



WEST LoTHIAN LOCAL DEVELOPMENT PLAN

HABITATS REGULATIONS APPRAISAL

ADDENDUM FOR POST- EXAMINATION STAGE

Appendix 16 (2)

1 BACKGROUND

For the preparation of development plans, Habitats Regulations Appraisal (HRA) is mandatory under the European Habitats Directive and is implemented in Scotland through *The Conservation (Natural Habitats, Etc.) Regulations 1994*, as amended. Where not screened out, a plan shall be subject to an ‘appropriate assessment’ of its implications against the conservation objectives of European site/s.

Where an appropriate assessment is required, plan-making bodies may not usually adopt the plan unless, following that assessment, it can be concluded that the plan would not adversely affect the integrity of any Natura 2000 site. Plan making authorities must consult Scottish Natural Heritage (SNH) as part of any appropriate assessment.

Scottish Natural Heritage’s *Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland* (Version 3, January 2015), provides detailed information on the separate stages of carrying out an appraisal, and the considerations which need to be taken into account.

For proposed plan stage, in accordance with legislative requirements, a Habitats Regulations Appraisal Statement (June 2015) was concluded for the West Lothian Local Development Plan – Proposed Plan (LDP). It was submitted to Scottish Reporters as a background technical document to the LDP for examination stage.

The HRA for the West Lothian LDP provides a summary of the ‘vulnerabilities and conservation objectives’, the citations of qualifying interests, and plans for three Natura 2000 sites located completely or partially within the West Lothian administrative area for which the site is designated: Firth of Forth Special Protection Area (SPA), Craigengar Special Area of Conservation (SAC) and Blawhorn Moss Special Area of Conservation (SAC) and National Nature Reserve (NNR). The following Natura 2000 sites were assessed for the LDP Proposed Plan stage:

- Blawhorn Moss SAC and NNR designated 2005
- Craigengar SAC (West Lothian part) “ “ 2005

- Firth of Forth Special Protection Area (SPA) (West Lothian part) “ “ 2001
 - Black Loch Moss SAC (Falkirk) “ “ 2005
 - Westwater SPA (Scottish Borders) “ “ 1995
- (N.B. most recent designated dates are given)

The HRA conducted for the West Lothian LDP on European habitat conservation sites is a first attempt at addressing the issue of assessment of the potential impacts of development on greenfield sites used by Firth of Forth SPA birds in the context of the HRA of the Local Development Plan. The HRA for the LDP concluded that it is highly likely that any development allocations as known at the time of writing for possible inclusion in the LDP would not have any individual or cumulative impacts on any of the SACs listed in the HRA record for the West Lothian LDP because no demonstrable pathways were found in terms of water or other pollutants of any significance that would have any impact on the integrity and the qualifying interests or conservation objectives of any of these designations.

This addendum document represents the Habitats Regulations Appraisal (HRA) record of the West Lothian Local Development Plan (LDP) as intended to be adopted. The LDP can only be adopted if it can be ascertained that the plan will not adversely affect the integrity of a European site for the conservation of natural habitats.

2 POST- EXAMINATION STAGE FOR PLAN

At post-examination / adoption stage, the SNH guidance of 2015 requires that the competent authority or plan-making body *should....If modifications to the plan are proposed after the draft Habitats Regulations Appraisal record has been submitted to SNH for consultation, it will be necessary to screen the proposed changes for the likelihood of a significant effect on a European site.* (Para. 6.9)

The Examination was undertaken by reporters from the Scottish Government’s Planning & Environmental Appeals Division (DPEA) who were wholly responsible for conducting and managing the examination process from the appointment of the Reporters through to the submission of the final Report of Examination to the Council. The Examination of the West Lothian LDP formally commenced on 18 January 2017 and the DPEA’s final report was returned to the council on 8 January 2018. The Council is seeking to finalise the plan within the three month target.

Since the HRA was conducted for the West Lothian LDP at Proposed Plan stage there have been some changes in context: modifications to the plan made by the Directorate of Planning Enforcement & Appeals (DPEA); and, proposal of a new Natura 2000 site in the outer Firth of Forth. These changes require that the HRA for the plan is reviewed. Rather than redraft the Habitats Regulations Appraisal of the West Lothian LDP to incorporate the proposed SPA and assess new sites allocated through the Examination Report, it has been decided to carry out habitats regulations appraisal through the production of a stand-alone addendum.

3 ASSESSMENT OF INTERIM CHANGES TO THE PLAN AND NATURA 2000 SITES

3.1 New sites arising from modifications to the West Lothian LDP

It is not proposed to replicate the full background and methodology of the HRA Appropriate Assessment process that has already been set out in the HRA record prepared in conjunction with the LDP Proposed Plan. Instead a short screening process has been carried out on the new sites introduced to the LDP Proposed Plan by the DPEA.

Scottish Reporters’ modifications to the plan propose nine entirely new housing allocations. One is within an existing Settlement Boundary at Eucal Business Centre, Craigshill, Livingston (Site H-Lv 32).

Four are new sites outwith existing Settlement Boundaries at:

- Kettlestoun Mains on the western edge of Linlithgow, lying north of the A706 and west of the B8029 (Site H-LL 13);
- Beechwood Grove Park to the east of Uphall Station, immediately south of the railway line (Site H-PU 4);
- Langton Road to the south east of East Calder, immediately north of the A71 and south of Langton Road (Site H-Ec 10); and
- Hartwood Road West to the south of West Calder, west of Hartwood Road and south of the recreation ground (Site H-Wc 6).

Two of the sites confirm recent planning application appeal decisions (and as such there is negligible need for them to undergo HRA) at:

- Brotherton Farm, north of the A71 in south west Livingston; and
- Wellhead Farm to the south-east of Murieston.

The two remaining sites are re-allocations from proposed employment sites (and as such were previously considered at proposed plan stage HRA) at:

- Tarrareoch Farm in the southern part of the Southdale development in Armadale; and
- Appleton Parkway in Eliburn, Livingston lying between Houston Road and the Bathgate-Airdrie railway line.

In addition, there was one small extension to the north of the employment site at Deer Park, Livingston (Site E-Lv 44).

All sites brought forward by the DPEA will be incorporated into Settlement Boundaries at adopted plan stage as sent to Scottish Ministers for ratification. The table below provides a summary review of the new sites which the DPEA have brought forward into the finalised stage of the LDP. Greenfield sites are considered to be those outwith Settlement Boundaries.

New housing site allocation from LDP examination	Within Settlement Boundary?	Greenfield site?	Estimated distance from coast / marine habitat
Eucal Business Centre, Craigshill, Livingston (Site H-Lv	Yes, already included	No	11km

32)			
Kettlestoun Mains on the western edge of Linlithgow, lying north of the A706 and west of the B8029 (Site H-LL 13)	Yes, at adopted plan stage	Yes	5km
Beechwood Grove Park to the east of Uphall Station immediately south of the railway line (Site H-PU 4)	Yes, at adopted plan stage	Yes	8.75km
Langton Road to the south east of East Calder immediately north of the A71 and south of Langton Road (Site H-Ec 10)	Yes, at adopted plan stage	Yes	12.5km
Hartwood Road West to the south of West Calder, west of Hartwood Road and south of the recreation ground (Site H-Wc 6)	Yes, at adopted plan stage	Yes	18km
Brotherton Farm north of the A71 in south west Livingston	Yes, at adopted plan stage	Yes	15.5km
Wellhead Farm to the south east of Murieston	Yes, at adopted plan stage	Yes	14.75km
Tarrareoch Farm in the southern part of the Southdale development in Armadale	Yes, at adopted plan stage	Yes	14km
Appleton Parkway in Eliburn, Livingston lying between Houston Road and the Bathgate-Airdrie railway line	Yes, at adopted plan stage	No	11km
One small extension to the north of employment site at Deer Park, Livingston (Site E-Lv 44)	Yes, already included	No	9.5km

While some of the new sites are assessed as greenfield – the ones which will be drawn into Settlement Boundaries at adopted plan stage - the Reporters also removed sites from the LDP resulting in only a small increase in the amount of housing allocated overall. None of the new sites are within five kilometres of the coast which is considered the threshold where the activity of most of the qualifying interests of the site will be concentrated i.e. birds subject to this HRA seeking to use greenfield sites.

It is noted that pink-footed geese will use foraging sites up to 20km from the marine SPA though SNH advise that they are not aware of geese using these sites. Therefore it is improbable that the addition of these new sites allocated to the plan by the DPEA would lead to a likely significant effect. In any event, bar the strongest of technical reasons, the Council is obliged to accept sites added by Scottish Reporters.

Finally, in relation to policies in the LDP as they were assessed at the Proposed Plan stage, the Reporters have not recommended major significant changes, or new policies. As such, the council is satisfied that there are likely to be no likely significant effects arising for the European sites of concern.

3.2 Natura 2000 site changes since the 2015 Proposed Plan

The Outer Firth of Forth and St Andrews Bay Complex proposed SPA was submitted for selection as a European site in July 2016. For completion purposes of the HRA record for the West Lothian LDP at adopted stage, the qualifying interest and location map for the proposed SPA are copied below.

Outer Firth of Forth and St Andrews Bay Complex proposed Marine SPA (pSPA)

CITATION FOR PROPOSED SPECIAL PROTECTION AREA (SPA) OUTER FIRTH OF FORTH AND ST ANDREWS BAY COMPLEX (UK9020316)

Qualifying Interest:

The Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area (SPA) qualifies under **Article 4.1** by regularly supporting a non-breeding population of European importance of the following **Annex 1** species: **red-throated diver** *Gavia stellata* during the period 2001/02 to 2004/05 (a mean peak estimate of 851 individuals; 5.0% of the Great Britain population); **Slavonian grebe** *Podiceps auritus* during the period 2006/07 to 2010/11 (an average of 30 individuals (2.7% of the Great Britain population); **Little Gull** *Larus minutus* during the period 2001/02 to 2004/05 (126 individuals; more than 50 individuals) and feeding **common tern** *Sterna hirundo* and **Arctic tern** *Sterna paradisaea* from the adjacent breeding colonies.

The Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area (SPA) further qualifies under **Article 4.2** by regularly supporting populations of European importance of the following migratory waterfowl species: **Common eider** *Somateria mollissima* average peak counts recorded during the five year period 2001/02 to 2004/05 (21,546 individuals 2.1% of the biogeographic population and 35.9% of the Great Britain population) and by regularly supporting **in excess of 20,000 individual waterfowl** including nationally important populations of the following species during the five year period 2001/02 to 2004/05: **long tailed duck** *Clangula hyemalis* (1,948 individuals, 17.7% of the Great Britain population), **common scoter** *Melanitta nigra* (4,677 individuals, 4.7% of the Great Britain population) and during the period 2006/07-2010/11: **velvet scoter** *Melanitta fusca* (775 individuals, 31% of the Great Britain population), **common goldeneye** *Bucephala clangula* (589 individuals, 2.9% of the Great Britain population) and **red-breasted merganser** *Mergus serrator* (369 individuals, 4.4% of the Great Britain population).

The Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area (SPA) further qualifies under **Article 4.2** by regularly supporting populations of European importance of the following migratory species of seabird: foraging **European shag** *Phalacrocorax aristotelis* from the nearby colonies, and **Northern gannet** *Morus bassanus* during the period 1980-2006 (10,945 individuals, 1.4% of biogeographical population and 2.7% of the Great Britain population).

The Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area (SPA) further qualifies under **Article 4.2** by regularly supporting in excess of **20,000 individual seabirds during the breeding season** including nationally important populations of the following species during the period 1980-2006: **Atlantic puffin** *Fratercula arctica* (61,086 individuals, 5.3% of the Great Britain population), **black-legged kittiwake** *Rissa tridactyla* (12,020 individuals, 1.6% of the Great Britain population) **Manx shearwater** *Puffinus puffinus* (2,885 individuals, more than 2,000 individuals), **common guillemot** *Uria aalge* (28,123 individuals, more than 2,000 individuals) and **herring gull** *Larus argentatus* (3,044 individuals, 1.1% of the Great Britain population).

The Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area (SPA) further qualifies under **Article 4.2** by regularly supporting in excess of **20,000 individual seabirds during the non-breeding season** including nationally important populations of the following species during the period 2003/04-2005/06: **black-headed gull** *Chroicocephalus ridibundus* (26,835 individuals, 1.2% of the Great Britain population), **common gull** *Larus canus* (14,647 individuals, 2.1% of the Great Britain population), and **herring gull** *Larus argentatus* (12,313 individuals, 1.7% of the Great Britain population) and, during the period 1980-2006: **common guillemot** *Uria aalge* (21,968 individuals, more than 2,000 individuals), **European shag** *Phalacrocorax aristotelis* (2,426 individuals, 2.2% of the Great Britain population), **black-legged kittiwake** *Rissa tridactyla* (3,191 individuals, more than 2,000 individuals) and **razorbill** *Alca torda* (5,481 individuals, more than 2,000 individuals).

[Extracted from: Outer Firth of Forth and St Andrews Bay Complex Proposed Special Protection Area (pSPA), No. UK9020316; SPA Site Selection Document: Summary of the scientific case for site selection; Scottish Natural Heritage and Joint Nature Conservation Committee; 18/06/2016]

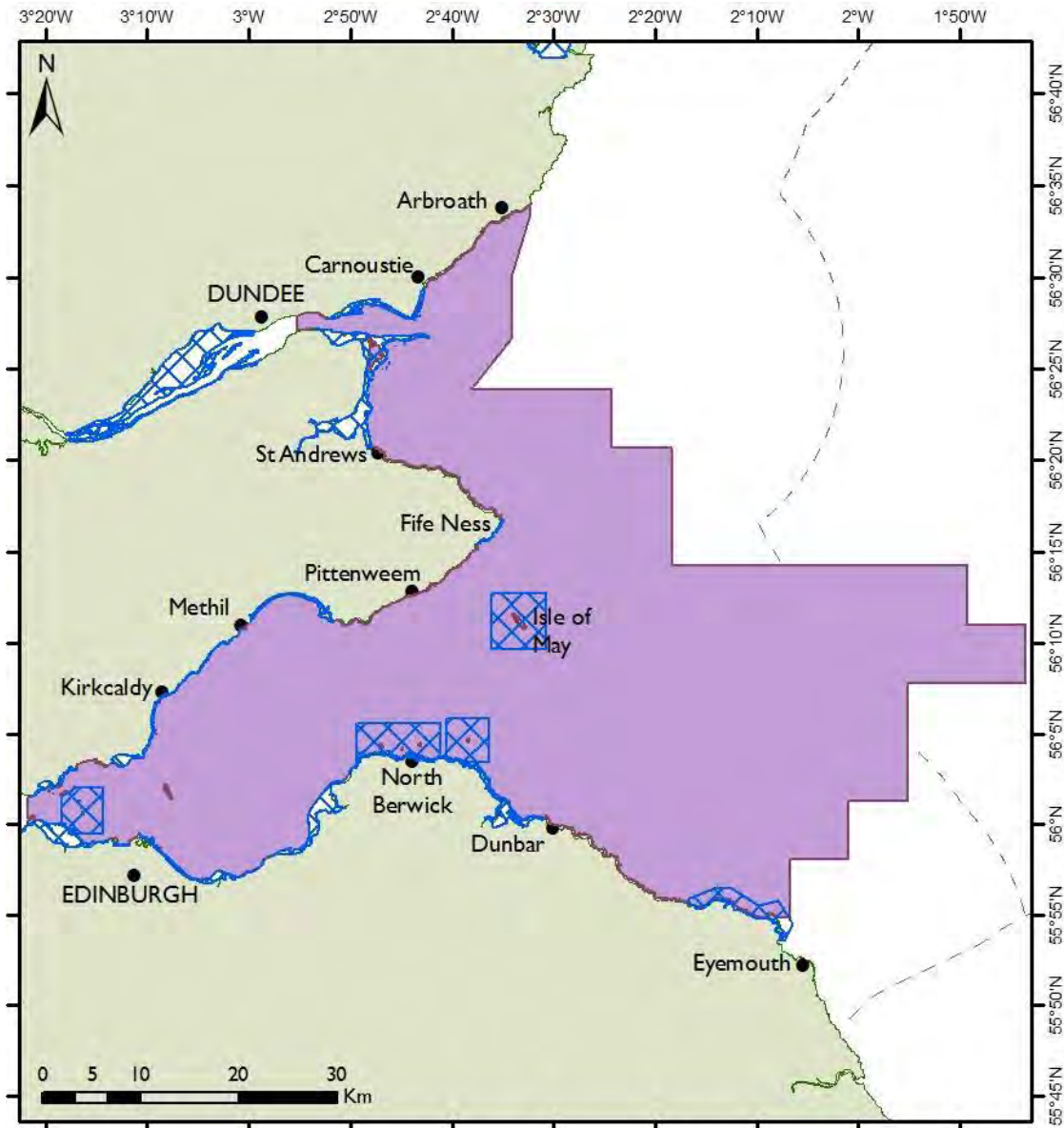
Location of the Outer Firth of Forth and St Andrews Bay Complex pSPA

As can be seen in the plan below, the new pSPA overlaps many existing European sites including the SPA for the Firth of Forth. The emphasis of the new designation is on the outer marine areas.

(See page 7 following)

PURPLE – new SPA

BLUE HATCH – existing SPA



Legend:
■ Proposed Special Protection Area (pSPA) - - - Territorial seas adjacent to Scotland (12NM limit)
▨ Existing Special Protection Areas

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4 CONCLUSIONS

The post-examination / adoption stage addendum to the HRA record has determined that the LDP, as proposed for adoption, is not likely to have a significant effect on a European site for the reasons set out below:

- a) there are no new LDP sites within 5km of the Firth of Forth coastline;
- b) the proposed SPA overlaps the existing Firth of Forth SPA and is primarily concerned with the outer areas off lying the coast; and
- c) there is no connectivity between what is proposed in the plan and the qualifying interests of the SPA.

Consultation with SNH has been undertaken as required throughout the HRA of the West Lothian Local Development Plan.

A Habitats Regulations Appraisal has been undertaken in preparing the Local Development Plan to assess potential impacts on European (Natura 2000) sites, in accordance with the requirements of *The Conservation (Natural Habitats, &c.) Regulations 1994*, as amended. The HRA has been updated to include assessment of the Reporters' recommendations of new sites through this addendum. The updated record of Habitats Regulations Appraisal concludes that the Plan as modified will not adversely affect the integrity of any European sites. As there is no likely significant effect arising from the changes to the LDP, no mitigation should be required.

It is anticipated that the West Lothian Local Development Plan will be formally adopted in Spring 2018. Thereafter, a general principle for HRA interests under the adopted LDP, would apply whereby proposals should be screened, particularly if not already assessed during preparation of the LDP.

REFERENCES

DPEA Local Development Plan Examination Report, January 2018

DPEA: List of Reporters Recommendations

Habitats Regulations Appraisal Statement – 2015

Outer Firth of Forth and St Andrews Bay Complex Proposed Special Protection Area (pSPA), No. UK9020316; SPA Site Selection Document: Summary of the scientific case for site selection; Scottish Natural Heritage and Joint Nature Conservation Committee; 18/06/2016

West Lothian Local Development Plan – Proposed Plan, October 2015

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