

Consultation response



**Scottish Planning Policy
*Consultative Draft***

**Dr Maggie Keegan, Conservation Officer and
Tony King, Head of Policy**

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Scottish Wildlife Trust¹ (SWT) welcomes the opportunity to comment on the consolidated Scottish Planning Policy (SPP). SWT's is the largest non-Governmental body in Scotland representing all aspects of our natural heritage. We currently have over 34,000 members throughout Scotland and many active member groups who engage with planning issues locally. We are interested in the planning system as it can have profound impacts (positive and negative) on our natural environment.

Our policy on planning agreed by our Council in 2006 states that *"inappropriately located and badly designed developments can have significant, detrimental impacts on Scotland's biodiversity and on people's quality of life"*. Conversely, SWT appreciates the urgent need for Scotland to provide new housing and infrastructure and is supportive of new development where this is delivered in line with sustainable development principles and practice, and where it does not adversely impact on important habitats and species. We believe that the planning and design of new places could and should in the future *enhance* biodiversity, particularly if new developments are designed to improve habitat connectivity and avoid the destruction of valuable biodiversity hotspots (e.g. Local Nature Conservation Sites). To achieve this SWT recommends the application of an ecosystem-based approach to at least the natural heritage aspects of the planning system. SWT will shortly be launching a publication on this topic which we would be happy to make available to the Built Environment Directorate.

SWT believes Government planning policy guidance needs a fundamental overhaul in order to make the planning system fit for the challenges of 21st century; particularly climate change (both mitigation and adaptation), and the depletion of natural resources, including biodiversity. The current review of the SPP series is an opportunity to develop a clear vision for Scottish planning, which focuses on delivering a better quality of life for the people of Scotland through the provision of a high quality, resilient environment.

Whilst SWT is supportive of the Scottish Government's aim that: *"planning will deliver sustainable development ensuring development is in the right place, and of, the right quality"*² we have important concerns regarding the realisation of this objective in the current consolidated SPP. Whilst we welcome the inclusion of progressive provisions such as *"integrated habitat networks"* and *"green networks"* - important for connecting people to nature, providing a permeable landscape for wildlife and supporting adaptation to climate change - we have concerns regarding other aspects of the SPP.

We believe legislative and policy context is a crucial component of SPP, whether it be a series or a single document, and the loss of this level of detail from the current consolidated document diminishes the meaning and practicability of each policy. As this document together with the *National Planning Framework for Scotland II* and *Designing Streets* constitute the main sources of guidance planners will use to determine where and how development should and should not occur, it is vitally important we get it right. Indeed, paragraph 38 of the consolidated SPP supports this by stating that: *"These subject planning policies should inform the content of development plans, can be a material consideration in decisions on planning applications and should be used to inform development proposals from initial concept to implementation."*

¹ The Scottish Wildlife Trust was founded in 1964 to take all appropriate measures to conserve the fauna, flora and all objects of natural history in trust throughout Scotland. With over 30,000 members, several hundred of whom are actively involved in conservation activities locally, we are proud to say we are now the largest voluntary body working for all the wildlife of Scotland. The Trust owns or manages 124 wildlife reserves and campaigns at local and national levels to ensure wildlife is protected and enhanced for future generations to enjoy.

² <http://www.scotland.gov.uk/Topics/Built-Environment/planning/modernising/progress/Q/editmode/on/forceupdate/on>

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Headquarters: Cramond House, Cramond Glebe Road, Edinburgh EH4 6NS
•Tel: 0131 312 7765 •Fax: 0131 312 8705 •Email: enquiries@swt.org.uk

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SWT's key concerns are listed below, followed by specific comments on relevant sections of the consolidated SPP.

KEY CONCERNS

Sustainable Development

We believe the guidance given to planners in paragraph 37 (paragraph 36 sets context only and is therefore **not** guidance) is wholly inadequate and does not reflect the Scottish Government's stated commitment to sustainable development (SD) which is "*integral to the Scottish Government's overall purpose*"³. In effect, the guidance has been condensed from a comprehensive 19 page document⁴ to 115 words which fail to provide 'guidance;' as such,. **we believe the SPP fails to discharge the statutory duty under section 3E of the Planning etc. (Scotland) Act 2006**⁵.

Setting the context is crucial; it would for example be very useful to include the five guiding principles of sustainable development⁶ as well as the linkage to climate change⁷. Guidance on planning's contribution to sustainable development⁸ contained within the March 2007 Consultation Paper was useful in this respect. A way forward might be to capture this and similar guidance throughout the SPP at relevant points in the document. This would help explain how planning can contribute to SD in three main ways: location, design and layout. The 2007 guidance also includes a number of actions and principles through which planning could begin to better deliver SD. Some of these are absolutely vital if we are serious about delivering climate change bill targets and the objectives of the biodiversity strategy. For example, SD recognises the importance of:

- Reducing the need to travel and encourage public transport use;
- Encouraging the use of existing buildings where possible;
- Promoting efficient use of land through higher density development;
- Maintaining and enhancing open space;
- Protecting and enhancing the natural environment;
- Preventing further development which would be at significant risk of flooding;
- Considering energy systems on a strategic basis;
- Managing waste effectively;
- Taking account of the capacity of existing infrastructure.

As the consolidated SPP stands, paragraph 37 **provides no practical guidance to decision makers** and we believe this is a serious omission which will lead to inconsistent application of SD by planning authorities.

We are also concerned that the text in paragraph 37 implies that there has been a change in Government policy direction on SD. Paragraph 37 describes how the principles of SD will be accorded with through achieving sustainable economic growth and by "...*respecting environmental factors*". This is considerably weaker than most accepted definitions of SD⁹, which

³ See: <http://www.scotland.gov.uk/Topics/SustainableDevelopment/7368>

⁴ See: *Statutory guidance on planning and sustainable development*- consultation paper March 2007; paragraph 5 lists each principle and paragraph 26-30 explains what they mean.

⁵ Section 3E states: The Scottish Ministers may issue guidance to a planning authority for the purposes of this section and that authority must have regard to any guidance so issued.

⁶ See paragraph 5 in *Statutory guidance on planning and sustainable development*

⁷ See Chapter 2 of *Changing our Ways: Scotland's Climate Change programme (2006)*

⁸ See paragraphs 31-38 in *Statutory guidance on planning and sustainable development*

⁹ See definition of SD in *Choosing Our Future (2005)*

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include recognition that there are *environmental limits*. **SWT believes that recognition of environmental limits is crucial and it is essential that this is recognised in the SPP.**

The text on SD is also weaker than that included in SPP1, which stated “*Planning decisions should favour the most sustainable option*” (paragraph 8); and weaker than the definition of sustainable economic growth that John Swinney provided at RSPB Scotland’s conference on 2nd February 2009, when he said: “*There is often much debate over what is meant by “sustainable economic growth”. I see it simply as being about building a dynamic and growing economy that will provide prosperity and opportunities for all, while respecting the limits of our environment, natural resources and biodiversity – both locally and globally – in order to ensure that future generations can enjoy a better quality of life too.*”

To conclude, as the document stands, it would undermine the fundamental link between planning and SD. It also seems to amend Government’s position on SD and the weighting of its relative values.

Climate Change

Tackling climate change is one of the key challenges facing Scotland in the 21st century. It is crucial that adaptation and mitigation measures are a central consideration of all aspects of the SPP especially if we are to get anywhere near reaching the Climate Change (Scotland) Bill targets of 80% reduction in emissions by 2050. Whilst the SPP stresses that “*the need to help mitigate the causes of climate change and to adapt to its impacts should be taken into account in decisions throughout the planning system*” there is little guidance in the current document as to how this might be achieved. The one positive steer is the text of paragraph 95 which refers to green networks supporting adaptation to climate change; more tangible solutions like this are needed in the SPP to ensure developers’ decision are ‘climate change proofed.’

Biodiversity

As Scotland is likely to fail to meet its Convention on Biodiversity 2010 target¹⁰ which requires every signatory to contribute to halting the decline in global biodiversity by the year 2010, the planning system must provide a clear steer on biodiversity by both protecting important hotspots of biodiversity from development and enhancing biodiversity where development *is* taking place. With this in mind, two of our main concerns regarding *landscape and natural heritage* policy (paragraph 96 and section under local designations) are discussed below.

Landscape and natural heritage

Apart from the lack of legislative and policy context (e.g. *Landscape and natural heritage* at the very least, should be set in the context of the ‘Biodiversity Duty’¹¹) our main concern relates to paragraph 96. Whilst we had previously understood that the consolidated SPP natural heritage guidance would be based on SPP14¹² and not NPPG14, we are surprised to see that some of the text in paragraph 96 appears to have come directly from NPPG14¹³. For example “*The protection of natural heritage may sometimes impose constraints on development, with careful planning, the potential for conflict can be minimised*¹⁴ and designation does not imply a prohibition on

¹⁰ The Convention on Biological Diversity in 2002 set a target to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on Earth. Scotland has its own national target

¹¹ The Nature Conservation (Scotland) Act 2004, places a duty on all public bodies to further the conservation of biodiversity, and in so doing to have regard to the aims and objectives of the Scottish Biodiversity Strategy. Included in SPP14-paragraphs 17-18.

¹² SPP 14: Landscape and Natural Heritage Stakeholder Consultation Draft. 14 March 2008

¹³ There should also be some explanation on page 7 of the text referring to SPP14

¹⁴ See Paragraph 9 of National Planning Policy Guidance 14.

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development¹⁵. This wording was removed from SPP14, with good reason, we believe, since it detracts from the presumption against development on designated sites and in sensitive areas.

In addition, we have concerns about the last sentence of this paragraph which states: *The level of protection given to local designations through the development plan should not be as high as the level of protection given to international or national designations.* We would contend that without appropriate protection, locally 'designated' sites would be afforded very little protection for development. This could see the loss of some of our finest hotspots of biodiversity. Such erosion of the best elements of our 'green infrastructure' would impact on Scotland's ability to build quality places, which tend to be correlated with inward investment, stable and attractive communities and social cohesion.

There is also a conflict here with the 'biodiversity duty' under the Nature Conservation (Scotland) Act 2004 as locally designated sites, such as Local Nature Conservation Sites (LNCS), are a key way of delivering the duty and thereby conserving habitats and species¹⁶ including those listed under local and Scottish Biodiversity Action Plans. Therefore, **we recommend that paragraph 96 is removed from the consolidated SPP as it is in conflict with the principles of sustainable development¹⁷, and the aims of the Scottish Biodiversity Strategy¹⁸.**

Local designations

Whilst the guidance is to be commended for acknowledging in paragraph 103 that: "*Local designations can play a valuable role in protecting and enhancing local natural heritage and landscapes, and in encouraging their enjoyment and understanding*", we believe this should be supported by a recommendation for planning authorities to *support, protect and enhance* locally designated sites, such as Local Nature Conservation Sites (LNCS), as stated for 'open spaces'¹⁹.

Whilst we note that there is a *presumption against development* on 'open space'²⁰, there is no presumption against development on locally designated sites - *nor indeed for internationally or nationally designated sites.* We would like to see the same wording used in the guidance (as used for 'open space') for **all levels of designation i.e. a presumption against development on internationally, nationally and locally designated sites.**

We have already highlighted the important contribution locally designated sites can make to biodiversity, and we suggest the guidance should go further in paragraph 106, by stating that **locally designated sites should be identified and protected in the local development plan**, as stated for 'open spaces'²¹.

Glossary

We note that sustainable development and sustainable economic growth appear to be used interchangeably in the document. In order to remove confusion over the two terms, definitions should be included in a glossary. This would also provide the opportunity to clarify 'biodiversity' 'green networks' 'integrated habitat network' 'greenspaces' 'ecosystems' etc.

SPECIFIC POINTS

¹⁵ See Paragraph 23 of National Planning Policy Guidance 14.

¹⁶ See: *Guidance on Establishing and managing local Nature Conservation Site systems in Scotland.* March 2006

¹⁷ See Living within Environmental Limits in *Statutory guidance on planning and sustainable development*

¹⁸ See *Scotland's Biodiversity – it's in your hands.* Main aim: To conserve biodiversity for the health, enjoyment and wellbeing of the people of Scotland now and in the future.

¹⁹ See paragraph 111 of consolidated SPP.

²⁰ See paragraph 116 of consolidated SPP.

²¹ See paragraph 116 of consolidated SPP.

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Economic development

Paragraph 43 states that brownfield land is a potential source of sites for new development. It should be recognised that brownfield sites can be biodiversity hotspots, providing crucial habitats for wildlife populations, including many rare and protected invertebrate species²². Therefore it is crucial that development on 'previously developed land' should be considered on a case by case basis and those sites identified as notable for wildlife should be avoided or mitigation measures put in place.

Housing

Bullet point five in paragraph 64 should include locally designated sites such as LNCSs.

Coastal planning

We welcome the statement in paragraph 76 which states that: *The special characteristics of the isolated coast should be safeguarded, and there is a presumption against development in these areas.* Again we question why this wording "*presumption against development*" (see under Local designations above) cannot be used when describing proposed development on international, national and locally designated sites. If it is not considered a 'backward step' in protecting this type of habitat and indeed open space from development, why is it considered a negative response to development with regard to international, national and locally designated sites?

Landscape and natural heritage

We note that it is not until the third paragraph that 'biodiversity duty' is referenced i.e.: "*All public bodies, including planning authorities have a duty to further the conservation of biodiversity, and this should be reflected in development plans and development management decisions.*" To emphasise the importance of the statutory duty and set the natural heritage policy in the context of 'biodiversity duty' we recommend that the above should be stated in the opening paragraph of this policy. In addition, and for the avoidance of any doubt, it should be referenced to the Nature Conservation (Scotland) Act 2004.

Paragraph 92 states that "*Improving the natural environment and the sustainable use and enjoyment of it is one of the Government's strategic objectives.*" The next sentence should include **protection** of natural heritage to emphasise this point e.g. "*Planning authorities should therefore support opportunities for enjoyment, understanding and protection of the natural heritage.*"

Paragraphs 94 and 95. SWT are very supportive of the inclusion of a strategic approach to conserving natural heritage – the opportunity exists here to refer to an 'ecosystems approach' which is what, in essence, this is. We very much welcome the references to '*integrated habitat networks*', '*prevention of fragmentation or isolation of habitats*', '*connectivity between habitats*,' and '*green networks*,' all of which are essential for conserving biodiversity, connecting people to nature (with the ensuing health benefits²³), providing wildlife corridors and allowing species migration in response to climate change (i.e. an adaptation mechanism).

National designations

Paragraph 101 should include a presumption against development on nationally designated sites. This would be consistent with the 'biodiversity duty', 'sustainable development' the Government's strategic objective as stated in paragraph 92, and wording used in coastal and open space policy –both policies include a "*presumption against development*" see paragraphs 76 and 116.

²² See for example:

<http://www.buglife.org.uk/conservation/currentprojects/conservingbrownfieldinvertebrates/thamesgateway/allofabuzz.htm>

²³ De Vries, S (2001). Nature and health; the importance of green space in the urban living environment. Proceedings of the symposium 'Open space functions under urban pressure'. Ghent: 19–21 September

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Local designations

Paragraph 106. This paragraph should also reference the published guidance on LNCS²⁴ from which the text was extracted.

Trees and woodland

This section is disappointing in relation to clear guidance on protection of trees and woodland in comparison to SPP14 or indeed NPPG14. We presume this is just an oversight rather than a deliberate attempt to produce a policy that does not provide a clear steer to planners or developers. A glossary would be helpful to differentiate between the woodland 'types' referenced in this paragraph. Furthermore, there needs to be a clear distinction between the impacts of development on ancient, semi-natural or long established woodlands compared to the impacts on exotic conifers with regard to natural heritage and cultural values. SWT believes there should be a presumption against development on all ancient woodland as this is now so limited in extent we cannot afford to lose what little remains. As we believe the wording of SPP14 was more robust, we would request the reinstatement of this section which would result in the addition of 120 words to the SPP.

Open space and physical activity

Whilst SWT is broadly supportive of this policy as stated, we recommend that the following points are included in the text:

The added value of protecting open space should be recognised e.g.:

- Its contribution to mitigating the effects of climate change²⁵
- Its contribution to creating a Greener Scotland (one of the Government's strategic objectives).
- By incorporating sustainable drainage systems, open spaces can increase the 'blue network' and contribute to local biodiversity as well as having a role in flood management.

Areas of horticulture (e.g. gardens, allotments, community orchards) are a type of open space and should be included in this policy. They can be of great value to the local community (e.g. providing local food production, education and recreational space, encouraging physical activity) and have environmental benefits such as enhancing local biodiversity.

Transport

Generally we are supportive of the transport policy as stated. Our only comment, which we believe is crucial, is that transport policy should be set in the context of the Government's climate change bill target of 80% reduction in greenhouse gas emissions by 2050.

Renewable energy

This policy should be set in the context of the Government's climate change bill target of 80% reduction in greenhouse gas emissions by 2050.

Windfarms

Paragraph 144 states (last sentence) that: "*Planning authorities should not impose additional buffer zones of protection around areas designated for their landscape or natural heritage value.*"

²⁴ Guidance on Establishing and managing Local Nature Conservation Site systems in Scotland. Published by the Local nature conservation site working group March 2006. Copies of report available from SNH and SWT.

²⁵ e.g. through flood management, acting as a carbon sink, enhancing water quality, ameliorating microclimate (providing shade, dampening wind, controlling temperature)

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It is important to note that the windfarm footprint may have an impact on designated areas that are outwith the windfarm site and this should be a consideration during the planning process²⁶.

Paragraph 145 should make clear that areas that have been identified as having potential constraints for windfarm development (as bulleted) should be identified and excluded in the spatial framework development plans.

Paragraph 146. With regard to peat, not only should the presence of peat at each site be identified (as stated in the last sentence) but also the variability in **peat depth** should be measured across the site. Areas of deep peat (i.e. > 1 m) should be avoided²⁷ in the windfarm development footprint. Furthermore, the total amount of stored carbon released from windfarms located on peatlands should be a standard calculation as part of the geotechnical information.

Flooding and drainage

This policy should be set in the context of the Water Environment and Water Services (Scotland) Act 2003 and the Flood Risk Management (Scotland) Act 2009.

In further setting the context of the flooding and drainage policy, the original SPP7 included reference to supporting sustainable development and delivering environmental justice. As these goals are both pertinent to lowering the flood risk in a community we believe paragraph 3 of SPP7 should be reinstated. In addition, the text in paragraph 151 which states that "*climate change is expected to worsen the situation*" should be expanded to explain **why** this might happen; more so because there is no further reference to climate change in the policy. It should also be stated that the risk of coastal flooding is likely to increase due to climate change.

Drainage and culverts

Whilst we welcome the reference to SUDS, it should be stated that, where the opportunity arises and when it is appropriate, SUDS should be designed to enhance local biodiversity.

Opencast coal

In the Minerals policy it is stated that "*Planning authorities should ensure that arrangements are in place to monitor the conditions attached to planning permissions*" (paragraph 174). We believe the same wording should be incorporated into the opencast coal policy otherwise detrimental environmental impacts may go unchecked during the lifetime of open cast mining.

²⁶ E.g. species displacement, loss of commuting habitat, habitat fragmentation, pollution incident.

²⁷ Disturbance to deep peat is more likely to result in increased CO₂ emissions, have a greater effect on the surrounding bog hydrology and in certain circumstances (e.g. depending on angle of slope) increase the risk of landslide. There are also technical problems associated with a "floating access roads" and peat storage and disposal.

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