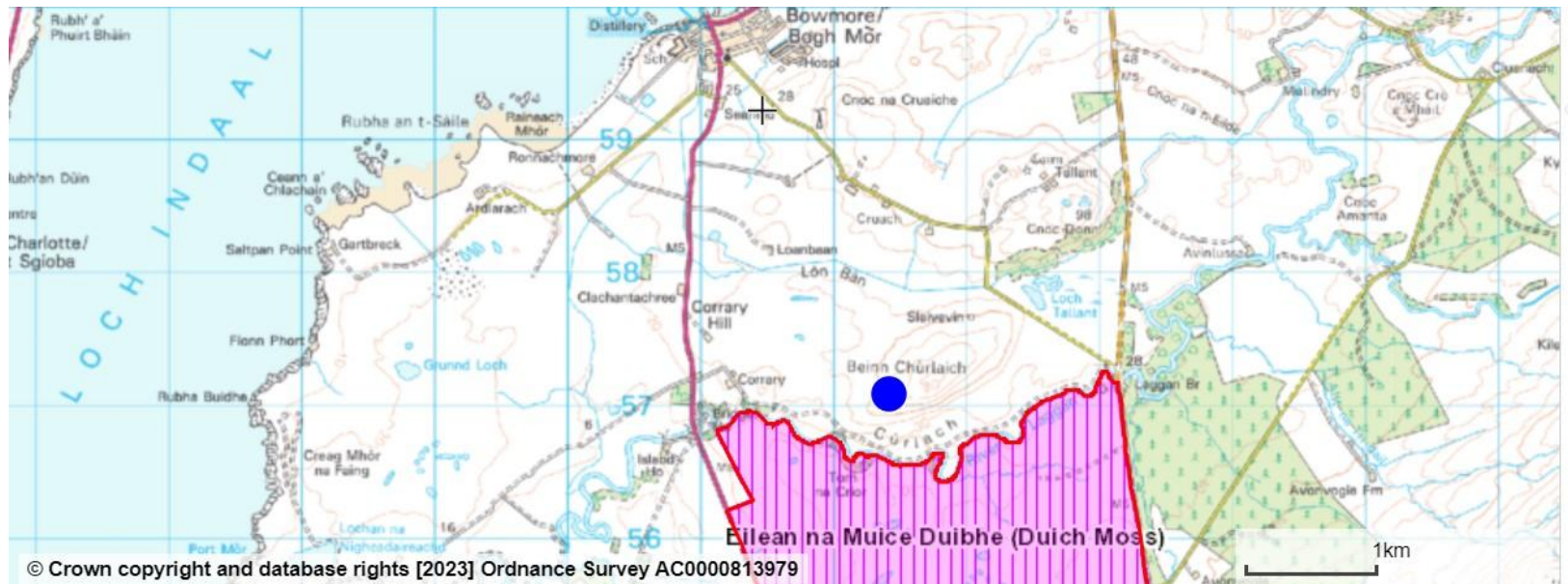


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Possible LSE Scenarios

Proposal outside a European site and could impact qualifying interests outside the site



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Points to note: Judging likely significant effect

- The test should consider proposals alone or in combination with other plans and projects
 - Takes account of cumulative impacts
- ‘Likely significant effect’ has a different meaning when used in EIA or SEA.
- Apply the precautionary principle

Mitigation

- Only intrinsic mitigation can be considered at the LSE stage
- Mitigation that is ‘standard’ to all similar types of development can be considered
- Mitigation that is specifically designed to avoid impacts on a European site must be ignored
- If in doubt, screen in

Next Step

Appropriate Assessment



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Appropriate assessment

- Two parts to an appropriate assessment. An appraisal and a conclusion.
- It is the responsibility of the competent authority.
- A competent authority must consult NatureScot on its appropriate assessment and have regard to any representations made

The appraisal – what is ‘appropriate’?

- Depends on the nature of the proposal and the possible impacts
- Must be fit for purpose
- It must be reasoned and recorded with a full rationale for the conclusion and decision.
- No gaps
- Conservation objectives are central to the appraisal

Conservation objectives

- All available on Sitelink - <https://sitelink.nature.scot/>
- Different formats currently for SPAs and SACs

SPA conservation objectives

To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and

To ensure for the qualifying species that the following are maintained in the long term:

- **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**



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Conservation objectives within Conservation Advice Packages



CULBIN BAR SPECIAL AREA OF CONSERVATION (SAC)

CONSERVATION ADVICE PACKAGE



Conservation objectives within Conservation Advice Packages

Conservation Objectives

Overarching Conservation Objectives for all habitat features

1. To ensure that the qualifying features of Ness Woods SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status

Favourable Conservation Status (FCS) is considered at a European biogeographic level. When determining whether management measures may be required to ensure that the conservation objectives for this site are achieved, the focus should be on maintaining or restoring the contribution that this site makes to FCS.

When carrying out appraisals of plans and projects against these conservation objectives, it is not necessary to understand the status of the feature in other SACs in this biogeographic region. The purpose of the appraisal should be to understand whether the integrity of the site (see objective 2) would be maintained. If this is the case then its contribution to FCS across the Atlantic Biogeographic Region will continue to be met. Further details on how these appraisals should be carried out in relation to maintaining site integrity is provided by objective 2 (including parts a, b and c). If broader information on the feature is available then it should be used to provide context to the site-based appraisal.

Note that “appropriate” within this part of the conservation objectives is included to indicate that the contribution to FCS varies from site to site and feature to feature.

2. To ensure that the integrity of Ness Woods SAC is restored by meeting objectives 2a, 2b and 2c for each qualifying feature

The aim at this SAC is to restore the qualifying features to a favourable condition as a contribution to their wider conservation status. Therefore any impacts to the objectives shown in 2a, 2b, or 2c below must not persist so that they prevent the achievement of this overall aim.

Conservation objectives within Conservation Advice Packages

Conservation Objectives for western acidic oak woods (also known as old sessile oak woods with *Ilex* and *Blechnum* in the British Isles)

2a. Maintain the extent and distribution of the habitat within the site

The extent of the western acidic oak woodland feature, taken from the Standard Data Form, has been estimated at 538.48ha. This should be maintained or allowed to increase through natural regeneration. There should be no measurable net reduction in the extent of the habitat and its distribution throughout the site.

To avoid any permanent reduction in the extent or distribution of the habitat, no habitat loss should take place from within or at the edge of the woodland, through non-native forestry planting, or dumping of waste. A lack of regeneration by native species, such as could occur through high herbivore impacts, will also lead to a long term decline in woodland extent.

2b. Restore the structure, function and supporting processes of the habitat

This habitat type comprises a range of woodland types dominated by mixtures of oak. It is found in areas of base-poor soils with at least moderately high rainfall, and the key elements that should be in place include:

- Mixed age classes of trees, canopy cover, deadwood/fallen trees, understorey, ground flora & epiphytic plants. At this site there are low levels of native tree species regeneration. A more natural ground flora, shrub layer and canopy cover should also

2c. Restore the distribution and viability of typical species of the habitat

The habitat corresponds broadly to the western oakwoods described in previous accounts of UK woodlands; the principle NVC types at this site are :

- W11 *Quercus petraea* – *Betula pubescens* – *Oxalis acetosella* woodland
- W17 *Quercus petraea* – *Betula pubescens* – *Dicranum majus* woodland

Conservation Objectives within Conservation and Management Advice documents



Conservation and Management Advice

MORAY FIRTH SAC

MARCH 2021



This document provides advice to Public Authorities and stakeholders about the activities that may affect the protected features of Moray Firth Special Area of Conservation (SAC). It provides advice from Scottish Natural Heritage (SNH) (operating under the name of and hereinafter referred to as NatureScot) under Regulation 33(2) of the Conservation (Natural

Appropriate Assessment

- Integrity of the site linked to whether the conservation objectives will be undermined
- Consider qualifying interests of the relevant European sites
- Can consider any mitigation needed to avoid an adverse effect

Mitigation requirements

- Will mitigation work?
- Can the mitigation measures be secured?
- Can mitigation measures be monitored and how will they be amended if necessary?
- Will the mitigation proposed have potential impacts for any other qualifying feature of a European site?
- Will the mitigation enable a conclusion that the plan or project would not adversely affect the integrity of a European site?

Appropriate assessment - conclusion

Can it be ascertained that the proposal will **not** adversely affect the integrity of the site?

- Apply the precautionary principle
- Needs to be shown beyond all reasonable scientific doubt
- No thresholds of acceptable loss – determined on a case-by-case basis

Next Step IROPI Derogation



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And then what?

What if an Appropriate Assessment cannot conclude there is no Adverse Effect on Site Integrity?

Derogation

Such proposals can only be permitted or carried out if:

- There are no alternative solutions

AND

- There are imperative reasons of overriding public interest (IROPI)

AND

- Any necessary compensatory measures are taken to ensure that the overall coherence of the national site network is protected

Mitigation vs compensation

Mitigation

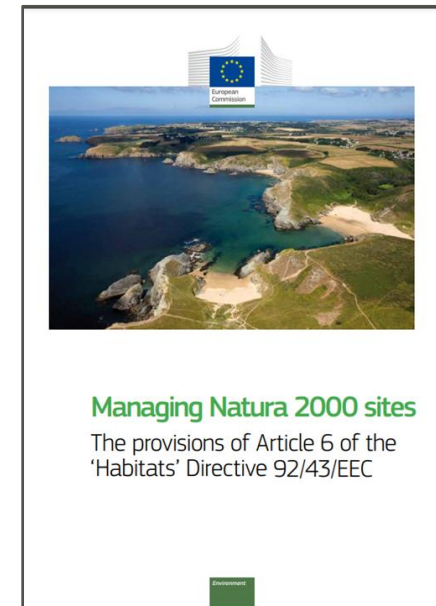
- Aims to reduce or remove negative impacts
- An integral part of the specifications of a plan or project
- Can be taken into account in an appropriate assessment

Compensation

- Aims to offset negative impacts where it can not be ascertained no AESI
- Independent of the plan or project
- Can not be taken into account in an appropriate assessment, only if IROPI

Key Guidance Sources

- Sitelink - <https://sitelink.nature.scot/home>
- NatureScot website - <https://www.nature.scot/>
 - HRA page - <https://www.nature.scot/professional-advice/planning-and-development/environmental-assessment/habitats-regulations-appraisal-hra>
 - Development Management and the Natural Heritage Guidance
- European Commission – Managing Natura 2000 Sites



NatureScot Case Officer

Working with LPAs on the Habitats Regulations

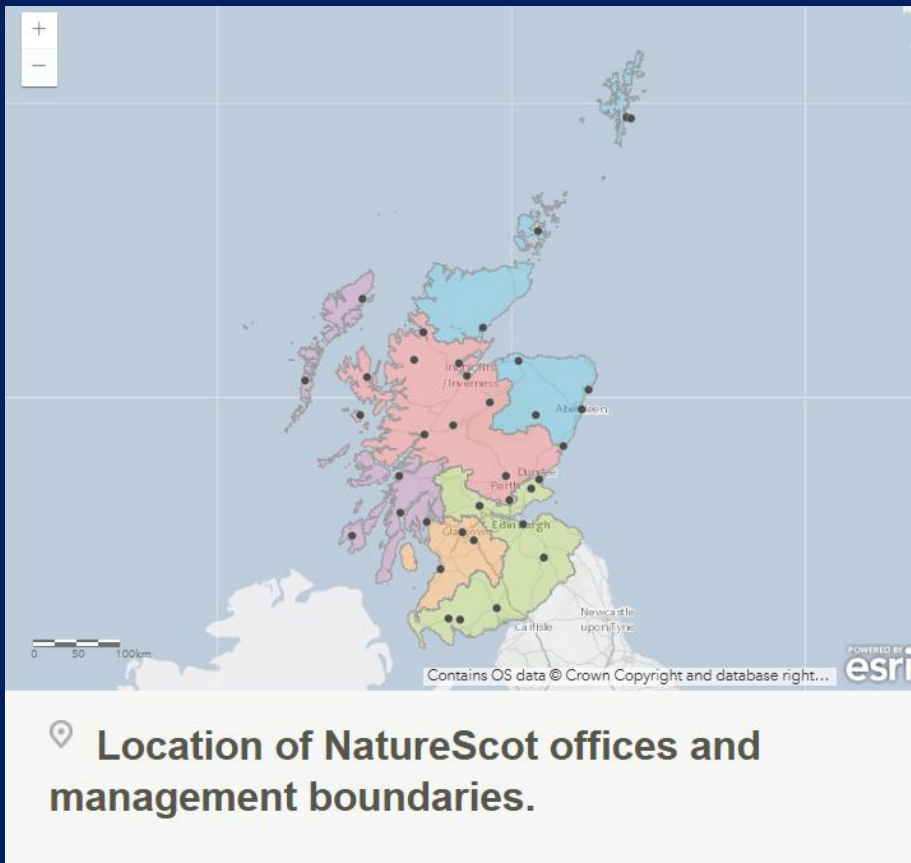
Arabella Kennard – Operations Officer



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Role of NatureScot Case Officers



- Case officer will be main point of contact, but is likely to be supported by internal advisors / area manager.
- Applications are assessed case-by-case. Not possible to set thresholds or standardise the assessment.
- Differences between LPA on handling European Sites in casework.
- NatureScot advice aims to be consistent and evidence-led.

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LPA & NatureScot's role in HRA

- Stage 3: Likely Significant Effect = competent authority decision, with advice from NatureScot if needed.
- Stage 4-5: Appropriate assessment = the competent authority must consult NatureScot.
- Stage 6-9: Only considered in exceptional circumstances, but will require consultation from NatureScot and Scottish Ministers.

Habitats Regulations Appraisal Proforma

The purpose of this document is to provide an example of how to record a Habitats Regulations Appraisal (HRA). It is similar to a proforma used by NatureScot staff when NatureScot (DNS) is a competent authority and when NatureScot is providing advice to a competent authority. In August 2020 DNS changed its operating name to NatureScot, although we are still legally known as DNS when carrying out some of our functions. Any references to a legal obligation involving NatureScot in this proforma should be read as one involving DNS.

Note: Summary guidance is included below for convenience. Further guidance is available on the NatureScot website on <https://www.naturescot.gov.uk/hra>.

Appraisal in relation to regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (Habitats Regulations Appraisal)

(DC, where relevant, under regulation 61 of The Conservation of Habitats and Species Regulations 2002 as amended, or regulation 25 of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 as amended)

EUROPEAN SITE DETAILS

Name of European site(s) potentially affected:
[Click or tap here to enter text.](#)

Name of component SSSI if relevant:
[Click or tap here to enter text.](#)

European site qualifying interest(s) & whether priority/non-priority:
[Click or tap here to enter text.](#)

Conservation objectives for qualifying interests:
[Click or tap here to enter text.](#)

Note: Remember to use the most up to date conservation objectives (COs) available. These can be found on the sites page on Stetlink.

For SPAs this is the 'old style' COs whereas for SACs it is most likely to be the new style that can be found in the SPA's Conservation Advice Package document (the heading text from the shaded boxes being used as the CO with the information below being supplementary and not required to be carried over onto this form).

Be aware that different features of a site may have different COs (e.g. maintain or restore objectives). When assessing against a restore CO, you should consider whether the proposal will prevent the ability to restore the feature.

STAGE 1: WHAT IS THE PLAN OR PROJECT?

Proposal title: [Click or tap here to enter text.](#)

Name of competent authority: [Click or tap here to enter text.](#) A competent authority is the authority with the power or duty to determine whether or not a proposal can proceed, whether approving its own proposals or those of others. It includes any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office.

Details of proposal (i.e. location, timing, methods): [Click or tap here to enter text.](#) Details should be provided on all aspects of the proposal that may affect the qualifying features (i.e. associated works).

STAGE 2: IS THE PLAN OR PROJECT DIRECTLY CONNECTED WITH OR NECESSARY TO SITE MANAGEMENT FOR NATURE CONSERVATION?

This test is to identify and remove from further assessment those proposals which are clearly necessary to, or of value to, or inevitable as part of, management of the site for its qualifying interests. For the majority of proposals competent authorities deal with the answer to stage 2 will be 'no', however where it is thought this could be applicable the following points should be considered:

- i) Has the effect on (a) qualifying interests been considered?
- ii) Is the proposal part of a fully assessed and agreed management plan? If not, then further consideration or supporting information will be required.
- iii) Is there a clear rationale to justify the connection with the conservation objectives?
- iv) If there is a clear connection with the conservation objectives will any benefits arising from the proposal outweigh any negative effects?
- v) Have any alternative methods of implementing the proposal been explored, including building in any relevant mitigation, to demonstrate that this is the least damaging option?
- vi) Give a YES/NO conclusion in terms of whether the plan or project is considered directly connected with or necessary to site management for nature conservation.
- If YES for all elements of a plan or project, for all the European site qualifying interests (preferably as part of a fully assessed and agreed management plan), then consent can be issued. The rationale should be detailed below and no further appraisal is required (no need to proceed to stage 3).
- If NO for one or more European site qualifying interests then proceed to stage 3.
- If a plan has multiple elements (e.g. a range of policies or management objectives), elements of the plan considered directly connected with or necessary to site management for nature conservation should be discussed below and a rationale given for this conclusion. No further appraisal is then required for those elements. All other elements of the plan must proceed to stage 3.

[Click or tap here to enter text.](#)

Consultation Process

1. InformedDECISION
 - For all statutory and pre-application consultations from LPA
 - <https://apply.planning.nature.scot/>
2. Triage
 - NatureScot internal process to filter and assign casework
3. Case officer – review and assess casework documents
 - Case officer led response
 - Specialist advice
 - Approval / sign-off
4. Response to LPA

NatureScot | InformedDECISION – Protected Areas Casework

Use this service to:

- apply for consent to carry out operations on a Site of Special Scientific Interest (SSSI)
- check if it is necessary to consult with NatureScot
- submit a pre-application enquiry to request advice during the initial stages of a proposal

You can attach supporting documents to your application. If you:

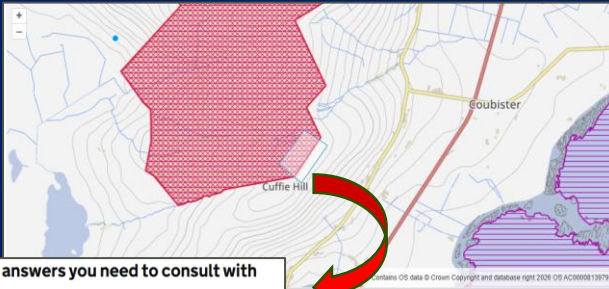
- do not have these available, you can save your progress and return later to upload them

Applying takes on average 10 minutes.

[How and when to consult NatureScot](#)

[NatureScot's standing advice and guidance](#)

Start now



Based on your answers you need to consult with NatureScot

You need to consult with NatureScot or share a pre-application proposal. Based on the area you chose, your proposal could impact the following sites

[Show all sections](#)

Keelylang Hill and Swartaback Burn (SSSI)

[Show](#)

North Orkney (SPA)

[Show](#)

Orkney Mainland Moors (SPA)

[Show](#)

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Response Types

Our advice will adopt one of five positions:

- No comment
- Advice Only
- Holding Objection
- Conditioned Objection
- Outright Objection

Good practices

- Clear and focused requests for advice.
- Provision of sufficient information and data – requests for more should be proportionate.
- Make use of NatureScot's standing advice where appropriate.
- Set reasonable timescales.
- Post-application engagement – only where necessary.
- Make contact with local office or case officer.



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