

Dumfries and Galloway Council
LOCAL DEVELOPMENT PLAN 2

Habitat Regulations Appraisal

JANUARY 2018



Draft Habitat Regulation Appraisal Dumfries & Galloway Local Development Proposed Plan

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1. Introduction

This report identifies the legislative and policy requirements for a Habitats Regulations Appraisal of the Dumfries and Galloway Local Development 2 Proposed Plan and the following supporting Supplementary Guidance:

A network of sites across the European Community, known as Natura comprise of areas designated as either Special Areas of Conservation (SACs) or Special Protection Areas (SPAs). SACs are strictly protected sites designated under the EC Habitats Directive (1992) and form a European network of important, high quality conservation sites which contribute to conserving 189 habitat types and 788 identified species. SPAs are strictly protected sites classified in accordance with Article 4 of the EC Birds Directive for their rare and vulnerable birds (identified in Annex II of the Directive) and also for regularly occurring migratory species. Ramsar sites are designated wetlands of international importance. All Ramsar sites are also Natura sites and/or Sites of Special Scientific Interest and are covered by the Habitats Directive.

It is a requirement of Article 6(3) of the Habitats Directive 1992 that any plans which are likely to have a significant effect on a European site (SAC or SPA) shall be subject to an 'appropriate assessment' of its implications in relation to the site's qualifying interests and conservation objectives. A plan should not be approved until it has been ascertained that the policies and proposals it contains will not adversely affect the integrity of the sites. Proposed SACs and SPAs should also be given the same consideration.

The requirement to consider the effect on Natura sites within land use plans in Scotland is transposed into domestic law by the Conservation (Natural Habitats, &c.) Regulations 1994 as amended. These regulations are referred to in this document as the Habitats Regulations.

The Habitats Directive applies a precautionary approach to developments potentially affecting SACs and SPAs. The interest features of the Natura sites must be maintained so as to avoid deterioration of habitats and significant disturbance of species. An appropriate assessment is required where there is a probability or a risk that the plan or project will have significant effects on a site. This is in line with the ruling of the European Court of Justice in Case C-127/02 (the Waddenzee Judgement) which stated that "*any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either*

individually or in combination with other plans or projects". However it is recognised that an assessment of a spatial plan is likely by its nature to be less specific and detailed than the assessment of an individual project.

2. Plan Context

Once adopted, the Councils' second Local Development Plan (LDP2) and supporting Supplementary Guidance will replace the existing Local Development Plan (2014). The LDP constitutes the Council's land use planning framework for Dumfries and Galloway and is kept under review and replaced every five years.

In fulfilling the requirements for a development plan to cover the Dumfries and Galloway area as required by the Planning etc. (Scotland) Act 2006 and the associated 2008 Development Planning Regulations LDP2 sets out:

- An overall development vision and spatial strategy for the area
- Planning policies to support the vision and strategy
- Planning land allocations and policy application for the development or regeneration or conservation of local area and to assist with the orderly and timeous bringing forward of land for development or regeneration, all in support of the spatial strategy: and
- A framework of planning policies, supporting the strategy for the management of development applications: and
- In doing all of these LDP2 contributes to sustainable development

Preferred and alternative options for Main Issues were considered through the Main Issues Report and the associated Environmental Report. In this respect the policies and proposals have undergone modification to ensure the impact on the environment is minimised. The aims and objectives of LDP2 are to be met by the policies and proposals within the proposed plan. In this respect the detailed screening and assessment focuses on the policies and proposal contained within the proposed plan but with consideration of other plans and projects which may have an 'in combination effect'.

Policies are presented within the plan. These are currently supported by supplementary guidance in some cases. This HRA considered the effects of this supplementary guidance as an integral part of the plan. Any future supplementary guidance deriving from LDP2 will be screened for HRA requirement.

3. Methodology

The following methodology has been used to carry out this HRA:-

- A list of European sites that should be considered in this appraisal was identified through GIS maps and SNH data. A full list of European sites selected and the reasons for their selection are set out in Table 1.
- Background information was gathered from the SNH website on each of the European sites identified above, including the relevant qualifying interests and conservation objectives.
- All aspects of the Dumfries and Galloway Local Development Proposed Plan were screened, using 3 key steps, to identify any policies or proposals likely to have any significant effect on any European site (see Table 2 in section 5)
- All policies and proposals that could not be ruled out from having a likely significant effect are listed in Table 3.
- Further screening was carried out on sites policies and proposals listed in Table 3 to assess whether these could be ruled out, using other relevant criteria, from further appraisal.
- In combination likely significant effects were assessed in section 6.
- Where possible, simple mitigation measures were applied in section 7 to any aspect of the Dumfries and Galloway Proposed Plan that could not be screened out above.
- There were no aspects of the Dumfries & Galloway Proposed Plan that could not be screened out following application of mitigation measures.

4. European sites potentially affected

There are 17 Special areas of Conservation and 7 Special Protection Areas wholly or partly within the area covered by the Dumfries and Galloway Proposed Plan. One site is designated both SAC and SPA. In addition, there is one site which is not currently designated, but is a proposed SPA. There are also 5 Ramsar Sites, but all of these are contained within the boundaries of Natura Sites. One Natura Site that lies entirely outside the boundaries of the Proposed Plan has been included in this appraisal, as it is possible that it may be affected by activities within the Proposed Plan area.

The location of these areas is indicated on Map 1 and Table 1 provides further details of each site and its qualifying interests.

Table 1. European Sites potentially affected by Dumfries and Galloway Local Development Proposed Plan

Site Name	Designation	Area ha (total site)	Qualifying Interests (Common Names)	Conservation Objectives	Site Condition
Burrow Head	SAC	244.22	Annex II Species (primary reason for selection): Great crested newt	To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and	Unfavourable Declining

				<p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	
Carsegowan Moss	SAC	49.49	<p>Annex I Habitats (primary reason for selection): Active raised bog</p> <p>Annex I Habitats (not primary reason for selection): Degraded raised bogs</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</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 	Unfavourable No Change
Flow of Dergoals	SAC	170.18	<p>Annex I Habitats (primary reason for selection): Blanket bogs</p> <p>Annex I Habitats (not primary reason</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the</p>	Favourable Maintained

			<p>for selection): Depressions on peat substrates</p>	<p>following are maintained in the long term:</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 	
Galloway Oakwoods	SAC	355.1	<p>Annex I Habitats (primary reason for selection): Western acidic oak woodland</p>	<p>To avoid deterioration of the qualifying habitat (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitat that the following are maintained in the long term:</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 	Unfavourable Declining
Kilhern Moss	SAC	123.83	<p>Annex I Habitats (primary reason for selection): Blanket bogs Annex I Habitats (not primary reason</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitats that the</p>	Favourable Maintained

			<p>for selection): Depressions on peat substrates</p>	<p>following are maintained in the long term:</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 	
Kirkcowan Flow	SAC	777.57	<p>Annex I Habitats (primary reason for selection): Blanket bogs</p> <p>Annex I Habitats (not primary reason for selection): Depressions on peat substrates</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</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>Unfavourable Declining: Blanket Bog</p> <p>Favourable Maintained: Depressions on Peat substrates</p>
Luce Bay and Sands	SAC	48759.28	<p>Annex I Habitats (primary reason for selection): Coastal dune heathland Shifting dunes</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the</p>	<p>Unfavourable Declining: Shifting dunes Shifting dunes with marram Great crested</p>

			<p>Dune grassland Shallow inlets and bays Shifting dunes with marram</p> <p>Annex I Habitats (not primary reason for selection): Intertidal mudflats and sandflats Reefs Subtidal sandbanks</p> <p>Annex II Species (not primary reason for selection): Great crested newts</p>	<p>following are maintained in the long term:</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>newts Coastal dune heathland</p> <p>Unfavourable No Change: Dune grassland</p> <p>Unknown: Shallow inlets and bays Intertidal mudflats and sandflats Reefs Subtidal sandbanks</p>
Merrick Kells	SAC	8698.3	<p>Annex I Habitats (primary reason for selection): Wet heathland with cross-leaved heath Montane acid grasslands Blanket bog</p> <p>Annex I Habitats (not primary reason for selection): Depressions on peat substrates Dry heaths Acid peat-stained lakes and ponds</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitats that the following are maintained in the long term:</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>Favourable Maintained: Acid peat-stained lakes and ponds Acidic scree Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels Plants in crevices on acid rocks</p>

			<p>Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels Plants in crevices on acid rocks Acidic scree Annex II Species (not primary reason for selection): Otters</p>		<p>Otter</p> <p>Unfavourable Recovering: Blanket bog Wet heathland with cross-leaved heath</p> <p>Favourable Recovered: Depressions on peat substrates Dry heaths</p> <p>Unfavourable No Change: Montane acid grasslands</p>
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Mochrum Lochs	SAC	178.99	<p>Annex I Habitats (primary reason for selection): Blanket bogs</p> <p>Annex I Habitats (not primary reason for selection): Depressions on peat substrates</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</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 	Unfavourable No Change
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Moffat Hills	SAC	2891.92	<p>Annex I Habitats (primary reason for selection): Alpine and subalpine heaths Montane acid grasslands</p> <p>Annex I Habitats (not primary reason for selection): Blanket bogs Plants in crevices on base-rich rocks Dry heaths Tall herb communities Plants in crevices on acid rocks Acidic scree</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitats that the following are maintained in the long term:</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>Favourable Maintained: Plants in crevices on acid rocks Tall herb communities</p> <p>Unfavourable Declining: Alpine and subalpine heaths Blanket bogs Dry heaths</p> <p>Unfavourable No Change: Acidic scree Montane acid grasslands</p>
Mull of Galloway	SAC	136.39	<p>Annex I Habitats (primary reason for selection): Vegetated sea cliffs</p>	<p>To avoid deterioration of the qualifying habitat (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitat that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Extent of the habitat on site 	<p>Favourable Maintained</p>

				<ul style="list-style-type: none"> • 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 	
Raeburn Flow	SAC	63.96	<p>Annex I Habitats (primary reason for selection): Active raised bogs</p> <p>Annex I Habitats (not primary reason for selection): Degraded raised bog</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</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>Favourable Declining: Active raised bog</p> <p>Unfavourable No Change: Degraded raised bog</p>
River Bladnoch	SAC	300.02	<p>Annex II Species (primary reason for selection): Atlantic Salmon</p>	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying species that the</p>	<p>Unfavourable Recovering</p>

				<p>following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species, including range of genetic types, as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	
Solway Firth	SAC	43636.72	<p>Annex I Habitats (primary reason for selection): Atlantic salt meadows Estuaries Intertidal Mudflats and sandflats</p> <p>Glasswort and other annuals colonising mud and sand Subtidal sandbanks</p> <p>Annex I Habitats (not primary reason for selection): Dune grassland Coastal shingle vegetation outside the reach of waves Reefs</p> <p>Annex II Species (primary reason for</p>	<p>To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitats that the following are maintained in the long term:</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>Favourable Maintained: Atlantic salt meadows Coastal shingle vegetation outside the reach of waves Glasswort and other annuals colonising mud and sand Subtidal sandbanks</p> <p>Unfavourable No Change: Dune grassland</p>

			selection): Sea lamprey River lamprey		Not assessed: Estuaries Intertidal Mudflats and sandflats Reefs Sea lamprey River lamprey
Solway Mosses North	SAC	652.6	Annex I Habitats (primary reason for selection): Active raised bog Degraded raised bog	To avoid deterioration of the qualifying habitats (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitats that the following are maintained in the long term: <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 	Unfavourable Recovering
Tynron Juniper Wood	SAC	6.67	Annex I Habitats (primary reason for selection): Juniper on heaths or calcareous grasslands	To avoid deterioration of the qualifying habitat (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and To ensure for the qualifying habitat that the following are maintained in the long term: <ul style="list-style-type: none"> • Extent of the habitat on site • Distribution of the habitat within site 	Unfavourable Recovering

				<ul style="list-style-type: none"> • 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 	
Upper Nithsdale Woods	SAC	98.38	<p>Annex I Habitats (primary reason for selection): Mixed woodland on base-rich soils associated with rocky slopes</p>	<p>To avoid deterioration of the qualifying habitat (listed below) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying habitat that the following are maintained in the long term:</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 	Unfavourable Declining
River Eden	SAC		<p>Annex I Habitats (primary reason for selection): Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels .</p>	<p>Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.</p> <p>Subject to natural change, to maintain or restore:</p>	

			<p>Rivers with floating vegetation often dominated by water-crowfoot.</p> <p>Alder woodland on floodplains.</p> <p>Annex II species (primary reason for selection): White-clawed (or Atlantic stream) crayfish Sea lamprey Brook lamprey River lamprey Atlantic salmon Bullhead Otter</p>	<ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats and habitats of qualifying species; • The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species; • The supporting processes on which qualifying natural habitats and habitats of qualifying species rely; • The populations of qualifying species; • The distribution of qualifying species within the site. 	
Castle Loch, Lochmaben	SPA	109.04	<p>Annex I Species (primary reason for selection): Pink footed goose (non-breeding)</p>	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species 	Unfavourable No Change

				<ul style="list-style-type: none"> No significant disturbance of the species 	
Glen App and Galloway Moors	SPA	8942.38	Annex I Species (primary reason for selection): Hen harrier (breeding)	To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term: <ul style="list-style-type: none"> Population of the species as a viable component of the site Distribution of the species within site Distribution and extent of habitats supporting the species Structure, function and supporting processes of habitats supporting the species No significant disturbance of the species 	Favourable Maintained
Langholm – Newcastleton Hills	SPA	7544.87	Annex I Species (primary reason for selection): Hen harrier (breeding)	To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term: <ul style="list-style-type: none"> Population of the species as a viable component of the site Distribution of the species within site Distribution and extent of habitats supporting the species Structure, function and supporting processes of habitats supporting the species No significant disturbance of the species 	Unfavourable Recovering
Loch Ken and River Dee	SPA	769.11	Annex I Species (primary reason for	To avoid deterioration of the habitats of the qualifying species (listed below) or significant	Favourable Maintained

Marshes			<p>selection): Greenland white-fronted goose (non-breeding) Greylag goose (non-breeding)</p>	<p>disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	
Loch of Inch and Torrs Warren	SPA	2111.04	<p>Annex I Species (primary reason for selection): Greenland white-fronted goose (non-breeding) Hen harrier (non-breeding)</p>	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	Favourable Maintained
Muirkirk and North Lowther Uplands	SPA	26330.31	<p>Annex I Species (primary reason for selection): Golden plover (breeding) Hen harrier</p>	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term:</p>	Favourable Maintained: Short-eared owl

			(breeding) Merlin (breeding) Peregrine (breeding) Short-eared owl (breeding)	<ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	Unfavourable Declining: Golden plover Hen harrier Unfavourable No Change: Merlin Peregrine
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Upper Solway Flats and Marshes	SPA	43636.73	<p>Annex I Species (primary reason for selection): Barnacle goose Bar-tailed godwit Cormorant Curlew Dunlin Goldeneye Grey plover Great crested grebe Golden plover Knot Lapwing Mallard Oystercatcher Pink-footed goose Pintail Redshank Ringed plover Scaup Shelduck Whooper swan (all non-breeding)</p>	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site • Distribution of the species within site • Distribution and extent of habitats supporting the species • Structure, function and supporting processes of habitats supporting the species • No significant disturbance of the species 	<p>Favourable Maintained: Cormorant Golden plover Great crested grebe Pink-footed Goose Pintail Redshank Ringed plover Scaup Shelduck Barnacle goose Waterfowl assemblage</p> <p>Favourable Recovered: Whooper Swan</p> <p>Favourable Declining: Dunlin Grey plover Knot Lapwing Oystercatcher</p>
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					Unfavourable No Change: Bar-tailed Godwit Mallard Unfavourable Declining: Curlew Goldeneye
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Solway Firth	Proposed SPA	135749.35	Proposed notified/qualifying features: Bar-tailed godwit Black-headed gull Common gull Common scoter Cormorant Curlew Dunlin Golden plover Goldeneye Goosander Grey plover Herring gull Knot Lapwing Oystercatcher Pink-footed goose Pintail Red-throated diver Redshank Ringed plover Sanderling Scaup Shelduck Shoveler Barnacle goose Teal Turnstone Waterfowl assemblage Whooper swan	N/A	N/A
Castle Loch, Lochmaben	Ramsar	107.6	Ramsar Qualifying Feature: Pink-footed goose, (non-breeding)	N/A	Unfavourable No change

Loch Ken and River Dee Marshes	Ramsar	769.11	Ramsar Qualifying Features: Greenland white-fronted goose, (non-breeding) Greylag goose, (non-breeding)	N/A	Favourable Maintained
Loch of Inch and Torrs Warren	Ramsar	2111.39	Ramsar Qualifying Features: Greenland white-fronted goose, (non-breeding) Sand dune	N/A	Favourable Maintained: Greenland white-fronted goose: Unfavourable Declining: Sand dune
Silver Flowe	Ramsar		Ramsar Qualifying Feature: Blanket Bog	N/A	Unfavourable Declining
Upper Solway Flats and Marshes	Ramsar		Ramsar Qualifying Features: Knot, (non-breeding) Pink-footed goose, (non-breeding) Pintail, (non-breeding) Curlew, (non-	N/A	Unfavourable Declining: Bar-tailed Godwit Culew Favourable Maintained: Knot Oystercatcher Pink-footed Goose Pintail Scaup Barnacle Goose

			breeding) Oystercatcher , (non- breeding) Scaup, (non- breeding) Svalbard Barnacle goose, (non- breeding) Bar-tailed godwit, (non-breeding)		
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5. Screening Process

The Scottish Government requires the responsible authority to determine which, if any, elements of the plan would have a likely significant effect on any interest/feature of any European site and therefore require an appropriate assessment (AA). This applies to all Natura Sites, both SAC and SPA.

All aspects of the Local Development Proposed Plan have been screened for potential likely significant effects on Natura Sites. An effect that could undermine the conservation objectives is considered a significant effect. The likelihood of such effects occurring was assessed on a case by case basis, taking into account the precautionary principle and the specific characteristics and environmental conditions of the site concerned.

The screening process followed three key steps:

- General policy statements, including general criteria based policies, were screened out of the appraisal as they are unlikely to have a significant effect on a European Site. General policy statements set out the strategic aspiration of the Council for a certain issue and do not relate to specific locations. A general 'criteria based' policy expresses the tests or expectations of the Council when it comes to consider particular proposals.
- Projects referred to, but not proposed by the Local Development Proposed Plan, were screened out of the appraisal, as a Habitat Regulations Appraisal should have already been carried out by those who originally proposed such projects.
- Projects that were not likely to have a significant effect on a European site were screened out of the appraisal. The reasons for such a decision vary, but include aspects of the Local Development Proposed Plan that are intended to protect the environment; aspects which will not themselves lead to development or other change; or aspects which make provision for change but could have no conceivable effect, or only a minor residual effect, on a European site.

Aspects of the Dumfries and Galloway Local Development Proposed Plan screened out as a result of the above process have been recorded in Table 2.

Table 2. Aspects of the Dumfries and Galloway Local Development Proposed Plan which would not be likely to have a significant effect on a European site alone.

	Relevant aspects of the Proposed Plan	Reason for no likely significant effect
General Policy Statements	Local Development Plan 2 Vision Policy OP1a Development Considerations: General Amenity Policy OP1e Development Considerations: Transport and Travel Policy OP2 Design Quality and Placemaking Policy OP3: Developer Contributions Policy ED1b Business and Industrial Development on Unallocated Land Policy ED2 Business Development and Diversification in the Rural Area Policy ED6 Retail Development Outside a Town Centre Policy ED7 Town Centre Accessibility Policy ED8 Neighbourhood Centres, Small and Rural Shops Policy ED9 Tourism Policy ED12 Fish Farming Policy ED13 Minerals Policy ED15 Advertisements Policy H1b) Housing Land - Infill / Windfall Sites Policy H2 Housing Development in Villages Policy H3 Housing in the Countryside Policy H4 Housing Development Immediately Outside Settlement Boundaries. Policy H5 Affordable Housing Policy H6 Particular Needs Housing Policy H7 Temporary Residential Development Policy H8 Alterations and Extensions to Dwellings Policy HE1 Listed Buildings Policy HE3 Archaeology Policy HE8 Enabling Development Policy NE6 Forestry and Woodland Policy NE7 Trees and Development Policy NE8 Developed and Undeveloped Coast	These are general policy statements that set out the Council's strategic aspirations for certain issues. Some are general criteria-based policies (ie development will be allowed where it meets specific criteria), but none relate to specific sites.

	<p>Policy NE10 Supporting the Water Environment Policy NE11 Protection of Water Margins Policy NE12 Agricultural Soil Policy NE13 Carbon Rich Soil Policy CF1 Community Facilities Policy CF2 Green Networks Policy CF3 Open Space Policy CF4 Access Routes Policy IN1 Renewable Energy Policy IN3 New Waste Management Infrastructure Policy IN5 Energy Recovery from Waste Policy IN6 Waste Management Requirements for New Development Policy IN7 Flooding and Development Policy IN8: Surface Water Drainage and Sustainable Drainage Systems (SuDS) Policy IN9 Waste Water Drainage Policy IN10 Contaminated Land Policy IN11 Telecommunications Policy T2: Location of Development / Accessibility Policy T4 Freight Transport Policy T5 Former transport Routes Supplementary Guidance: Affordable Housing Alterations and Extensions to Dwellings Conversion of Traditional Buildings Developer Contributions Design Quality and Placemaking Dumfries Conservation Area Character Appraisal Flooding and Development Historic Built Environment Housing in the Countryside Open Space and New Development Stranraer Conservation Area Character Appraisal Surface Water Drainage and Sustainable Drainage Systems (SuDS)</p>	<p>These are general policy statements that set out the Council's strategic aspirations for certain issues. Some are general criteria-based policies (ie development will be allowed where it meets specific criteria), but none relate to specific sites.</p>
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	<p>Supplementary Guidance: Sustainability. Reducing Carbon Emissions in Buildings. Trees and Development</p>	<p>These are general policy statements that set out the Council's strategic aspirations for certain issues. Some are general criteria-based policies (ie development will be allowed where it meets specific criteria), but none relate to specific sites.</p>
<p>Aspects excluded from the appraisal because they are not proposals generated by the Proposed Plan.</p>	<p>None found</p>	
<p>Aspects that protect the natural environment, including biodiversity, or conserve or enhance the natural, built or historic environment.</p>	<p>Policy ED10 Galloway and Southern Ayrshire Biosphere Policy ED11 Dark Skies Policy HE2 Conservation Areas Policy HE4: Archaeologically Sensitive Areas Policy HE5: Hadrian's Wall Policy HE6: Gardens and Designed Landscapes Policy HE7: Historic Battlefields Policy NE1 National Scenic Areas Policy NE2 Regional Scenic Areas Policy NE3 Sites of International Importance for Biodiversity Policy NE4 Species of International Importance Policy NE5 Sites of National Importance for Biodiversity and Geodiversity Policy NE14: Protection and Restoration of Peat Deposits as Carbon Sinks Supplementary Guidance: Dark Skies Friendly Lighting Annan Conservation Area Character Appraisal Crichton Conservation Area Character Appraisal Gatehouse Conservation Area Character Appraisal Kirkcudbright Conservation Area Character Appraisal Whithorn Conservation Area Character Appraisal</p>	<p>These policies are intended to conserve or enhance the natural, built or historic environment and enhancement measures will not be likely to have any negative effect on a European site.</p>

<p>Aspects that will not lead to development or other change.</p>	<p>Policy ED14: Unconventional Oil and Gas Policy IN4 Protection of Existing Waste Management Infrastructure</p>	<p>These are protective policies and will not lead to any new development or other kinds of change.</p>
<p>Aspects that make provision for change but which could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be positive, or would not otherwise undermine the conservation objectives for the site.</p>	<p>Policy ED5: Development in Town Centres Policy NE9 Erosion and Coastal Protection Policy T1 Transport Infrastructure Policy T3 Established Harbours, Marinas and Slipways</p>	<p>Policy ED5: Specific locations in Dumfries, Annan, Castle Douglas, Dalbeattie, Gretna, Kirkconnel/Kellohom, Kirkcudbright, Langholm, Lochmaben, Lockerbie, Moffat, Newton Stewart, Sanquhar, Stranraer, Thornhill, Whithorn and Wigtown are identified in relation to these policies, but none are designated European sites. The proposed developments are of types (predominantly retail) that are very unlikely to have any link or pathway between them and the qualifying interests. Therefore, there is no conceivable effect on a European site. Policies NE9, T1 and T3 include a specific caveat to protect Natura sites.</p>

<p>Aspects that make provision for change but which could have no significant effect on a European site (minor residual effects), because any potential effects would be so restricted that they would not undermine the conservation objectives for the site.</p>	<p>Policy ED3: The Crichton Quarter Policy ED4: Chapelcross Supplementary Guidance: Crichton Quarter Development Framework Supplementary Guidance: Minerals</p>	<p>The two sites covered by ED3 and ED4 are not designated as European sites but do lie in reasonably close proximity to watercourses that flow into European sites or support fish species which are a qualifying interest of a European site (Sea and River Lamprey for Solway Firth SAC). However, both sites have already been developed without any negative impact and all future development will be subject to additional policies (such as OP1) and statutory regulations that will ensure high water quality. Any effect would therefore be minor residual, and would not undermine the conservation objectives for the European site.</p> <p>Supplementary Guidance: Minerals identifies sites with existing permission for mineral extraction, some of which lie within or adjacent to SPA/SACs. However, the Guidance makes no provision for expansion beyond existing permissions. The Guidance also identifies the location of mineral resources, some of which lie within or close to SPA/SACs. However, this is for information only - the Guidance makes no provision for development in this area and any proposals that might come forward would be subject to Policy NE3.</p>
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Other aspects of the Proposed Plan identify provision for change in specific locations, and therefore it has not been possible during the initial three key steps of the screening process, on the basis of objective information, to eliminate a likely significant effect on a European Site. These aspects have therefore been subject to further appraisal; the results of which are presented in Table 3 below.

Table 3. Further Appraisal of those aspects of the Dumfries and Galloway Proposed Plan which could not be ruled out of Habitat Regulation Appraisal after initial screening.

Aspects of the Dumfries and Galloway Proposed Plan which could not be ruled out of Habitat Regulation Appraisal after initial screening.	Reason for no likely significant effect following further appraisal.
Spatial Strategy	The Spatial Strategy was subject to an earlier screening process as part of the preparation of LDP2. All sites proposed for inclusion in the spatial strategy were subject to assessment for likely significant effect and consultation with SNH and other key agencies took place prior to the Main Issues Report. No sites that could have a likely significant effect on any Natura site have been carried forward into the Proposed Plan Spatial Strategy.
Policy ED1a Established and Allocated Business and Industrial Areas	Policy ED1a supports provision for change only on sites specifically identified through the Spatial Strategy. Therefore, for the reasons above, it cannot have a likely significant effect on any Natura site.
Policy H1a Housing Land - Allocated Sites	Policy H1a supports provision for change only on sites specifically identified through the Spatial Strategy. Therefore, for the reasons above, it cannot have a likely significant effect on any Natura site.

6. In-combination effects

The requirement of the Directive is to undertake an appropriate assessment of a plan if it would be likely to have a significant effect on a European Site “either individually or in combination with other plans and projects.” Individual aspects of the Local Development Proposed Plan that have been screened out above, because they will have no likely significant effect at all or because they are too general in nature, do not require an in-combination assessment since they clearly will also have no cumulative effect, or any cumulative effects (as for effects individually) cannot be identified.

This leaves only two aspects of the Local Development Proposed Plan, Policy ED3 The Crichton Quarter and Policy ED4 Chapelcross, that individually may have only minor residual effects on a European site, but in combination with other plans and projects may have a likely significant effect. In both cases, the European Site concerned is the Solway Firth SAC and the potential effect arises from run-off from development on these sites, either during or post-construction of development, contaminating watercourses that flow into the SAC and adversely affecting populations of river and/or sea lamprey. Though the boundary of the SAC is over 1km away from the potential development site at The Crichton and over 4km at Chapelcross, both fish species are likely to use watercourses outwith the boundary of the SAC, closer to the development sites. The individual effects are considered minimal in both cases because there is existing legislation in place to limit contamination of watercourses, the area of the SAC is very small in relation to the entire designated site, and no important lamprey watercourses are known at either location. All of these mitigating factors would still apply in the event of development taking place at both sites simultaneously. Therefore the in-combination effects of these two aspects of the Local Development Proposed Plan remain only minor residual effects.

There are no known other plans and projects that, in combination with Local Development Proposed Plan Policies ED3 and ED4, may have a likely significant effect on any Natura site.

7. Mitigation

All aspects of the Proposed Dumfries and Galloway Local Development Plan 2, alone or in combination, have been screened out of further appraisal. No additional mitigation is required.

8. Appropriate Assessment

All aspects of the Proposed Dumfries and Galloway Local Development Plan 2, alone or in combination, have been screened out of further appraisal. Appropriate assessment of the Proposed Plan is therefore not required.

9. Conclusion

Dumfries and Galloway Council, as the plan-making body concludes that it can be ascertained by means of this Habitat Regulations Appraisal that adoption of the Dumfries and Galloway Local Development Plan 2 (and associated Supplementary Guidance) would have no adverse effect on the integrity of any Natura sites.

draft

Dumfries and Galloway Council
LOCAL DEVELOPMENT PLAN 2

January 2018