

**SCOTTISH NATURAL HERITAGE (SNH)
AND
FORESTRY COMMISSION SCOTLAND (FCS)**

NATIONAL CONCORDAT FOR FORESTRY RELATED CASEWORK

BACKGROUND

FCS is part of the Scottish Government Environment & Forestry Directorate, advising on and implementing forestry policy, managing the national forest estate and regulating private forestry. Forestry practice must meet the criteria set out in The UK Forestry Standard which is the chief guide to the practice of sustainable forestry.

SNH is the agency responsible for advising the Scottish Government on all aspects of Scotland's natural heritage. SNH's remit also includes promoting the enjoyment of, and responsible public access to, the natural heritage and securing the conservation and sustainable management of deer in Scotland. SNH is a Non-Departmental Governmental Body (NDGB), sponsored by the Scottish Government's Environment and Forestry (ENFOR) Directorate.

As partners in the Scottish Government's ENFOR Directorate, FCS and SNH have developed a positive working relationship over the years based on collaboration and joint working at local and national levels.

Both organisations are keen to build on this good work and also to support the Scottish Government's wish to drive operational and cultural alignment across rural affairs, food and environment outcomes and priorities. This joint work is now taking place within the context of both the 2016 Mackinnon report on the arrangements for the consideration and approval of forestry planting proposals, and the 2017 draft Climate Change Plan target to increase the rate of woodland creation.

Accordingly, in pursuing their respective regulatory and consent regimes and in seeking advice from each other, SNH and FCS will further develop collaborations (such as those outlined in Annex B) for the benefit of stakeholders. This includes those who seek advice and permission from both organisations, other partners in Government, as well as staff.

FCS and SNH intend the Scottish Forestry Strategy to be one of the principal decision-making processes for delivery of the Land Use Strategy. This concordat follows the principles set out in the Land Use Strategy for Scotland and delivered through the Scottish Forestry Strategy.

FCS and SNH are also part of a government-wide commitment to achieve favourable condition targets on Sites of Special Scientific Interest (SSSI) and on Natura 2000 sites. This involves ensuring that any forestry and woodland-related activities in and around these designated sites enhance, and do not adversely affect, their status. Arrangements for this and joint working arrangements have been in place for a number of years and an ongoing programme is in place.

THE CONCORDAT

This concordat is an updated agreement between SNH and FCS on procedures and collaboration with respect to forestry or woodland related casework as dealt with by either body under their respective consents and approvals regimes or when consulted by other bodies.

SNH also has a relationship with FCS in its role as manager of the National Forest Estate but that role is subject to a separate Memorandum agreed by both parties. Accordingly this concordat relates primarily to the role of FCS as the forestry authority in working with SNH.

In carrying out its duties, FCS has obligations to seek advice from SNH on applications for consent and grant approval for certain forest operations and plans particularly in relation to designated sites. Both SNH and FCS have specific responsibilities under The Conservation (Natural Habitats & Co) Regulations 1994 and the Wildlife & Countryside Act 1981 (as amended) which cover both habitat and species protection.

SNH acts as a statutory consultee to Planning Authorities on development and other proposals which affect the natural heritage. Where these also impact on forestry and related topics FCS may wish to comment. It is the intention of SNH to inform FCS of any such proposals so that FCS can comment as appropriate. Likewise, SNH will also seek advice from FCS in relation to any operations on land under its control (or where it is advising other landowners) which may require consent or approval under the various forestry consent procedures (such as tree health, or felling licences or EIA determinations under the Forestry (EIA)(Scotland) Regulations 2017).

In so doing FCS and SNH will collaborate appropriately as partners within the ENFOR directorate and will make every effort at local Conservancy/Regional level to resolve differences over advice, opinions and approach on casework (where advice is sought by one party from the other) within existing line management structures. They will seek to avoid public expressions of contrary views. In the event of local staff and their line managers being unable to resolve significant differences of opinion and approach, the matter and/or case will be referred to the Head of Delivery & Regions, FCS and Operations Director, SNH, to resolve as outlined in Annex A.

It is important that we make these formal requests for specific advice efficient and effective and have thus set out below our agreement on:

1. Case types on which SNH will be formally asked for advice by FCS
2. Case types on which FCS will be formally asked for advice by SNH
3. Discretionary requests for advice on the basis of topic or restricted geography
4. Supporting information and engagement with applicants
5. Timescales
6. SNH's assessment of proposals
7. Forestry Commission Scotland decisions
8. Review of concordat

1. CASE TYPES ON WHICH SNH ADVICE WILL BE SOUGHT BY FCS

FCS will seek SNH advice, and where appropriate consent, on:

- 1.1 Pre-application scoping of woodland creation proposals, long-term Forest Plans and Forest Enterprise Scotland Land Management Plans (which will incorporate forest management proposals) within or likely to impact, in the opinion of FCS, on SSSIs, Natura sites & NSAs.
- 1.2 Applications for woodland creation or felling and associated management (e.g. application of fertiliser/ herbicides/insecticides) within or likely to impact, in the opinion of FCS, on a SSSI or Natura site (SACs, SPAs).
- 1.3 Applications for woodland creation, or felling, within NSAs which are > 5ha.
- 1.4 Scoping for those forestry projects (i.e. Afforestation, Deforestation, Forest Roads and Forest Quarries) where consent is, or in the opinion of FCS, likely to be, required.
- 1.5 Any emergency case work carried out with 1.1 - 1.4, e.g. for reasons of biosecurity.
- 1.6 For all cases where SNH advice is sought for casework as outlined above, including, where appropriate, consent, FCS will notify the local SNH office of the decision by email.

2. CASE TYPES ON WHICH SNH WILL SEEK ADVICE FROM FCS

SNH will notify and seek FCS advice on the following casework:

- 2.1 SRDP or other grant applications (such as peat restoration) administered by SNH which may impact on forestry interests or require forestry consents (e.g. woodland SSSI's with potential felling licensable activities; deforestation).
- 2.2 Other SNH proposals, policy or operational, and actions which may have an impact on FCS interests (e.g. Natura 2000 Designation for species/habitats which may impact or be impacted by forestry interests) including advice on tree health matters.

SNH will notify FCS about

- 2.3 Pre-application proposals and development applications where SNH is consulted by the local Planning Authority that may have an impact on forests and woodlands (including those which could lead to woodland removal/deforestation); and windfarm proposals in forested areas (to help FCS clarify the appropriate consenting authority and compliance with the SG's Control of Woodland Removal Policy).

2.4 Following SNH notifying FCS on development applications, it will be the responsibility of FCS to decide on what level they wish to engage with the consenting or determining authority.

3. DISCRETIONARY REQUESTS FOR ADVICE INCLUDING THOSE REQUESTS LIMITED BY TOPIC WITHIN A SPECIFIED AREA OF SCOTLAND

FCS and SNH will not normally seek advice from each other on any proposal outwith the criteria listed in Sections 1 & 2 though good local liaison should always be maintained because of our strong mutual interests.

Exceptionally, there may be cases not covered by Sections 1 & 2 which require advice because of their natural heritage or forestry sensitivities. Accordingly, local SNH Area staff and FCS Conservancy staff may come to local agreements on what is appropriate within their specific areas.

For example, SNH and FCS are required to take account of the code of practice for deer management when carrying out any of their functions which could impact on deer. Specific examples of when public bodies must consider how to apply the Code include taking account of the role and effect of deer in woodlands, providing green spaces in towns and cities and supporting jobs in rural areas. SNH and FCS will work together to deliver the Wild Deer Strategy and the code of practice for deer management.

4. PRINCIPLES FOR COLLABORATION WHEN SEEKING ADVICE

SNH and FCS will follow the agreed principles below:

- a) We will make our response as concise as possible, unambiguous, and where necessary provide information to help resolve difficulties.
- b) We will restrict our response to matters which are materially relevant to the consultation and to our organisational remit.
- c) We will only request changes to proposals where formal advice is being sought and where these are likely to make tangible improvements in the direct and indirect outcomes that result from implementing the proposal.
- d) We will only request additional information about a proposal where it is essential to providing our response, and will explain this when making any requests.
- e) We will not delay our response or try to extend the timescale for responding by routinely issuing "holding" responses.
- f) We will reply within the timescale set by the authority seeking advice. If we need more time to respond due to complex or difficult issues, we will contact

each other without delay, explain the reasons for the delay and agree an alternative date to submit our response. Such extensions will be the exception.

- g) Where a response to consultation is required from more than one ENFOR/SG partner, SNH and FCS (and other ENFOR/SG partners) will seek to liaise to share responses and will avoid offering conflicting advice. It will be the responsibility of whichever organisation is managing or leading on a case to alert ENFOR/SG partners to conflicting advice and to resolve this within agreed timescales. In the event of no satisfactory local or line management resolution, the matter, with the agreement of both parties, will be resolved by FCS and SNH leads as outlined in Annex A.

5. SUPPORTING INFORMATION AND ENGAGEMENT WITH APPLICANTS

Requests for advice from either body should be accompanied by the relevant supporting information. For routine casework within SNH and FCS's remit, this will invariably mean sharing information from the relevant application. For other requests for advice or notifications (such as development proposals from Planning Authorities) the notification may simply be to alert either party to a case or consent proposal which they may wish to comment on.

It is the intention of FCS to enhance its public register so as to make all applications for forestry consents and approvals available online thus obviating the need for hard copy correspondence.

Both SNH & FCS are committed to ensuring that our advisory requests are as proportionate, efficient and business aware as possible. We are committed to early engagement with potential applicants, ideally before a formal application is submitted.

For development management proposals, SNH will seek to raise applicants' awareness of the Control of Woodland Removal Policy during the pre-application engagement, and encourage them to seek advice from FCS as to how best to comply with the Policy. <http://www.forestry.gov.uk/woodlandremoval>

6. TIMESCALES

The timescale for substantive advisory responses will be clearly noted on the advice request.

SNH's customer care target for consultation or advisory requests from FCS responses is 20 working days, unless otherwise indicated.

Where FCS is intending to undertake operations affecting SSSIs (Section 13) or acting as a regulatory authority (section 15), SNH requires 28 days (equivalent to 20 working days) notice of such proposals.

FCS will seek to respond to SNH requests for advice in line its Customer's Charter time-scales (normally 28 days/20 working days maximum)

In the event of either party being unable to meet the stated time-scale, they should request additional time as early in the process as possible.

7. REVIEW OF CONCORDAT

The Concordat will be reviewed annually to reflect any changes in the policy context and the feedback from staff and stakeholders.

Signed:

Head of Forestry Commission Scotland

Date:

Signed:

Chief Executive of Scottish Natural Heritage

Date:

ANNEX A: Procedure for resolving disputes

Where, following receipt of SNH advice, FCS or SNH feel unable to amend a proposal, and/or their advice to a third party, both parties will endeavour to resolve disputes through negotiation between staff with relevant expertise. In most cases such negotiation will need to happen quickly to prevent undue delay to the applicant receiving a decision. Both parties will wish to avoid an unresolved conflict of advice. Where, despite rigorous effort at Conservator/Unit Manager level, resolution proves impossible (because of issues of national importance for the natural heritage and for forestry) the case should be referred to respective senior managers in both organisations. The matter will be considered initially by a National Liaison Group, but if unresolved will then be referred to Operations Director SNH and the Head of Delivery and the Regions, FCS.

Annex B: Programme of Collaborative Project Working between FCS and SNH in 2017-18

- Raptor and Forestry Working Group
- South Scotland golden eagle re-introduction
- Mull project on how golden eagles utilise existing woodland and how forest management for golden eagles can be enhanced
- IGOR & windfarms
- Programme for Natura 2000 favourable conservation status targets for woodland sites
- Capercaillie: habitat management and predator control.
- SAC Resilience.
- Lowland deer network
- INNS (including Species Control Orders)
- Peatland restoration
- NNR's
- Green infrastructure & Networks
- Programme to refresh Landscape Character Assessments across Scotland
- Joint fencing Strategy