



Scottish Natural Heritage
Dualchas Nàdair na h-Alba

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

Development Management – Our Service

Guidance for developers and their consultants

April 2015 Version 1

The following sets out the service you can expect from us at each stage of the development management process and how you can make the best use of our advice service. In this guidance, planning authorities, Scottish Ministers and other regulators and decision-makers are collectively referred to as 'consenting authorities'. Please send all requests for advice/information to the relevant Scottish Natural Heritage (SNH) [Area Mail-box](#) or marineenergy@snh.gov.uk for marine energy proposals. Where a named SNH case officer has been assigned, send such requests direct to them.

Pre-application

General

We would like to be involved in pre-application discussions if the proposal is one that matches our priorities set out in '[How and when to consult SNH – checklist](#)', in line with the [Key Agency Joint Statement on Pre-application Engagement](#). We will not, however, engage in pre-application discussions on proposals (or extensions to existing proposals) we have previously objected to, unless there has been a material change in the proposal or the environment.

Prior to contacting SNH, we suggest you first make use of the following:

- [Guidance, data and information published by SNH](#) and other agencies.
- Guidance published by planning authorities and other consenting authorities.
- Other publicly available data sources, such as the [National Biodiversity Network Website](#), [Scotland's Environment Website](#) and [local record centres](#).
- Other environmental statements for similar developments in the vicinity.

To support requests for advice, data or information, provide (as a minimum) a brief written description of the proposed development and a site location map (with clear site boundary), along with details of what information sources you have already made use of and what specific additional information and advice you need from us. If you are one of a number of consultants involved, then please co-ordinate requests for information with others.

It is best to seek our involvement in pre-application discussions through the consenting authority. They can then co-ordinate meetings so that all stakeholders are clear on what has been agreed and the proposal can be taken forward in an organised way. Please provide agendas and other material for pre-application meetings at least 3 weeks in advance so we can ensure that the right staff members attend. The consenting authority will normally prepare a short note of all such meetings focusing on key issues and action points. For bilateral meetings with us, agree the approach to recording what is discussed at the start of the meeting.

For national and major development, we encourage the use of processing agreements as a framework for processing an application. Where they are used, we will provide advice to help frame the agreement and apply a realistic timescale for the application process.

Protected species surveys (including birds) for proposals not requiring Environmental Impact Assessment

Consider whether protected species surveys will be required (with reference to our [guidance](#)) and carry out a competent survey where necessary before contacting us. For developments that don't need an Environmental Impact Assessment (EIA), we do not want to be consulted prior to surveys being carried out or mitigation plans being submitted, unless a licence is required for the survey.

If protected species are found and are likely to be affected by the proposals, include a mitigation plan with your proposal. If, even with mitigation, it appears that the development could lead to an offence being committed, then seek advice from the SNH Licensing Team at licensing@snh.gov.uk. For commercial activities which might affect cetaceans (whales, dolphins, porpoises) contact Marine Scotland: ms.marinelicensing@scotland.gsi.gov.uk

EIA screening

It is for competent authorities to determine whether a proposal requires an EIA, not SNH, so please send requests for a screening opinion to them. We recommend that you refer to existing [EIA screening checklists](#) as a framework for a request. In certain circumstances, competent authorities may seek advice from us on whether a proposed development is likely to have a significant effect on the environment.

EIA scoping

We recommend that you seek a formal scoping opinion from the competent authority for all developments requiring EIA. Refer to published guidance and standard methodologies to assess environmental impacts. Many of these are available on our [website](#).

We will:

- participate in focused pre-application discussions coordinated by the competent authority;
- respond to formal requests for a scoping opinion from the competent authority and direct you to standard, well-established survey/assessment techniques (e.g. landscape and visual impact assessments) where possible;
- identify those environmental effects that have the potential to be significant and provide advice on the information, survey and assessment required to be able to consider these impacts properly; while we will try to identify all such potentially significant issues, the responsibility for ensuring that the Environmental Statement (ES) is adequate rests with the developer;
- help to scope out issues/ surveys that are of little importance to the decision.

In order to take account of possible future changes to the proposal during the EIA process, the initial scope of the EIA should be sufficiently detailed and geographically extensive enough to cover likely changes to the proposal. We recognise that proposals can change throughout the iterative process of an EIA and that this may lead to a requirement for further dialogue where these changes could alter the scope of assessment required. In addition, the required scope may change during the assessment because findings of preliminary survey work may indicate that more surveys are required or because the context of the proposal has changed, for example:

- the conservation status of a species may have changed;
- further proposals in the area come forward that need to be included in a new assessment of cumulative effects;
- the environment or surrounding land use has significantly changed;
- there have been changes to the policy context.

Prior to submission of application/ Environmental Statement

Surveys and assessments should follow the relevant published good practice guidance. If you intend to deviate from the published methodology, we recommend you discuss this with us prior to starting the survey work. Survey reports submitted in support of an application must be complete and cover an appropriate period of time, in line with methodologies agreed at scoping or in published guidance.

Please don't send us draft ESs for comment as a matter of course. We will not normally comment on draft reports prepared in response to a scoping opinion unless:

- they raise novel issues;
- we asked for an opportunity to comment on an interim survey at scoping;
- there are findings (that couldn't reasonably have been foreseen) that require survey methods to be changed or further assessment to be carried out;
- the design of the proposal is yet to be finalised and the draft ES can help us advise on changes to the proposal that would avoid significant adverse impacts.

Consultation on the application and environmental statement

Applications accompanied by a good quality ES that addresses the issues raised at scoping are likely to be processed more quickly. If you decide to scope out an issue raised at scoping, we would expect the ES to provide a justification. If not, we may provide a very brief response that outlines the inadequacies and highlights to consenting authorities the risks of determining a proposal without the information required.

We may sometimes seek additional information or clarification prior to the submission of our response so we can provide comprehensive advice. A quick response to such requests will help us provide advice within the relevant timescales. We will ask for additional information/ clarification only where:

- survey results (that couldn't have reasonably been foreseen) indicate a requirement for new information or additional surveys/ assessments;
- surveys have not been carried out in line with the approach agreed at scoping;
- it is needed for consenting authorities to make an informed decision;
- the impact on timescales is proportionate to the potential risk of proceeding without such information.

We will focus on what the ES says about the key issues within our remit. Where the ES has identified potentially significant natural heritage impacts, we will work with you to identify (if possible) additional mitigation opportunities not identified in the ES.

Our advice on the proposal will include:

- a non-technical summary;
- a clear statement of our position in relation to the development (see below for an explanation of our responses);
- an assessment of the nature and scale of the impacts in relation to the importance of the natural heritage interests affected with reference to information in the ES and issues raised at EIA scoping/pre-application where relevant;
- advice about whether such impacts could be avoided, reduced or (where appropriate) compensated for and (if possible) how that could be achieved with reference to information in the ES where relevant.

We will base our advice to consenting authorities on the information submitted with the planning application (or other application for consent). Please do not therefore contact us during the consultation period in order to seek to influence our advice.

Our responses to consultations on development management casework will fall into five categories:

- A. Advice only:** These letters will offer clear advice about potential impacts on the natural heritage and suggest ways they can be avoided or mitigated
- B. Holding objection:** We will use a holding objection where more information on the proposal or the impacts is required to resolve/clarify natural heritage issues of national interest
- C. Conditioned objection:** We will use a conditioned objection where we have concluded that mitigation, or changes to the proposal, must be applied to allow it to proceed without causing natural heritage impacts that raise issues of national interest. In other words, the condition must be applied to avoid an outright objection by SNH
- D. Outright objection:** We will object outright if a proposal raises natural heritage issues of national interest that cannot be avoided
- E. No comment:** We will use a 'no comment' response where we receive an unsolicited, written consultation on which (in line with our priorities set out in ['How and when to consult SNH – checklist'](#)) we do not wish to offer advice

We will object (B, C or D response) if the proposal could have impacts on the natural heritage that raise issues of national interest. We will object outright (D response) if those impacts can't be avoided. For cases affecting protected areas of national or international importance, an SNH objection will be based on a judgement as to whether the impact on the natural heritage interest(s) (for which the area has been designated) is significant. For other cases, we will assess whether the proposal raises issues of national interest with reference to ['Identifying Natural Heritage Issues of National Interest in Development Proposals'](#) – our guidance for staff.

Do not interpret the lack of an objection by us as support for the proposal or an indication that there are no impacts on the natural heritage that consenting authorities need to take account of. Consenting authorities may choose not to grant consent for a development on the basis of our advice on the nature, scale and importance of the impacts, even when SNH has not objected. That is for them to determine within the context of relevant plans and policies.

Determination of consent

Pre-determination engagement

We do not expect you to contact us simply because you disagree with our advice. We will not respond in detail to rebuttals unless a factual error has been identified or there is a need to clarify our advice. If you have concerns, raise them with the consenting authority in the first instance.

If you propose changes to the scheme (to address the issues raised in our response) in good time and provide information about the environmental impacts of the changes, then we may provide further input, subject to direction from the consenting authority. Please supply details of any proposed changes in writing in enough time to allow us to consider how best to respond. If meetings are needed, they should not be used to reopen discussions about our advice on the impacts of the original proposal.

Inquiries and hearings

The Directorate for Planning and Environmental Appeals (DPEA) will co-ordinate all correspondence related to the appeals and any new material introduced into the appeal process. Please direct all such correspondence to the DPEA case officer.

Post consent

Planning obligations/licence conditions

We will set out in our response letter where planning obligations (conditions and agreements) and/or licence conditions are required to address impacts that raise issues of national interest (see above). Where these are incorporated into a consent, we would normally expect you to meet these obligations/licence conditions (e.g. the need for a habitat management plan, construction management plan, monitoring) by referring to guidance published on our website, rather than through further consultation.

Monitoring and enforcement

For some major developments (e.g. a large wind farm) in sensitive locations, we recommend the appointment of an Ecological Clerk of Works to monitor construction activity and to advise on the correct application of mitigation techniques based on agreed management plans where relevant. This is an effective way to avoid or minimise impacts during and after construction.