

Scottish Natural Heritage

# Planning for development: What to consider and include in deer assessments and management at development sites

Guidance



Version 2

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## 1. Introduction and key points

The purpose of this guidance is to promote a common approach to assessing the implications of developments on deer and the indirect impacts on other interests (e.g. habitats, neighbours, roads, etc.). It is aimed at a range of people involved in considering deer at development sites, mainly wind farm developers, but also ecological consultants and Planning Authorities. Although written with wind farms in mind, many of the broad principles described also apply to other development types where wild deer are present.

The key points of this guidance are:

- It complements and does not replace the existing Best Practice Guides for deer management, which you should refer to alongside this development-specific guidance.
- If wild deer are present on or use the development site, you should assess the potential impacts of the development on deer and other interests. Present the assessment as part of your Environmental Statement/information supporting the planning submission.
- At some sites, the assessment may indicate the need for management to avoid adverse impacts. In such cases a deer management statement will be required, either as part of a Habitat Management Plan or as a stand-alone document.
- At other sites, modification of an existing Deer Management Plan that covers a wider area may be appropriate to avoid adverse impacts.
- We do not expect developers to exert control over land that they have no rights over. However, we encourage a collaborative approach with neighbouring land owners and managers to avoid adverse impacts on the interests of all parties.
- We encourage early, collaborative engagement with local Deer Management Groups where they exist.

## 2. Background and context

Under the [Code of Practice on Deer Management](#) the four principles of sustainable deer management that developers should adhere to are to:

- ensure that wild deer welfare is safeguarded;
- protect and enhance the environment;
- support sustainable economic development;
- support social wellbeing.

If wild deer are present on or use the development site, the following potential impacts should be assessed:

- impacts on deer welfare
- impacts of deer on habitat reinstatement, creation or enhancement being undertaken within the development site (eg as part of a Habitat Management Plan)
- impacts on neighbouring land and interests (including public roads)

The scale of management actions (if any) required will relate to the scale and location of potential impacts.

At some sites, it may be appropriate for a simple statement on deer management to be included within a Habitat Management Plan (HMP). In such cases, the deer and habitat management aims and objectives should be complementary. (For example, monitoring the condition of the habitats should inform both deer and habitat objectives.) However for more complex sites, or where there is no HMP, a separate deer management statement document may be required. In either case, the principles of this guidance apply.

This guidance complements and does not replace existing guidance on managing wild deer in the wider countryside. We have published principles, information and advice on wild deer management in the wider countryside (including Best Practice Guides) and on habitat management plans on our [website](#). These will be helpful to anyone carrying out a deer assessment or drafting a deer management statement for a development site.

Where a deer management statement proposes management within or potentially affecting a Natura site, the implications for the Natura site must be considered under the Habitats Regulations. Present this as part of your Environmental Statement/information supporting the planning submission. You may need to take account of other planning and regulatory requirements when drafting a deer management statement, as described in the *Code of Practice on Deer Management* (e.g. the Land Reform (Scotland) Act 2003 in relation to recreation and access).

### **3. Role of deer management at development sites**

Developers may include a deer management statement amongst the mitigation measures in their submitted development proposal on their own initiative, or produce one to comply with a condition of planning consent. In either case, an initial assessment should inform the statement, which in turn should identify measures (monitoring and management) to ensure that the four principles of sustainable deer management described in section 2 of this guidance will be met.

For the avoidance of doubt, we do not expect developers to exert control over land that they have no rights over. What developers need to do is manage deer on the land that they do have control over, taking account of potential impacts to ensure that deer welfare, habitats and neighbouring interests are not adversely affected.

### **4. Development sites covered by existing Deer Management Plans**

Where a development is taking place within a larger area covered by an existing Deer Management Plan, an assessment (as described in section 6 below) is still required to support the planning submission. However, it may be appropriate to revise the existing Deer Management Plan to take account of the impacts of the development (for example in an appendix to the existing plan), rather than to create a separate deer management statement. When revising an existing Plan, the other considerations outlined in this guidance are still relevant.

A displacement cull may be required if there is a possibility that the development may displace deer onto adjacent land and cause damage, adversely affect deer welfare or cause other significant impacts (e.g. increased road traffic collisions). Where there are existing Plans, these may define annual deer cull requirement for the development area. Otherwise these may be estimated from previous and on-going deer management activities in the area covered by the existing Plan.

Good forward planning, understanding and regular communication throughout the lifetime of the development between the existing Deer Management Plan team and the developer will be essential to minimise impacts and meet the aims of the Plan.

## 5. Role of SNH in deer management at development sites

Our engagement and the advice we can offer on assessments and deer management statements will depend upon:

- the sensitivity of the site; the impacts of the development on the natural heritage; and
- the opportunities for habitat restoration/enhancement and impacts deer may have on this.

In most situations, the developer and/or their advisors should take the lead role in identifying deer management methods and opportunities. However, in some cases the landowner is responsible for management of deer populations (for example development within the National Forest Estate, where Forestry Commission Scotland (FCS) take the lead role for managing deer within their land). In these situations, the developer and/or their advisors should work with the landowner to address any impacts caused by the development, and should provide the relevant information to support their planning submission.

We will usually only engage in the implementation of a deer management statement where it is required to mitigate against significant adverse impacts on deer welfare, public safety, agriculture, forestry, or natural heritage interests such as protected areas, as set out in our [Planning and Renewables Service Level Statement](#). In most other cases, we expect the developer and Planning Authority to implement a deer management statement without reference to SNH.

## 6. Deer assessments and management statements

We recommend that assessments and management statements consider the impacts during each phase of development (e.g. construction, operation, decommissioning) and are informed by site investigations. They should be written as concisely as possible, but provide sufficient information to properly inform readers. They should be submitted as part of the planning submission for the development.

Where wild deer are present on or use the proposed development site, a deer assessment (described below) must accompany the planning submission, even if the developer concludes that adverse impacts are unlikely. This will enable those involved in the planning process to consider the potential environmental impacts. If the assessment indicates that there may be adverse impacts, then a draft deer management statement (described below) should accompany the assessment.

**Annex I** provides a flowchart of the key stages that will help developers decide whether a deer management statement is required to support the planning submission for their development site.

Although deer management measures will usually be limited to within the development site, management actions may also occur on land out with the development site, subject to relevant legal agreements. In such cases, it is vital that in-principle agreements with all affected landowners are in place at the time of the submitted development proposal. This will avoid problems at later stages (for example a key landowner pulling out post-consent).

### **Deer assessments:**

The assessment should cover the points<sup>1</sup> below. If there is limited or no information available, we advise a precautionary assessment based on a predicted worst case scenario.

This can then be refined over time using monitoring results. Map format may be appropriate for some sites but more complex and/or larger sites may need accompanying narrative.

- a. Describe the baseline and engage with your neighbours.** Clearly describe the following:
- i. What species and numbers of deer are present / use the development site? Information on age classes is also useful, if available. Guidance on assessing deer populations (e.g. range counting and dung counts) is on the [Best Practice website](#).
  - ii. How do deer use the development site? Identify sources of food and shelter within the development site.
  - iii. Identify if there are other sources of food and shelter out with the development site that could accommodate an increase in deer numbers should deer be displaced from the development site.

It may be useful to speak to local estate staff involved in deer management to find out about areas that deer use and may seek refuge in should they be displaced.

- iv. Identify if there are other interests within or near the development site that deer management activity may affect (e.g. core paths, popular hills, public roads, etc.).
- v. Speak to neighbouring land owners/managers, including local Deer Management Groups (DMGs) where they exist, to find out their objectives in relation to deer and other interests such as habitats (e.g. sporting estates who wish to retain deer numbers in line with their estate-scale deer management statement, adjoining protected area for priority habitats managed to reduce deer numbers, etc.)
- vi. Identify the broad habitat types within the site, and use this to predict how many deer (the carrying capacity) the habitat types might be able to sustain during the lifetime of the development. Where it is not possible to access neighbouring land, refer to other sources of information (e.g. the [Land Cover of Scotland](#) information, will help to identify what broad habitat types are present in the surrounding area). Remember to include consideration of any sensitive habitat types that the development will create or damage/destroy. The [Best Practice Guides](#) contain information on habitat types sensitive to deer.

As a general guide, sustainable deer densities of <3-5 deer/km<sup>2</sup> may be appropriate for woodland establishment and for blanket bog sites, while <8-12 deer/km<sup>2</sup> may be appropriate for some less susceptible moorland habitats.

The actual numbers a particular site can sustain without damage will depend on a range of factors including habitats, topography, soils, altitude and other land uses in the area. Monitoring over time (section e below) may be required to find the site's real carrying capacity.

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<sup>1</sup> The points are based on an amalgamation of the *Code of Practice on Deer Management* (section 4.4) and *What to consider and include Habitat Management Plans*, which should be referred to for more information (links provided in section 2).

**b. Identify potential issues.** Assess and clearly describe any potential issues that may arise from changes to deer numbers and movements. Consider impacts of displacement into/off the site on deer welfare, habitats and neighbouring interests.

Consider any habitat types that the development activity will create or restore as well as those outwith the site that deer may be displaced onto. Consider these in the context of both construction and operation. Assess the following:

- Where are displaced deer likely to go?
- Is there sufficient alternative food and shelter in the surrounding area to ensure no adverse impact on deer welfare?
- What impacts will displaced deer have on neighbouring and other interests (e.g. recreation, public roads, etc.)?
- Will displacement adversely affect the objectives of habitat creation/restoration within the development site or on neighbouring land?

**Deer management statements (DMS):**

Where adverse impacts are predicted in the assessment carried out above, the points<sup>2</sup> below (c to g and, if appropriate, point h) should be addressed in a DMS (or revision to an existing Deer Management Plan):

**c. Why is there a DMS?** The DMS should set out any specific planning or legal requirements that might apply. If it is required due to a planning or consent condition, then the final version of the DMS should state the relevant condition. If it was a commitment in the development proposal submission, then state the original commitment. This will make it clear to future readers why the DMS exists, some of whom may not read it until some years after its creation.

**d. What are the aims of the DMS?** The DMS should state what it is trying to achieve and (if relevant) show how it contributes to and complements the aims of habitat restoration plans and/or other management within the development site and surrounding area.

**e. Identify actions.** Based on the answers to questions a - d above, identify and describe management measures and monitoring programmes to ensure the aims of the DMS are met:

- i. Concisely describe what, how and where monitoring/management will take place, when it will occur and who will be responsible for it. (Maps are useful to indicate monitoring zones and help to replicate monitoring over time).

This information allows compliance monitoring by the Planning Authority and helps to maintain wider confidence in the DMS.

Management may include measures such as culling, fencing, diversionary feeding, etc. It should be noted that some management measures might cause other impacts/issues that will also need to be carefully considered.

The Best Practice Guides (Impacts, Planning, Culling, etc. webpages) contain more information on how to monitor and manage the impacts of deer on various habitat types. However, please note that these guides are written for estate-scale assessment rather than for a smaller scale development site.

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<sup>2</sup> The points are based on an amalgamation of the *Code of Practice on Deer Management* (section 4.4) and *What to consider and include Habitat Management Plans*, which should be referred to for more information (links provided in section 2).

We therefore advise focussing on any sensitive habitats present on site, then applying the guidance for those habitats with a reduced sampling intensity as appropriate for the size of site, sensitivity of habitats present, habitat creation/restoration aims, predicted deer pressure, etc.

Please note that we do not recommend installation of permanent monitoring markers at development sites. Use GPS references or development infrastructure to identify monitoring points.

- ii. Provide a monitoring schedule. The DMS should provide a quick reference timetable listing the required monitoring, management and reporting (see f below), as well as when they are scheduled to take place throughout the lifetime of the development.

- f. **Reporting.** We recommend that a report detailing the results of the monitoring and the recommendations for on-going management is produced within 2 months of the end of each monitoring year.

The DMS should specify the frequency and timing of reports and who will analyse the results to assess whether the targets are being met and if they are still appropriate.

- g. **Flexibility.** Deer management is an adaptive process that needs to react to changing environmental and other conditions, monitoring or trial results, unexpected events or evolving guidance.

The DMS should also be reviewed around 3 years prior to decommissioning, once details of decommissioning are known and the potential impacts can be assessed.

We therefore recommend that the DMS includes a short section indicating that it is a live document and setting out the frequency and timing of reviews, how decisions on modifications will be made, and how they will be approved.

Approval for amendments to the DMS must occur before implementing revised measures. For more complex sites, with competing interests, a steering group may be needed, as described in section h below.

Please note that where effects on Natura sites are likely, consideration of the Habitats Regulations may also be required before revised measures can be implemented.

- h. **Steering groups.** The role of a DMS steering group is to review and discuss monitoring results and to approve proposed amendments to the DMS during its lifetime. If a steering group is required, the DMS should identify who will be on the DMS steering group and how amendments to the DMS will be authorised, etc.

Where required, the steering group will usually include a representative from the Planning Authority and the developer. SNH will only participate in a steering group where our engagement accords with section 5 of this guidance. Other parties may also be part of the steering group depending on their interest in the development (e.g. Forestry Commission Scotland, Royal Society for the Protection of Birds, landowner/managers, etc.). At sites where there is also a HMP or the DMS is part of a HMP, it may be appropriate to have one steering group considering both plans.

We recommend that the Planning Authority chairs the steering group and makes the final decision if agreement cannot be reached through the steering group. Decisions should take full account of any specific planning or legal requirements that might apply.

It is unlikely that the steering group will have to meet to discuss every report – most reports could be reviewed and approved by correspondence.

However if significant results are found or unexpected matters arise that would benefit from discussion, a meeting of the steering group should be arranged as soon as possible. If changes to the DMS are needed, approval should be provided in writing by the steering group chair (having sought the other group member's opinions in writing) before changes are implemented.

## 7. Deer management and the Planning system

This section provides some advice on common scenarios and how they relate to the Planning system. The scenarios below use a protected area as the 'interest' being affected. Impacts on other interests could be substituted for 'protected area', for example 'deer welfare', 'agriculture', 'recreation', 'woodlands', etc.

Note that it is impossible to include every potential scenario in this document. The following should be used as a guide only. Consideration and discussion with the relevant parties about what approach is most appropriate for each individual development and affected interest(s) will be required. The involvement of SNH in such discussions will depend on the interests affected, as described in section 5 above.

### **Scenarios:**

Sometimes a development can only go ahead if there is confidence that a deer management statement will be implemented. For example where, without careful deer management, there would be an adverse impact on a protected area.

Deer are a wild animal that move through the countryside, whereas the planning system deals with discrete development sites, so a number of different scenarios are possible. These are described below:

- **Large boundary, impacts largely within boundary**  
In some situations, the planning application boundary is widely drawn in the context of actual development proposed, so that within the application area there is a relatively large area around the development site. The assumption is that the developer has control over the land within the application boundary. An agreed deer management statement tailored for the land within the development boundary would set out the management activity required to avoid an adverse impact on the protected area. Planning permission could include a condition requiring the submission and approval of a deer management statement prior to commencement of development and implementation of the DMS thereafter.
- **Tight development boundary, impacts largely out with boundary**  
In contrast to the above, some planning application boundaries are tightly drawn to follow the outline of the actual development (e.g. around the tracks and turbine locations). The extent of the planning application area therefore forms a relatively small part of a wider landownership that is unlikely to be in the control of the developer (e.g. a relatively small development site leased from the landowner of a larger estate).

This would mean that there would be two parties affected by and so with an interest in deer management, and who would need to cooperate to avoid an adverse impact on the protected area. Both parties are expected to work together to prepare a deer management statement that would avoid an adverse impact on the protected area. Such situations are likely to require a legal agreement involving the developer and the landowner to ensure that the agreed deer management statement is implemented.

This involves a third party to the planning application, so an appropriate mechanism to secure this as part of a planning permission would be through Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

- ***Impacts on multiple landowner interests***

For development sites contained within a single landownership but bordering other land ownerships that may be affected by displaced deer, difficulties can arise due to contrasting interests regarding land management. For example, some neighbouring estates may manage their land for nature conservation and so require lower deer numbers, whilst others may manage for commercial stalking and so desire higher deer numbers.

Where, without careful deer management across more than one landownership area, there would be an adverse impact on the protected area caused by the effects of the development on deer, the developer should seek willing neighbours to agree jointly to a deer management statement. This agreement must be legally secured through a Section 75 agreement with all relevant parties, linked to planning permission. This would allow these parties to work together during the construction and/or the operation of the development to reduce the pressure on the protected area (for example by managing deer away from sensitive areas).

Liaison with other neighbours who are not party to the agreed deer management statement (e.g. due to contrasting land management interests), as well as the local Deer Management Group (where one exists) is also recommended as part of the initiation and on-going implementation of the deer management statement.

Where there are contrasting interests, the priorities for the deer management statement must be compatible with the determining authority's plans and policies, particularly those safeguarding protected areas. The Section 75 agreement therefore needs to address adverse impacts on the protected area to avoid failing the policy tests, as failure is likely to result in refusal of the application.

- ***Other situations***

In other situations, positive deer management might not be required to overcome potential adverse impacts on a particular interest. In this case a deer management statement is not required to enable the planning authority to grant planning permission.

However, it may still be beneficial to carry out positive deer management, for example to protect or enhance priority habitats and the species reliant upon them.

Planning Authorities have a duty to further the conservation of biodiversity under the Nature Conservation (Scotland) Act 2004. Therefore, where it is not possible to attach a planning condition, a Planning Authority may wish to secure site specific deer management through an agreement under for example Section 20 of the Local Government in Scotland Act 2003, in order to fulfil their biodiversity duty.

## **8. Site specific advice and providing feedback on this guidance**

For advice on site-specific assessment results and draft deer management statements, please contact the SNH case officer for your site.

We welcome constructive feedback on our guidance. If you have any suggestions on how to improve this guidance, or have any queries about it, please contact a member of the [SNH renewables team](#).

## ANNEX 1 - assessment flow chart



