

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE : 9 MAY 2000

**MUIRKIRK UPLANDS
NOTIFICATION OF DESIGNATION OF THE AREA AS A SITE OF SPECIAL
SCIENTIFIC INTEREST (SSSI)**

AND

**MUIRKIRK AND NORTH LOWTHER UPLANDS
CONSULTATION ON PROPOSAL TO CLASSIFY THE AREA AS A SPECIAL
PROTECTION AREA (SPA)**

Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 To seek the Committee's views on the Notification by Scottish Natural Heritage of the designation of the Muirkirk Uplands as a Site of Special Scientific Interest and the proposal to classify this area as part of the Muirkirk and North Lowther Uplands Special Protection Area.

2. BACKGROUND INFORMATION

2.1 On 9 March 2000, the Council was formally informed by Scottish Natural Heritage that the Muirkirk Uplands Area is being notified as a Site of Special Scientific Interest under Section 28 of the Wildlife and Countryside Act 1981 as amended (The extent of the area of land involved is indicated in Appendix I, attached to this report). Any representations or objections the Council may wish to make on this notification are requested, in writing, by 10 June 2000. The notification was accompanied by a list of some 28 operations which are considered likely to damage the flora or fauna or the features of the SSSI. Although the designation of the Site as an SSSI has not yet been formally confirmed pending consideration of any objections or representations received, these operations now require to be the subject of prior consultation with Scottish Natural Heritage.

2.2 On the same date, the Council was informed by Scottish Natural Heritage that the Scottish Executive had been advised that a similar area of land is of international importance for wild birds and merits classification as a Special Protection Area under the EC Wild Birds Directive. (The extent of the SPA as it affects East Ayrshire is indicated in Appendix II allocated to this report). Any comments or concerns the Council may have about this designation proposal are again requested by 10 June 2000.

2.3 As a pre-requisite to designating an area as a Special Protection Area the area must be designated as Site of Special Scientific Interest, and consequently Scottish Natural Heritage is progressing both designations concurrently. In Scotland, Special Protection Areas are classified by the First Minister over and above their notification as SSSI's, following advice from Scottish Natural Heritage and consultation with owners, occupiers, government departments, local authorities and

other bodies with interests in the land. Classification as a Special Protection Area therefore reinforces the statutory protection afforded to an SSSI.

3. THE MUIRKIRK UPLANDS SSSI

3.1 The Muirkirk Uplands SSSI extends to some 19,350 hectares and consists of two adjacent upland areas, situated to the north and south of Muirkirk together with Airds Moss, a low lying blanket bog situated between the two. The site is considered to be of special nature conservation importance within Britain and the European Union for its outstanding breeding assemblage of upland birds comprising hen harrier (3.8% of GB population), short eared owl (1.4% of GB population) and Curlew (1.09% of GB population). Merlin and Peregrine Falcons and Golden Plovers also form important parts of the upland bird population. The Muirkirk Uplands encompass the best examples of upland habitat in the west of Scotland and also provide a mosaic of breeding and foraging habitats for the bird communities it contains, including blanket bog, wet/dry heath and acid grasslands.

4. THE MUIRKIRK AND NORTH LOWTHER UPLANDS SPA

4.1 The Muirkirk and North Lowther Uplands SPA extends to some 27,540 hectares and comprises those area of land included within the Muirkirk Uplands SSSI notification (see part 3 above), together with a third upland area based on the North Lowther Uplands, located within South Lanarkshire and Dumfries and Galloway. The Muirkirk and North Lowther Uplands qualifies for SPA status under Article 4.1 of the E C Directive by regularly supporting breeding population of European important of hen harrier (average of 28 breeding females between 1994 and 1998 representing 6% of GB total), short eared owl (average of 23 breeding pairs between 1997 and 1998 representing 2% of GB total), merlin (average of 12 breeding pairs between 1994 and 1998 representing 0.9% of GB total), peregrine (average of 9 pairs between 1992 and 1996 representing 0.8% of GB total) and golden plover (an estimated minimum of 157 pairs in 1999 representing 0.7% of GB total).

5. INVOLVEMENT OF THE COUNCIL

5.1 During local consultations over the possible classification of an SPA, Planning Authorities are asked to consider all extant planning permissions and analogous consents which may affect the proposed area and consider for each whether that consent or the implementation of that permission would have a significant effect on the ecological value of the site. With respect to the proposed Muirkirk and North Lowther Uplands SPA, there are no sites which have any extant planning permission which are unimplemented, which impinge on the SPA area. One opencast coal site at Gasswater, planning application ref no: 96/0496/FL impinges on the SPA but is already operative. A further planning application Ref: 90/0761/FL, has however, recently been lodged with the Council for the extraction of opencast coal at Powharnal, adjacent to and incorporating part of the Gasswater site, and this area also impinges on the Special Protection Area. This application, together with its associated Environmental Impact Assessment, should be treated as a material consideration in the determination of the boundary of the SPA, with due consideration also being given to the outcome of a study of the Powharnal area commissioned by Scottish Coal in association with Scottish Natural Heritage.

5.2 A second opencast site at Grievehill, planning application ref no: 98/0452/FL, also impinges on the SPA, but no consent has yet been issued pending a Section 75 Agreement for the development. It is considered unlikely that the implementation of the Grievehill application, extending into the SPA by only some 3.9 hectares will have any significant effect on the ecological value of the site.

6. FINANCIAL/ LEGAL/AUTHORITY IMPLICATIONS

6.1 None

7. PERSONNEL IMPLICATIONS

7.1 None

8. RECOMMENDATIONS

8.1 It is recommended that the Council agrees:-

- (i) to note the contents of this report.**
- (ii) to authorise the Head of Planning and Building Control to respond to the notification of the SSSI and the consultation on the SPA, offering no objection or representation to the proposal**
- (iii) to authorise the Head of Planning and Building Control to forward to Scottish Natural Heritage the requested information detailed in Paragraphs 5.1 and 5.2 above.**

Stephen Chorley
Director of Development Services

JL/FD
 27 April 2000
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BACKGROUND INFORMATION

1. Notification letter, dated 9 March 2000 from Scottish Natural Heritage entitled 'Muirkirk' and North Lowther Uplands Site of Special Scientific Interest : Notification under Section 28 of the Wildlife and Countryside Act 1981 as amended' and enclosures.
2. Consultation Letter, dated 9 March 2000 from Scottish Natural Heritage entitled 'Muirkirk and North Lowther Uplands Potential Special Protection Area' and enclosures.

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AGENDA