Appendix 3 – Appropriate Assessment
Agenda Item 4

National Park Planning and Access Committee
25 November 2024

Paper for information

Appropriate Assessment – River Teith Special Area of Conservation (SAC)

2023/0427/DET: Erection of primary school building, relocation of astroturf pitch, formation of new car parking and outdoor spaces with associated hard and soft landscaping (for dual education and community use)

Contents

Requirements of the Habitats Regulations

European Sites are **Special Areas of Conservation (SACs)** designated under the EC Habitats Directive to protect particular habitats and non-bird species, and **Special Protection Areas (SPAs)** designated under the EC Birds Directive to protect wild birds.

The EC Directive is applied in Scotland through the *Conservation (Natural Habitats &c) Regulations 1994*, which is known as the "Habitats Regulations".

The requirements of the Habitats Regulations are summarised in Planning Circular 6/1995 as amended June 2000.

The Habitats Regulations require that:

Where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC), it must undertake an appropriate assessment of its implications for the European site in view of the site's conservation objectives.

The need for appropriate assessment extends to projects outwith the boundary of the SAC or SPA, in order to determine their implications for the interest protected within the site.

Significance Test

Regulation 48(1) of the Habitats Regulations requires the competent authority to first carry out a 'significance test'. The test for significant effects acts simply as a filter to exclude any projects which have no possible connection to the interests of the SAC or SPA.

Under Regulation 48 of the Habitats Regulations, the LLTNPA, as a competent authority, has a duty to:

- determine whether or not the proposal is directly connected with or necessary to SAC/SPA management for conservation; and, if not,
- determine whether the proposal is likely to have a **significant effect** on the SAC/SPA either individually or in combination with any other plans or projects; and, if so, then
- make an **appropriate assessment** of the implications (of the proposal) for the SAC/SPA in view of that site's conservation objectives.

The first bullet should only be accepted where it is part of a fully assessed, and agreed, management programme.

Appropriate Assessment

Habitats Regulation 48 (5) requires that *"in the light of the conclusions of the assessment, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site"*, in relation to its conservation objectives.

Agency Role

In undertaking the Appropriate Assessment, the Habitats Regulations require LLTNPA to have regard to the advice we receive from statutory consultees including NatureScot, SEPA and HSE (Health and Safety Executive). However, the responsibility for undertaking the Appropriate Assessment rests with LLTNPA.

Background Information on the River Teith SAC

Name of European site: River Teith

Site Type: Special Area of Conservation (SAC)

Qualifying Interests:

SCIENTIFIC NAME	COMMON NAME
Lampetra fluviatilis	River lamprey
Lampetra planeri	Brook lamprey
Petromyzon marinus	Sea lamprey
Salmo salar	Atlantic salmon

Conservation Objectives:

Atlantic salmon, brook lamprey, river lamprey, sea lamprey

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 to ensure for the qualifying species that the following are maintained in the long term:

- Population of the species, including range of genetic types for salmon, 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

Project Information

A planning application (2023/0427/DET) has been submitted to Loch Lomond & The Trossachs National Park Authority for erection of primary school building, relocation of astroturf pitch, formation of new car parking and outdoor spaces with associated hard and soft landscaping.

Significance Test for Planning Application 2022/0226/DET

Qualifying Interests of the SAC

As listed above, the Qualifying Interests of the River Teith Special Area of Conservation are:

- River lamprey (*Lampetra fluviatilis)*
- Brook lamprey (*Lampetra planeri*)
- Sea lamprey (*Petromyzon marinus*)
- Atlantic salmon (*Salmo salar*)

The Conservation Objectives for the River Teith SAC are detailed in the background information above.

Significance Test

The application site is at its closest point approximately 20m from the River Teith SAC.

Salmon and lamprey
Salmon are found throughout the River Teith SAC and sea, river and brook lamprey are also widespread.

Salmon and lamprey both require high water quality therefore any reduction in water quality as a result of the proposal, could be significant. If sediment is released into the SAC during construction of the development, this could result in the gills of salmon or lamprey being smothered, or their upstream passage impeded. It can also smother the gravels used for spawning salmon and lamprey or the areas used by juvenile fish, making them unsuitable. This proposal is likely to have a significant effect on the Atlantic salmon and river and sea lamprey of the River Teith. Brook lamprey do not migrate to sea but could still be present in the Teith at this location

Given that construction works are proposed in close proximity to the SAC, there is potential for pollution (e.g. silt, and fuel oil) from the development site to enter the River Teith SAC.

The volume of landraising within the flood risk area for the Proposal could also result in additional materials entering the River Teith that could be deleterious to water quality and affect potential spawning areas.

There is also potential for disturbance to salmon and lamprey from lighting which could affect salmon and lamprey feeding and migratory behaviour.

As a consequence, the proposal is likely to have a significant effect on the salmon and lamprey qualifying interests of the SAC and an appropriate assessment is required.

Appropriate Assessment

Elements of project likely to give rise to significant effects on the site.	**Salmon & Lamprey** The Proposal is situated at the edge of the River Teith SAC. <u>Water quality deterioration</u> • There could be an impact on water quality as a result of construction materials and resultant silt entering the River Teith due to flooding or bad work practices, • There could also be contamination from foul water drainage from the site both during construction and as a result of the Proposal; • There could be continual impact on water quality and spawning grounds by discharge of surface flood water into the River Teith. <u>Landraising within flood risk area.</u> The volume of landraising within the flood risk area for the Proposal could also result in additional materials entering the River Teith that could be deleterious to water quality and affect potential spawning areas. <u>Light pollution</u> there may be artificial lighting on site which could cause disturbance to fish travel during construction and during operation. These significant effects are considered further below.
Describe how the integrity of the site (determined by structure and function and conservation objectives) is likely to be affected by the project (e.g. loss of habitat, disturbance, disruption, chemical changes, hydrological changes and geological changes etc.).	Salmon and lamprey both require high water quality therefore any reduction in water quality as a result of the Proposal could be significant. In the short-term, if sediment is released into the river during construction, this could result in the gills of salmon or lamprey being smothered, or their upstream passage impeded. It can also smother the gravels used for spawning salmon and lamprey or the areas used by juvenile fish, making them unsuitable. There is also a possible risk of contamination from the fuel and chemicals used on site, or term, from the surface water drainage system. As a consequence, the proposal could affect the following conservation objectives in the absence of mitigation:

	• Population of the species; • Distribution of the species within site; • Distribution and extent of habitats supporting the species.
Describe what mitigation measures are to be introduced to avoid any adverse effects on the integrity of the site.	There will be no adverse effect on the integrity of the SAC provided the following mitigation measures are implemented. <u>Water quality deterioration.</u> **The surface water** sewers for McLaren High School will not be used or disturbed by this development as there are currently surface water sewers which discharge into the River Teith at two separate locations. However, the surface water sewers serving the existing sports pitch, McLaren Leisure Centre Development and its associated parking will be disturbed by this Proposal. A pump station and rising main have been proposed within the developments foul drainage system to allow a new connection and Scottish Water has confirmed that there is capacity for this. Surface water will be discharged via a new private gravity sewer within the site boundary with a large portion of the sites surface water discharged through an infiltration system underneath the proposed sports pitch and the remainder will be discharged through an existing outfall to the River Teith. The storage of the run-off water will consist of an infiltration trench and cellular storage crates controlling and treating surface water with water controls allowing an overall discharge. SUDS on site will provide filter drains for parking bays, roads and roofs and concur with CIRIA DOCUMENT C753 – SUDs manual dated 2015 and there will be bio-retention systems (rain gardens). SEPA has received sufficient confirmation that the volume of compensatory storage will be equal to or greater than the volume of landraising within the flood risk area and do not object to this application. **Construction Environmental Management Plan.** A condition should apply that prior to the commencement of the development hereby approved, a detailed Construction Environment

	Management Plan (CEMP) shall be submitted to, and approved in writing, by the Planning Authority. This shall include the maintenance recommendations within the submitted Environmental Management Plan by Kier dated 20/11/23 which details procedures for construction staff on site and the Curtins Report *The Drainage Strategy Report October 2023* and in particular include: - • Full details of a Pollution Prevention Plan detailing adherence to General Binding Rules 10 and 11 *regarding discharge of water from a surface water drainage system to the water environment from construction sites and also discharge into a surface water drainage system,* and work in line with Scottish Environment Protection Agency, Guidance for Pollution Prevention 5: *Works and maintenance in or near water* (February 2018) and any other relevant Guidance for Pollution Prevention (GPP)/Pollution Prevention Guidance (PPG). • A timetable of works to ensure regular maintenance of pollution prevention measures are carried out and recorded. This will ensure that adequate pollution control measures are implemented during the construction and operation of the development to protect the water quality of the River Teith. **Lighting Management Plan.** A lighting plan to ensure that there is no direct light on the River Teith during construction and should be submitted for approval to the Planning Authority prior to any works being started on site. Although the Proposal is 20m at its closest point to the River Teith SAC a lighting plan will ensure that there is no direct light on the SAC.
Conclusion	Provided the implementation of the above mitigation measures are secured via an appropriately worded planning conditions, the proposal will not have an adverse effect on the integrity of the River Teith SAC. This conclusion has been supported by NatureScot.