



**Scottish Natural Heritage**  
**Dualchas Nàdair na h-Alba**

All of nature for all of Scotland  
 Nàdar air fad airson Alba air fad

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3 March 2014  
 Our ref: CPP128075 / A1198189

Dear Martin

**Scottish Borders Local Development Plan**  
**Proposed Plan**

Thank you for sending us a copy of the Proposed Plan for our comments. We have provided further comment on the Strategic Environmental Assessment (SEA) Environmental Report and the Habitats Regulations Appraisal (HRA) under separate cover.

The substantive representations included in our advice are on issues which were not included in the Main Issues Report (MIR) or supporting technical notes. Our opinion is that the remainder of our advice below covers minor drafting or technical matters, as discussed in Circular 6/2013, which are unlikely to lead to notifiable modifications to the Plan.

We have set out our advice in the attached Annex under topic headings, cross-referenced to the relevant paragraph, figure or table of the Proposed Plan. We hope that this approach will help translate our representation across to Schedule 4 forms but would be happy to confirm any points if required.

**Vision, aims and spatial strategy**

As discussed in our response to the Main Issues Report (22 June 2012), we support the vision, aims and spatial strategy set out in the Proposed Plan. The vision and aims are unchanged from those set out in the MIR, maintaining the positive approach to the Scottish Borders as an excellent place to live and work.



INVESTOR IN PEOPLE

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We note that there have been revisions to the spatial strategy since the MIR consultation. These include reference at paragraph 3.12 to the green network as a resource for settlements within the Central Strategic Development Area (SDA). We welcome the inclusion of green networks in the spatial strategy but suggest that a more general reference, as at paragraph 1.2 on page 111, would establish the importance of green networks to all of the Scottish Borders.

The identification of strategic industrial and business sites at Tweedbank and St Boswells will require careful consideration relating to scale and location of development due to their proximity to the Eildon and Leaderfoot National Scenic Area (NSA). The spatial strategy proposes that the quality of the existing supply at Tweedfoot should be enhanced. For all of these sites we recommend that high standards of siting and design, including landscape design, will be needed to reflect the unique qualities of their location. We do however support the general approach and have set out more detailed advice on this issue in relation to policy EP4 in the attached Annex.

### **Habitats Regulations Appraisal**

At the time of responding to the Proposed Plan, work on the Habitats Regulations Appraisal (HRA) is still underway. We look forward to concluding discussions with you and hope that the following comments contribute usefully to remaining work on the HRA record.

The draft HRA record includes a sifting stage which considers whether the site has been subject to HRA or appropriate assessment in the past. This approach to screening proposals has been taken in HRA of other LDPs, such as Edinburgh, and has been accepted as an approach which meets requirements of the Habitats Regs. There are two points to consider in relation to this approach:

- Taking existing HRA for an individual site as having established no likely significant effect should be done only where circumstances have not changed. An example would be that the type or extent of development proposed at the time of the previous HRA remains unchanged at this point. If possible, this should be recorded.
- While this approach is acceptable on a site by site basis (subject to the caveat above), you should still consider these sites in any in-combination assessment that you intend to carry out. As discussed in our HRA guidance (para 4.34), this takes account of the impact of projects which are individually unlikely to have an effect but which, when added together, have a cumulative effect that would be significant and which has not been considered in these previous HRAs.

Where you are relying on this approach we recommend that you consider including reference to the relevant Natura site in your site requirements. While proposals may be largely unchanged it is possible that mitigation identified in previous HRA could be overlooked at application stage. We have made further comment on this in Annex 1 of this letter under Site Requirements.

Should representations to the Proposed Plan lead to changes that would alter the HRA we would be happy to advise further.

## Action Programme

We understand that the action programme is currently being drafted and look forward to the opportunity to comment. It is likely that there will be a number of proposals with key natural heritage outcomes where we can offer input as a partner and, at the appropriate time, we would appreciate the opportunity to discuss our involvement further.

## Conclusion

As discussed above, we have provided more detailed comments in the attached Annex. We welcome the early and ongoing engagement we have had with you during the Plan's preparation. If you wish to discuss any of the matters raised in this response, please do not hesitate to contact Vivienne Gray [REDACTED] or myself.

Yours sincerely

*By e-mail*

Andrew Panter  
Operations Manager  
Southern Scotland



## **Annex – detailed comments**

Our comments below are provided under topic headings, such as ‘green networks’, cross-referenced to the relevant policy, paragraph, figure or table of the Proposed Plan or background note.

### **Sustainability**

#### Policy PMD1 – Sustainability

The inclusion of an over-arching sustainability policy, against which all policies are to be read, is a welcome retention of Principle 1 from the current consolidated Local Plan. The addition of the new green network policy (EP12) in the Proposed Plan further secures an overall approach to place making and design which should help Scottish Borders meet the vision of *‘an excellent place in which to live and work’*.

### **Placemaking**

#### Policy PMD2 – Quality Standards

We understand that the placemaking and design policies and principles will be developed in more detail in Supplementary Guidance, as discussed in paragraph 1.2 (page 24) and Appendix 3, Volume 1 of the Proposed Plan. We look forward to inputting to the planned Supplementary Guidance.

The reasoning for policy PMD2 refers to Scottish Government policy documents including PAN68 – Design Statements, Designing Places and Designing Streets. As the policy is to be developed in further detail in Supplementary Guidance, we do not propose a change to the reasoning set out here but suggest that the following Scottish Government policy documents and statements will be relevant to the proposed Supplementary Guidance:

- Green Infrastructure – Design and Placemaking;
- Creating Places; and
- Scottish Planning Policy – Placemaking policies from the revised SPP.

We also note that Scottish Government will be producing a “Place Standard” later this year which we anticipate will be very relevant to this LDP topic.

The principles set out in policy PMD2 take the scope of placemaking beyond residential development, a move which is in keeping with the principles set out in the draft revised SPP. While the policy does not refer directly to the six qualities of successful places (paragraph 37, draft revised SPP; page 9, Designing Places), the principles set out under the policy sub-headings clearly relate back to these.

We welcome the inclusion of principles t) and u) under sub-heading ‘Green Space, Open Space and Biodiversity’. This is a welcome addition to the policy as set out in the current consolidated Local Plan and is recognition of the role that such assets play in creating successful places.

### Policy PMD3 – Land Use Allocations

The land use allocations policy describes the circumstances in which development will be approved in principle. As Volume 2 (Settlements) sets out site requirements for allocations, it would be useful for the policy reasoning to refer readers to that document. In the case of allocations where site requirements include mitigation to avoid likely significant effect on Natura sites, this cross-reference would provide additional certainty to developers alongside the policy cross-reference to EP1 (International Nature Conservation Sites and Protected Species) which is already included.

### **Renewable energy**

#### Policy ED9 – Renewable Energy Development

The policy reasoning at paragraph 1.6 (page 56) refers to use of existing supplementary planning guidance (SPG) and the 'Landscape Capacity and Cumulative Impact Study' by Ironside Farrar in decision making. The policy also cross-references new Supplementary Guidance on Wind Energy and Renewable Energy. We would welcome the opportunity to discuss the preparation and evolution of this Supplementary Guidance with you at the appropriate time.

### **Wild land**

We note and welcome the SBC response to our consultation on Core Areas of Wild Land which closed in December 2013. The response, which we understand was approved by the planning committee on 12<sup>th</sup> December 2013, made some useful recommendations which we copy in full as follows:

#### *Recommendations*

- 1.) The Council welcomes the identification of those areas of core wild land within the Scottish Borders;*
- 2.) The Council would like to see a more comprehensive approach to wild land in Scotland. In addition to core areas of wild land there should also be identification of smaller more local areas of wildness and those areas of relative wildness; this is critical to protect areas which have high societal value due to their balance between wildness and accessibility; and*
- 3.) The Council would like to see core areas of wild land and local areas of relative wildness given more appropriate policy protection. It is critical to protect these areas from all types of inappropriate development and to attach the necessary weight to ensure protection.*

Given that both the existing SPP (paragraph 128) and the proposed draft SPP (paragraph 129) support the principle of wild land and state that the development plan should identify and safeguard areas of wild land character, we consider these matters should be considered further within the scope of this plan.

We acknowledge the points the Council makes (copied above) regarding support of the two areas of core wild land that we have identified through our national mapping exercise and also the Council's desire for smaller and more local areas of wildness to be identified. We welcome these recommendations and think that the Local Plan/Supplementary Guidance is the appropriate location for this work, including matters relating to associated wording of other relevant policies.



We would be very happy to work with the Council to help develop further any strategy work and associated policy that may help support these objectives.

## **Mineral and coal extraction**

### Policy ED12 – Mineral and Coal Extraction

We welcome the unambiguous reference to protection of European sites in policy ED12. However, to bring the policy wording into alignment with the Habitats Regulations Appraisal (HRA) process, we suggest a minor amendment to the wording of the first bullet point under part a) of the policy:

- *“The proposed development will have no adverse effect on site integrity,”*

This amendment would bring the wording of this policy into alignment with policy text and reasoning set out for policy EP1, as discussed further below.

## **Biodiversity and nature conservation**

### Policy EP1 – International Nature Conservation Sites and Protected Species

We have discussed the approach to protection of European sites in some depth during the pre-consultation process and confirm that we consider the policy wording and reasoning to meet the requirements of the Habitats Regulations<sup>1</sup>.

### Policy EP2 – National Nature Conservation and Protected Species

We supported the proposed policy wording and cross-referencing at draft stage and maintain our support for the approach taken.

### Policy EP3 – Local Biodiversity

The reference to adoption of an ecosystems approach in the final sentence of paragraph 1.3 (page 88) could be more clearly framed by adding *‘integrated’* to this sentence. This would reflect the interaction of habitats, species and the supporting environment that is inherent in the ecosystems approach.

### Policy EP4 – National Scenic Areas

We supported the proposed policy wording and cross-referencing at draft stage and maintain our support for the approach taken.

National Scenic Areas (NSA) are also pertinent to the *‘Economic and Market Assessment for New Business Space’* reports which are background papers to the Proposed Plan. We do not propose to comment on the economic and market assessments included in these reports but wish to take this opportunity to emphasise the importance of the NSAs on business development at Tweedbank and Newtown St Boswells.

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<sup>1</sup> Conservation (Natural Habitats, &c) Regulations 1994, as amended

Where such sites are adjacent to NSAs, as at Tweedbank, the requirements for their development or renewal should include clear direction on design and siting that respect the qualities of the NSA and its surrounds. Consideration of national and proposed LDP policy should therefore be integral to economic appraisal of these sites, while we would also suggest that the unique landscape assets of the area can also positively frame the ambitions set out for these sites.

#### Policy EP13 – Trees, woodlands and hedgerows

We support the approach to trees, woodlands and hedgerows that is set out in this policy. However, we are aware that the national policy on woodland removal<sup>2</sup>, which requires compensatory planting where development and land use change leads to loss of trees, allows for this planting to take place anywhere in Scotland. Given the potential for large scale forestry removal to take place within the proposed plan period and given that developers may seek to compensate such loss outwith the Scottish Borders, we suggest that you consider an addition to the policy wording at part b) which would secure compensatory planting within the local authority area as opposed to elsewhere:

- *After ensure appropriate replacement planting add caveat within the local authority area.*

We suggest this change as a contribution towards the plan Vision of an excellent place to live. Woodland cover not only generally enhances the natural heritage, but plays an important role in creating places that people enjoy living and working in as well as wider benefits such as access and recreation, wellbeing and so on.

#### Policy EP14 – Coastline

In line with our recommendations for policy reasoning that provides certainty on HRA requirements elsewhere in this response, we suggest a minor amendment to the final sentence of paragraph 1.4 (page 116):

- *“...any development would have to adhere to the relevant policies associated with these designations. This includes appropriate assessment where this is required to demonstrate no adverse effect on site integrity of Natura sites.”*

#### Policy EP15 – Development Affecting the Water Environment

The proximity of the River Tweed Special Area of Conservation (SAC) to many of the allocations in the Proposed Plan means that consideration of the potential effect of development on the SAC is required. In considering the approach to Habitats Regulations requirements in relation to this policy topic, we have recognised the substantial experience Scottish Borders Council has in dealing with development in relation to the SAC. Our opinion is that this policy, in combination with policy EP1 and site requirements set out in Volume 2, represents a robust framework in which to ensure that development is delivered without adverse effect on site integrity. However, we suggest a minor amendment to the policy reasoning at paragraph 1.2 (page 118) that would provide greater certainty to developers and other stakeholders:

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<sup>2</sup> Control of Woodland Removal ([http://www.forestry.gov.uk/pdf/fcfc125.pdf/\\$FILE/fcfc125.pdf](http://www.forestry.gov.uk/pdf/fcfc125.pdf/$FILE/fcfc125.pdf))



- After *“The Council aims to protect and improve the quality of the water environment and requires developers to consider how their proposals might generate potentially adverse impacts and to build in measures that will minimise any such impacts and enhance and restore the water environment.”* add additional caveat as follows – *“Development proposals likely to have a significant effect on the River Tweed SAC will be subject to appropriate assessment, as set out in policy EP1.”*

As the suggested addition is not a change to the policy wording itself, we regard this as a minor amendment that will provide additional certainty on HRA requirements.

## **Green networks**

### Policy EP11 – Protection of Greenspace

Green spaces form part of the green network, as noted in paragraph 1.1 of policy EP12 – Green Networks (page 108), which is also cross-referenced in this policy. We suggest that it would also be relevant to include a reference to the proposed Green Network Supplementary Guidance.

### Policy EP12 – Green Networks

We welcome the recognition of the multiple functions of green networks in this policy reasoning. Paragraphs 1.4 and 1.5 (page 111) in particular demonstrate the range of supporting functions which a network of green infrastructure offers.

Paragraph 1.9 notes that the Council will consider the preparation of Supplementary Guidance for green networks. We strongly support this proposal and would be happy to assist with preparation of Supplementary Guidance on this topic.

## **Settlement profiles**

The settlement profiles set out in Volume 2 of the Proposed Plan provide a useful overview of the issues and opportunities in each.

We welcome the inclusion of placemaking considerations, particularly the recognition of the role of the natural heritage in placemaking. The current placemaking considerations include reference to designated sites such as the River Tweed SAC and local designations such as Special Landscape Areas and wider contributors such as green spaces and green networks. These are all relevant to the Scottish Border’s towns and villages as places. For some of these settlements, the National Scenic Areas are also important contributors to placemaking. At present the NSAs are not referred to in the profiles of relevant settlements such as Galashiels. We recommend that the text is amended to include them.

The settlement profiles contribute to the integrated approach to Natura that is taken throughout the Proposed Plan.



## **Site requirements**

Our SEA response highlights the importance of ensuring that the Proposed Plan, Environmental Report, HRA Record and other documents associated with the LDP are consistent in setting out requirements. There is a very clear link between the policies in the Proposed Plan, the site requirements and the HRA record, all of which should include the same requirements against the same topic areas or allocations.

In general, each of these appear to tie up and provide certainty to developers. However, there are some allocations which are supported by reference to Natura sites in the settlement profile but not in the site requirements. Our advice is that while it is useful to include Natura in the settlement profile, as discussed above in relation to placemaking, it is more likely that developers will read and take action on the points included in the site requirements.