

Planning Services
Proposed Plan
North Ayrshire Council
Cunninghame House
Irvine
KA12 8EE



Scottish
Wildlife
Trust

13 June 2011

Dear Sir/Madam,

Re: NORTH AYRSHIRE LOCAL DEVELOPMENT PLAN - PROPOSED PLAN

The Scottish Wildlife Trust¹ welcomes the opportunity to comment on the North Ayrshire Local Development Plan (LDP) – proposed plan. Of note, we have also included comments on the Strategic Environmental Assessment (SEA) (Environmental Report Adoption Statement) in this document.

The Scottish Wildlife Trust believes that inappropriately located and badly designed developments can have significant, detrimental impacts on Scotland's biodiversity and on people's quality of life too. We believe that the planning and design of new places could and should in the future *enhance* biodiversity, particularly if new developments are designed to improve habitat connectivity and avoid the destruction of valuable biodiversity hotspots (e.g. Local Nature Conservation Sites). To achieve this SWT recommends the application of an ecosystem-based approach² to at least the natural heritage aspects of the planning system.

Summary of main points

The Scottish Wildlife Trust has serious concerns regarding the proposed LDP because of the general lack of protection afforded to North Ayrshire's wildlife, the disregard for the principles of sustainable development and the fact that the issue of climate change is to be addressed mainly through supplementary guidance rather than being embedded in each of the policies in the LDP.

The Scottish Wildlife Trust objects to the inclusion of: Hunterston National Development (hereafter called Hunterston) in Policy IND1: Strategic Business locations; Policy IND2: Hunterston Development in the National Interest; and the inclusion of the proposed boundary for Hunterston in Map 1: Rural Area Map because the proposed development at Hunterston will cause the destruction of more than 65% of the Portencross Coast Site of Special Scientific Interest (SSSI).

Even the SEA states that [because of the scale of the Hunterston development]: *It is not possible to avoid the loss of SSSI*. By way of compensation, North Ayrshire Council proposes that the biodiversity loss that will inevitably follow will be offset by developer contributions to a general 'biodiversity fund' for Local Biodiversity Action Plans (LBAPs). The Scottish Wildlife Trust does not believe that this mitigation is adequate because none of North Ayrshire's LBAP projects will lead to the restoration of the destroyed habitat which is an essential feeding site and staging post for breeding, wintering and migrating wildfowl and waders. The Scottish Wildlife Trust believes that this issue has not been adequately covered in the SEA. Indeed, there is no mention of what will happen to the ornithological receptors that are dependent on this site.

As such, the Scottish Wildlife Trust believes that the North Ayrshire Council's decision to include Hunterston in the LDP contravenes Section 1 of the Nature Conservation (Scotland) Act 2004 which states that:

¹ The Scottish Wildlife Trust's central aim is to advance the conservation of Scotland's biodiversity for the benefit of present and future generations. With over 35,000 members, several hundred of whom are actively involved in conservation activities locally, we are proud to say we are now the largest voluntary body working for all the wildlife of Scotland. The Trust owns or manages 123 wildlife reserves and campaigns at local and national levels to ensure wildlife is protected and enhanced for future generations to enjoy.

² See Hughes J., Brooks S. (2009) Living Landscapes: towards ecosystems-based conservation in Scotland. Scottish Wildlife Trust, Edinburgh

Protecting Scotland's wildlife for the future

It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.

Specific points

3 General Policy criteria (page 5 of parts 1 and 2)

We note that there is scant reference to the natural environment in the General Policy table; as such, we are very concerned that the General Policy does not have a statement such as: *development should have regard to protecting the natural heritage features*. This does not reflect North Ayrshire Council's biodiversity duty under the Nature Conservation (Scotland) Act 2004.

We also note there is no reference at all in the LDP to sustainable development (SD), which does not accord with the Planning etc. (Scotland) Act 2006 and Scottish Planning Policy guidance (see sections 34-40).

Section 34 of SPP states:

The Planning etc. (Scotland) Act 2006 introduced a requirement that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to sustainable development. The 2006 Act requires planning authorities to have regard to guidance on this Requirement issued by Scottish Ministers.

The Scottish Wildlife Trust considers this to be a serious omission; the principles of SD should be woven throughout the document.

Although we note that climate change is referenced four times and will be dealt with in supplementary guidance, we believe that all of the policies in the LDP should show how each policy will contribute to the reduction in greenhouse gas emissions and where appropriate, the policy should explain what adaptation mechanisms will be taken forward.

The Climate Change (Scotland) Act 2009 places climate change duties on public bodies in Scotland:

In exercising their functions, those public bodies must act:

- *in the way best calculated to contribute to delivery of the Act's emissions reduction targets;*
- *in the way best calculated to deliver any statutory adaptation programme; and*
- *in a way that it considers most sustainable.*

Section 42 of SPP states:

The need to help mitigate the causes of climate change and the need to adapt to its short and long term impacts should be taken into account in all decisions throughout the planning system.

9 Natural environment (part 1) (page 22)

This policy states, *inter alia*, that: *the LDP aims to protect and enhance the natural environment*. The Scottish Wildlife Trust believes that the proposed development at Hunterston and the lack of reference to the natural environment in the General Guidance Policy directly contradict this statement.

Part 2

5 Employment Land

Policy IND 1: Strategic business locations

Policy IND2: Hunterston: Development in the national interest.

Hunterston National Development Boundary- Map 1: Rural Area Map

The Scottish Wildlife Trust **objects** to the proposed Hunterston National Development being included in Policy IND1 as a Strategic Business Location and in Policy IND2 Hunterston: Development in the national interest and the inclusion of the Hunterston National Development boundary in Map 1.

Protecting Scotland's wildlife for the future

Although Hunterston was identified as a National Development in the National Planning Framework, the consultation process for its inclusion, the need for the development and consideration of alternatives were not fully explored and are still under Judicial review.

Because of the damage that would be caused to the nationally important Portencross Coast SSSI, which cannot be compensated for by habitat creation (of a different type) elsewhere, the Scottish Wildlife Trust believes that North Ayrshire Council is in breach of the biodiversity duty as set out in the Nature Conservation (Scotland) Act 2004 which states that:

It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.

Indeed the Council states that the proposed Hunterston development will: *Be constructed and operated to take account of the environmental sensitivities of the Portencross SSSI.* We would like to know how this can possibly be achieved by destroying greater than 65% of the site. Even the SEA states that: *It is not possible to avoid the loss of SSSI.*

The alternatives put forward to compensate for the habitat loss by North Ayrshire Council- as stated in the SEA are inadequate and will not compensate for the loss of this vital habitat to resident, breeding, wintering and migrating wildfowl and waders. Although it states that: *the LBAP process did not specifically prioritise mudflats, rather the coastal habitat as a whole.* This misses the point as the dwarf eelgrass beds are of NATIONAL importance.

Therefore the loss of over 65% of the SSSI will have a significant detrimental effect on biodiversity that cannot be compensated for by a 'biodiversity fund.' The latter will not replace the nationally important eelgrass beds elsewhere or provide another vital feeding site for waterbirds and waders on the Ayrshire coast. The Scottish Wildlife Trust wonders why the SEA did not consider what the impact on the ornithological receptors would be.

Policy IND1 and 2 also contravene North Ayrshire's own statement that: *Rural, Coastal and Island areas will be protected and promoted as a resource for recreation and biodiversity.*

Maps 1-5

We note that the maps 1 -5 show the location of SSSIs and Natura 2000 sites; none of the other non-statutory protected sites (e.g. ancient woodland, local nature conservation sites) are shown. Since there is a policy on LNCS it would be helpful to both list them and include them on a map. We note there is no reference to ancient woodland in the LDP.

Part 2 Policy Env.10: Mineral Extraction (page 43)

The Scottish Wildlife Trust believes that commercial peat extraction should not be supported by North Ayrshire Council because of the irreparable damage that will be caused to the peatland habitat (e.g. raised bogs and blanket bog; both habitat types are listed in Annex 1 of the European Commission's Habitats Directive (Council Directive 92/43/EEC). Commercial peat extraction also increases greenhouse gas emissions. Therefore granting permission for such an operation would be contrary to the climate change duty under the Climate Change (Scotland) Act 2009.

Conclusions

The Scottish Wildlife Trust has serious concerns regarding the proposed LDP because of the general deficiency in protection afforded to North Ayrshire's wildlife and the lack of reference to sustainable development and climate change in the proposed policies of the plan.

The apparent disregard for the natural environment in the plan is reflected in the proposed Hunterston National Development which will see the more than 65% of the Portencross Coast SSSI obliterated. The outcome for biodiversity through the destruction of this site, which has nationally important dwarf eelgrass beds and provides an the best feeding site on the Ayrshire coast for breeding, wintering and migrating

Protecting Scotland's wildlife for the future

waterfowl and waders, cannot be offset in this case by a 'biodiversity fund' because this will not replace the lost habitat.

As such, we **OBJECT** to the inclusion of Hunterston National Development in Policy IND1: Strategic Business locations; Policy IND2: Hunterston Development in the National Interest; and the inclusion of the proposed boundary for Hunterston in Map 1: Rural Area Map.

The Scottish Wildlife Trust would like to be kept informed of the progress of the LDP and we would be grateful for the opportunity to comment further if required.

Yours faithfully,



Dr Maggie Keegan
National Planning Co-ordinator