

PERTH AND KINROSS COUNCIL**Enterprise and Infrastructure Committee****7 September 2016****Loch Leven Special Protection Area and Ramsar Site, River Tay Special Area of Conservation and the Dunkeld – Blairgowrie Lochs Special Area of Conservation Non-Statutory Planning Guidance****Report by Director (Environment)**

This report provides a summary of the comments received on the Loch Leven Special Protection Area and Ramsar Site, River Tay Special Area of Conservation and the Dunkeld – Blairgowrie Lochs Special Area of Conservation Supplementary Guidance documents which were published for consultation in June 2016. It makes recommendations for changes, where appropriate. It seeks consent to finalise and adopt the Supplementary Guidance to support the Local Development Plan (adopted 3 February 2014).

1. BACKGROUND / MAIN ISSUES

- 1.1 Under section 22 of the Planning etc. (Scotland) Act 2006 and regulation 27 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, Supplementary Guidance can be adopted and issued by a planning authority in connection with a Local Development Plan (LDP). Through the Local Development Plan, a commitment was made to provide further detail through the preparation of supplementary guidance on various areas of policy. This included the publication of three pieces of statutory supplementary guidance:
- Loch Leven Special Protection Area and Ramsar Site Supplementary Guidance
 - River Tay Special Area of Conservation Supplementary Guidance
 - Dunkeld – Blairgowrie Lochs Special Area of Conservation Supplementary Guidance.
- 1.2 The LDP sets out a list of supplementary guidance to be prepared to support the policies and proposals in the Plan, an updated programme for which was approved by the E&I Committee on 20th January 2016 (report 16/2). As part of this programme, technical changes were made to these three pieces of supplementary guidance. These changes were consulted on from 24th June – 15th July 2016. This report considers the comments that were received and suggests changes to the guidance, where considered appropriate.

- 1.3 The River Tay Special Area Of Conservation Guidance was prepared in partnership with Angus Council, SEPA and SNH. Both the Dunkeld - Blairgowrie Loch Special Area Of Conservation Guidance and the Loch Leven Special Protection Area and Ramsar Site Guidance were prepared in partnership with SNH and SEPA. All three guidance documents aim to assist developers submitting planning applications and provide details of the additional information to be submitted with planning applications in these areas. The guidance was prepared to provide information and advice for developers to ensure that their proposal will have no adverse effect on the integrity of the Special Area of Conservation (SAC) or the Special Protection Areas (SPAs). In addition to all three documents having been produced in partnership with other agencies, there was a need to open these documents to public consultation. This provided an opportunity for partners to demonstrate their support and seek technical amendments if required.
- 1.4 The three areas of Supplementary Guidance aim to protect Natura Sites. A Natura Site is either a Special Area of Conservation or a Special Protection Area. It is the highest wildlife designation as part of the Natura 2000 network – a series of sites that are internationally important for their threatened habitats or species. These higher level requirements to protect both SAC and SPAs have been transposed into the LDP through policies NE1, EP6, EP7 and EP15. Further detail on the measures required to protect these areas is available in the three supplementary guidance documents.
- 1.5 The Chief Planner wrote to all Heads of Planning on 15 January 2015 suggesting that there needs to be a different approach taken towards supplementary guidance. His letter advises that local authorities are taking different approaches to supplementary guidance, not all of which are appropriate. It states that it is “essential that supplementary guidance is limited to the provision of further information or detail and that the local development plan expressly identifies the matters to be dealt with in supplementary guidance”.
- 1.6 Having reassessed the three proposed supplementary guidance documents, they do not need to remain as statutory supplementary guidance. It was considered that these particular guidance documents rely on legislation, and their function is to give information, advice and examples to help inform the planning application process. They do not add further detail to the Local Development Plan policies; instead their focus is on providing explanation and advice which helps explain the process to developers. This does not suit or require statutory status. However, recent response from Scottish Government was that, notwithstanding the Chief Planner’s advice, they did not want the status of adopted guidance changed prior to the review of the Local Development Plan. Therefore, it is proposed that at this stage all three guidance documents will remain as statutory supplementary guidance.

2. KEY CONCERNS, RESPONSES AND PROPOSED CHANGES

- 2.1 The consultation period for the three supplementary guidance documents was adequately publicised through the Council's website and all those who made representations to policies EP6 and EP7 through the LDP examination process were notified, as were all Community Councils.
- 2.2 Few comments were received on this consultation due to the technical nature of the amendments; however, overall support was received for each of them. The comments received through the consultation process are shown in Appendix 1 which provides a detailed summary of all the consultation responses and the recommended Council response.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 This report considers the changes to (i) the Loch Leven Special Protection Area and Ramsar Site, (ii) the River Tay Special Area of Conservation and (iii) the Dunkeld – Blairgowrie Lochs Special Area of Conservation Supplementary Guidance as a result of public consultation. Following consideration of this report, the guidance will be finalised. On completion of this process, the guidance will replace the current statutory guidance and, once adopted, they will have the same status as the Local Development Plan.
- 3.2 It is recommended that the Committee:
- i) Approves, together with those changes shown for acceptance in Appendix I:
 - (a) the Loch Leven Special Protection Area and Ramsar Site;
 - (b) the River Tay Special Area of Conservation;
 - (c) the Dunkeld – Blairgowrie Lochs Special Area of Conservation, as Statutory Planning Guidance documents with each being a key policy document to support the Local Development Plan;
 - ii) Remits the Director (Environment) to finalise the Supplementary Guidance and submit it to Scottish Minister prior to adoption;
 - iii) Remits the Director (Environment) to approve minor changes to the Supplementary Guidance, if requested by Scottish Ministers and proceed to adoption.

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	Yes
Sustainability (community, economic, environmental)	Yes
Legal and Governance	None
Risk	None
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan / Single Outcome Agreement

- 1.1 This section should set out how the proposals relate to the delivery of the Perth and Kinross Community Plan / Single Outcome Agreement in terms of the following priorities:
- (v) Creating a safe and sustainable place for future generations

Corporate Plan

- 1.2 This section should set out how the proposals relate to the achievement of the Council's Corporate Plan Priorities:
- (i) Giving every child the best start in life;
 - (iii) Promoting a prosperous, inclusive and sustainable economy;
 - (iv) Supporting people to lead independent, healthy and active lives; and
 - (v) Creating a safe and sustainable place for future generations.

2. Resource Implications

Financial

- 2.1 There are no financial implications arising from this report.

Workforce

- 2.2 There are no workforce implications arising from this report.

Asset Management (land, property, IT)

- 2.3 There are no asset management implications arising from this report.

3. Assessments

- 3.1 An Integrated Appraisal of both the River Tay SAC Supplementary Guidance and the Dunkeld-Blairgowrie SAC Supplementary Guidance has been undertaken using the Integrated Appraisal Toolkit which combines the functions and requirements of Equality Impact Assessment, Sustainability Assessment and the pre-screening / screening for Strategic Environmental Assessment.

Equality Impact Assessment

- 3.2 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.3 Both the River Tay SAC Supplementary Guidance and the Dunkeld-Blairgowrie SAC Supplementary Guidance was considered under the provisions of the Equality Act 2010 using the Integrated Appraisal Toolkit with the following outcome:
- (i) Assessed as relevant and the following positive outcomes expected following implementation:
- The Supplementary Guidance supports the land use policies and proposals of the LDP. The implementation of the Guidance is not determined by a person's race, gender, disability or any other protected characteristic. The benefits of both guidance documents will be equally accessible to all and therefore the Guidance should have neutral impact on the population in terms of equality.

Strategic Environmental Assessment

- 3.4 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.5 This section should reflect that the proposals have been considered under the Act and no action is required. The Supplementary Guidance presented in this report has previously been screened and proposed changes are of a technical nature and will not change the content of the documents in line with the Environmental Assessment (Scotland) Act 2005.

Sustainability

- 3.6 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.7 The proposals have been considered under the provisions of the Local Government in Scotland Act 2003 and the Climate Change Act using The Integrated Appraisal Toolkit. The Supplementary Guidance, which supports the policy framework set out in the Local Development Plan, which seeks to achieve sustainable development and reduce the impact of climate change through its emerging vision, strategies, policies and proposals, will have a further positive impact on sustainable development and climate change.

Legal and Governance

- 3.8 None.

Risk

- 3.9 None.

4. Consultation

Internal

- 4.1 None.

External

- 4.2 SNH and SEPA drafted this document in partnership with Perth and Kinross Council. As well as this, full public consultation has been undertaken in the preparation of the supplementary guidance considered in this report. Feedback was received from the public, SNH and SEPA.

5. Communication

- 5.1 None.

2. BACKGROUND PAPERS

- 2.1 Local Development Plan February 2014
- 2.2 Local Development Plan Strategic Environmental Assessment
- 2.3 Letter from the Chief Planner

3. APPENDICES

- 3.1 Appendix 1: Comments received on the Loch Leven Special Protection Area and Ramsar Site, River Tay Special Area of Conservation and the Dunkeld – Blairgowrie Lochs Special Area of Conservation Non-Statutory Planning Guidance documents
- 3.2 Appendix 2: SAC Dunkeld - Blairgowrie Lochs Guidance
- 3.3 Appendix 3: River Tay SAC Guidance
- 3.4 Appendix 4: Loch Leven Special Protection Area and Ramsar Site Guidance

