

Appendix E Updated Habitats Regulations Appraisal

Updated Habitat Regulations Appraisal Record

Supplementary Guidance: Glentress Masterplan

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1. Introduction

- 1.1 The purpose of this Habitats Regulations Appraisal (HRA) is to establish if the Supplementary Guidance (SG): Glentress Masterplan could cause 'likely significant effects' (LSE) which could affect specific sites within and outwith the Glentress Masterplan Study Area. The sites in question are part of the Natura 2000 network with their function being to protect birds, other species, and habitats for which the site is designated; they are collectively known as Natura Sites. In particular the HRA assesses whether there will be LSE on the conservation objectives for respective Natura Sites. If a LSE is identified on the conservation objectives then an appropriate assessment is required to be undertaken which ascertains that there are no adverse effects on Natura 2000 site integrity or otherwise. This is to establish whether the LSE(s) identified could affect "the coherence of its ecological structure and function, across its whole area, which enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified" (Tyldesley and Associates, 2015, Habitats Regulations Appraisal of Plans Guidance for Plan-Making Bodies in Scotland Version 3).
- 1.2 For the approval of the SG: Glentress Masterplan it must be shown that the SG will not have any significant effects on the site integrity of any Natura Site. It should therefore be made explicit that this HRA is for the SG: Glentress Masterplan only and if there are subsequent changes then re-assessment will need to take place.
- 1.3 This HRA has been directed by revised advice in the form of the Habitats Regulations Appraisal of Plans Guidance for Plan-Making Bodies in Scotland Version 3 which has been produced by Scottish Natural Heritage (SNH) and David Tyldesley and Associates.

Legislative and Policy Background

- 1.4 In 1992 the European Union adopted legislation known as the Habitats Directive to help conserve the most seriously threatened habitats and species across Europe. The Habitats Directive complements the Birds Directive (1979) and the core of both directives is the creation of a network of sites called Natura 2000. The Natura 2000 network is made up of Special Areas of Conservation (SAC) and Special Protection Areas (SPA). It is also the case that Ramsar wetland sites should be considered as part of the Natura 2000 network and protected under the relevant statutory regimes. In the Scottish Borders area all Ramsar sites are covered by SPAs and are considered as part of these designations.
- 1.5 In October 2005 the European Court of Justice ruled that Development Plans in the United Kingdom should be subject to assessment, in the same way projects require assessment under Articles 6(3) and (4) of the Habitats Directive. These articles require that:
- "any plan or project, which is not directly connected with or necessary to the management of a European Site, but would be likely to have a significant effect on such a site, either individually or in combination with other plans or projects, shall be subject to an 'appropriate assessment'"*(Habitats Regulations Appraisal of Plans Guidance for Plan-Making Bodies in Scotland Version 3).

1.6 The above Directives are transposed into Scottish legislation by the Conservation (Natural Habitats etc.) Regulations 1994, (as amended).

1.7 In translating the above legislation into policy the Scottish Planning Policy (2014) states:

“Sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 network of protected areas. Any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment” of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site”.

Supplementary Guidance: Glentress Masterplan

1.8 The purpose of the SG: Glentress Masterplan is to set the context and principles for the sustainable development of the visitor destination at Glentress. Once approved the SG will form part of the Scottish Borders Local Development Plan (LDP). The LDP sits within a planning policy hierarchy, with both the National Planning Framework 3 and SESplan providing strategic planning policy that is then distilled through the LDP. In respect of the Glentress Masterplan, it is noted that it is not intended to develop the entire study area (as shown in map contained within Appendix 1), but rather built development will be focused on an enhanced Glentress Centre and a potential cabin site.

1.9 It should be noted that the Scottish Borders Proposed Local Development Plan has been subject to HRA. In addition, the Proposed Plan set out that the Council would produce the SG: Glentress Masterplan (refer to pages 164, 225 and 456). It is therefore the case that the SG: Glentress Masterplan was captured by the in-combination assessment in the HRA Appraisal Record.

1.10 The SG: Glentress Masterplan HRA has a number of important steps which are detailed in the bullets below:

- determination of whether HRA is required
- identification of the European sites to be considered
- information gathering about the European sites
- discretionary consultation with Scottish Natural Heritage
- screening of the SG: Glentress Masterplan for LSE
- applying mitigation measures at screening to avoid LSE
- re-screening the SG: Glentress Masterplan after mitigation measures have been applied

- if necessary, appropriate assessment to provide detailed assessment and mitigation to prevent LSE .

1.11 A number of appendices are included:

- Appendix 1 is a map showing the Natura sites within and outwith the Glentress Study Area
- Appendix 2 is the details of the Natura sites that were screened in
- Appendix 3 is a table of the Natura sites that were not considered in the 'baseline' for likely significant effects and the reason for this, and
- Appendix 4 is a table that was used to determine if the SG: Glentress Masterplan should be screened out or screened in for appropriate assessment.

2. Is the Supplementary Guidance: Glentress Masterplan subject to Habitats Regulations Appraisal?

2.1 The Supplementary Guidance: Glentress Masterplan is subject to HRA because it is not directly connected with or necessary to site management for nature conservation. It is also a 'Supplementary Guidance' and as such a 'land use plan'. Therefore appraisal of the effects of the Supplementary Guidance: Glentress Masterplan is required under Part IVA (regulations 85A-85E) of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended.

3. Natura Sites Screened for Likely Significant Effects

3.1 Within the Borders there are a range of different types of the natural environment which have been designated Natura Sites; within the boundaries of the local authority there are 9 SAC and 5 SPA (which incorporate 3 Ramsar). There are no proposed SPA (or Ramsar) in the Scottish Borders. There is a Marine SAC at the Berwickshire and North Northumberland Coast. However for the purpose of this HRA, a proportionate approach has been undertaken.

3.2 Appendix 1 shows a map of the Natura sites that were identified which could have been subject to possible LSEs from the Supplementary Guidance (SG): Glentress Masterplan proposals. These were the River Tweed SAC and the Moorfoot Hills SAC.

3.3 The Natura site below forms the 'baseline' for assessment because a link/pathway could be identified between the SG: Glentress Masterplan and the qualifying interests of the designated site and therefore a LSE on its conservation objectives:

- River Tweed Special Area of Conservation.

3.4 The details of the Natura site including its qualifying interests, site condition, conservation objectives, factors influencing the site and any known vulnerabilities are included in Appendix 2.

3.5 Appendix 3 identifies the Natura site – the Moorfoot Hills SAC that is not included in the 'baseline' along with the justification why there was no link/pathway from the SG: Glentress Masterplan that could result in a LSE on its conservation objectives. The exclusion of the Moorfoot Hills SAC has been confirmed during the process of this HRA by Scottish Natural Heritage (correspondence 14/08/15).

4. Screening for Likely Significant Effects on a Natura Site

4.1 In screening the SG: Glentress Masterplan for LSE, it is necessary to look closely at the conservation objectives and the vulnerabilities that are known for the River Tweed SAC. This has been done by referencing JNCC Data Sheets.

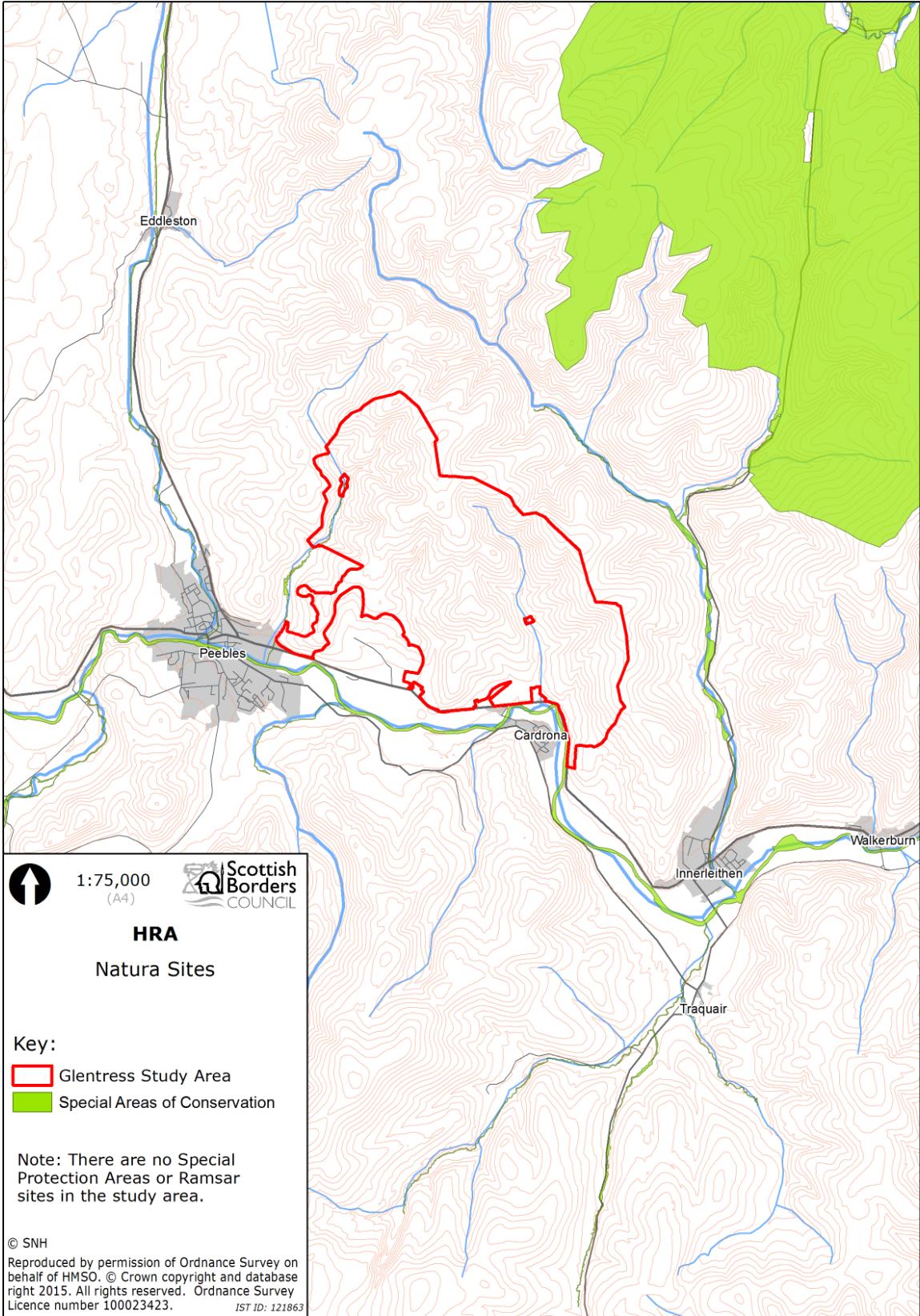
4.2 The table in Appendix 4 contains the workings of the screening of the SG: Glentress Masterplan. The table shows the Glentress site, a screening decision with reason; and whether the site has been subject to HRA before.

4.3 Whilst it is considered there would be the possibility of a LSE from development of Glentress due to its proximity to the River Tweed SAC, it is judged that the text within the Proposed Local Development Plan policies EP1 International Nature Conservation Sites and Protected Species, EP15 Development Affecting the Water Environment are sufficient to prevent LSE on the conservation objectives of the River Tweed SAC. It is also realistic to assume that taking account of SNH and SEPA's advice in the design and construction methods, should adequately avoid adverse impacts affecting drainage and watercourses entering the Tweed. Given that the development would be on the other side of the road from the Tweed, there would be no direct discharges into the river, or impacts on the morphology of the river on which some of the qualifying features depend. It should be noted that although there is a pathway to the SAC via the Eshiels Burn which runs through the site and issues into the Tweed, appropriate design and construction methods agreed with SNH and SEPA, as detailed in Appendix 4 of this HRA Record will avoid LSE.

5. Conclusions

5.1 The screening process for the SG: Glentress Masterplan as set out in Appendix 4 has concluded that with the with application of policy and site specific caveats as detailed in section 4 above, that any LSE can be avoided. It can therefore be concluded that, the adoption of the SG: Glentress Masterplan will result in no adverse impacts upon the integrity of any Natura site.

Appendix 1: Map of Natura Sites within and outwith the Glentress Study Area



Appendix 2: Details of European Site Screened in

Site and Designation (Designation Date) (Location)	Qualifying Interests and Site Condition	Conservation Objectives	Factors Currently Influencing the Site	Vulnerabilities to Change
River Tweed SAC (17 March 2005) (All Borders)	<p>International Feature:</p> <p>River lamprey (Unfavourable - No Change)</p> <p>Brook lamprey (Unfavourable - No Change)</p> <p>Otter (Favourable - Maintained)</p> <p>Sea lamprey (Unfavourable - No Change)</p> <p>Atlantic salmon (Unfavourable - Recovering)</p> <p>Rivers with floating vegetation often dominated by water-crowfoot (Unfavourable - No Change)</p>	<ul style="list-style-type: none"> • Extent of the habitat on site • Distribution of the habitat within site • Structure and function of the habitat • Processes supporting the habitat • Distribution of typical species of the habitat • Viability of typical species as components of the habitat • No significant disturbance of typical species of the habitat. 	<p>The River Tweed Catchment Management Plan, SSSI consents and Habitats Directive regulation will combine to effect long-term protection of the site and its features. Controlled Activities Regulations (CAR) General Binding Rules on Diffuse Pollution also apply and include activities such as engineering and will also protect qualifying interests of site.</p>	<ul style="list-style-type: none"> • Changes to hydrological units • Water course pollution diffuse and point source • River engineering, including bridges, pipelines and flood defences • Sediment management • Abstraction • Hydro-electric schemes

Appendix 3: European Site not Included in Baseline

European Site Not Included in Baseline	
European Site	Justification for Non-Inclusion
Moorfoot Hills SAC	The Moorfoot Hills are on land remote from the Glentress site. Watercourses are considered to be a non-issue as a link is not possible as the water will travel downhill. Any recreational disturbance as a result of development or as a knock on effect cannot be reasonably predicted nor seen as significant.

Appendix 4: Screening of Glentress Masterplan Study Area

Initial Screening Assessment				Detailed screening and decision on straightforward mitigation / appropriate assessment		
Site	Screened In/Out	Reasoning	Has site been subject to HRA/AA before? Included in previous HRA AA	Reason for Screening In	Commentary	Mitigation
Glentress	In	Glentress is located in close proximity to River Tweed SAC	Yes	Proximity to River Tweed SAC	It is considered there would be the possibility of a LSE from development of this site due to its proximity to the River Tweed SAC, in addition there are also a minor	<p>It is judged that the text within the Proposed Local Development Plan policies EP1 International Nature Conservation Sites and Protected Species, EP15 Development Affecting the Water Environment are sufficient to prevent LSE on the conservation objectives of the River Tweed SAC.</p> <p>It is also realistic to assume that taking account of SNH and SEPA's advice in the design and construction methods, should adequately avoid adverse impacts affecting drainage and watercourses entering the Tweed. Given that the development would be on the other side of the road from the Tweed, there would be no direct discharges into the river, or impacts on the morphology of the river on which some of the qualifying features depend. It should be noted</p>

					<p>burns onsite that flow into the River Tweed SAC.</p>	<p>that although watercourses such as the Eshiels Burns run through the proposed site and issue into the Tweed, none are included within the SAC designation. Mitigation could include measures to protect waterbodies following SEPA Guidelines PPG5 Works and maintenance in or near water, PPG6 Working at construction and demolition sites and other relevant guidance e.g. CIRIA guidance <i>Control of water pollution from construction sites. Technical Guidance (C648)</i></p> <p>As advised by Scottish Natural Heritage.</p>
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