

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 5 SEPTEMBER 2000

AIRDS MOSS POTENTIAL SPECIAL AREA OF CONSERVATION (SAC)

Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 To advise the Committee of a potential response to the Scottish Natural Heritage proposals, by the required deadline of 11 September 2000, that Airds Moss may qualify as a Special Area of Conservation (SAC) under the EC Habitats Directive.

2. BACKGROUND

2.1 The establishment of a network of protected areas across the European Union is a key measure to ensure the protection and enhancement of the environment of European Union member countries. Using the scientific criteria contained within the Habitats Directive, Member States must identify and protect sites for the species and habitats listed in the Annexes to the Directive.

2.2 Sites selected by the EC for designation as European nature conservation sites are classified as Special Areas of Conservation (SAC's) under the Habitats Directive or as Special Protection Areas (SPA's) under the Wild Birds Directive. Public authorities are obliged, under the Habitat Regulations, not to permit developments or operations damaging to an interest to be protected within a SAC or a SPA, unless there is no alternative solution and there are imperative reasons of over-riding public interest, including those of a social or economic nature.

2.3 Airds Moss is one of 225 Scottish sites that have been identified as possibly meeting the scientific criteria for designation as SAC's. To date 134 of these sites have been proposed to the EC. The remaining sites, including Airds Moss, are currently the subject of consultation.

2.4 The Scottish Executive has provided a schedule prepared by SNH which sets out the reasoning behind Airds Moss being put forward as a SAC. This schedule is contained in the Annex to this report. Airds Moss is regarded by SNH as one of the best examples of blanket bog in the UK. Active blanket bogs such as this are important as they are carpeted by a variety of species of water loving plants, the growth of which allows peat to continue to accumulate.

2.5 SNH has confirmed that the boundary of the proposed Airds Moss SAC has been defined on hydrological grounds, the drainage pattern of such an 'active raised bog' being fairly self-contained. This is the principal reason why the area of the potential

SAC does not extend west of the line of the former mineral railway, which runs east of Darnconner and Common Farms. SNH has indicated that the above disused railway solum may have assisted preservation of the bog through effectively damming surface water along the western edge of the proposed SAC area.

3. CURRENT STATUS OF AIRDS MOSS

3.1 Airds Moss, as defined by Scottish Natural Heritage for potential SAC status, comprises 1,517 hectares between Murkirk and Sorn. Most of the area has already been identified by SNH as part of the potential Special Protection Area (SPA) - Muirkirk and North Lowther Uplands, on account of its value as a prime habitat and nesting area for the hen harrier, one of the UK's rarest birds of prey and a protected species. The Scottish Executive has yet to decide whether to proceed with a formal proposal to the EC for confirmation of the proposed SPA designation.

3.2 SNH has advised that Airds Moss is included within the area notified to the Scottish Executive in March 2000 as a Site of Special Scientific Interest (SSSI) for Muirkirk Uplands. This designation is being pursued in advance of its potential status as an SPA. Confirmation of the above SSSI status from the Scottish Executive is required within a nine month period (i.e. in this case before December 2000) or the provisional designation lapses. Most of the potential SAC site for Airds Moss is presently included within the non-statutory Airds Moss Listed Wildlife Site, as defined by the Scottish Wildlife Trust

4. POLICY CONTEXT

4.1 Policy E7 of the Ayrshire Joint Structure Plan provides that any development proposal likely to have a significant effect on a Natura 2000 site will be subject to an assessment of the implications for the sites conservation objectives, and only be permitted where it would not adversely affect the integrity of the site, and otherwise accords with the Habitat Regulations as referred to in paragraph 2.2 above.

4.2 Under Policy ENV 10 (i) of the East Ayrshire Finalised Local Plan there is an overriding presumption against development which could adversely affect sites designated or proposed for designation as SPA's or SAC's unless it accords with the provisions of the Habitat Regulations as referred to in paragraph 2.2 above.

5. PLANNING IMPLICATIONS

5.1 In addition to the statutory requirements of public authorities in respect of SAC's outlined in Section 2 revised Circular No. 6/1995 above Councils and the Scottish Environmental Protection Agency (SEPA) are obliged to review existing planning permissions which have not yet been implemented and analogous consents, and to modify or revoke them if their effect would be damaging to the conservation interests of European sites. There are currently no extant planning permissions within the boundaries of the proposed Airds Moss SAC although there is a major consented

landfill site at Darnconner, west of the proposal area and a proposed opencast coal extraction site at Powharnal to the south.

6. LEGAL IMPLICATIONS

6.1 Provision already exists under the Town and Country Planning (Scotland) Act 1997 (Part IV) for developers to be compensated when a planning permission is modified or revoked. Such compensation could apply in respect of developments which might adversely affect the proposed Airds Moss SAC.

7. FINANCIAL IMPLICATIONS

7.1 None at present

8. CONCLUSIONS

8.1 There would appear to be sound scientific reasons verified by SNH for the proposed boundary of the Airds Moss SAC, as explained in Section 3 above.

8.2 Revised Circular 6/1995 provides that only in certain circumstances should developments that adversely affect Natura 2000 sites be permitted. The Structure Plan and Local Plan policies accord with these provisions - in the context of NPPG 14.

8.3 There are issues regarding the potential liability of the Council for compensation to developers in cases where existing planning permissions require revocation in the light of Natura 2000 designations.

9. RECOMMENDATIONS

9.1 It is recommended that the Committee agree to support the proposed designation of Airds Moss as an SAC and that the Head of Planning and Building Control be authorised to advise Scottish Natural Heritage accordingly.

Stephen Chorley
Director of Development Services

11 August 2000

(JT/IMB)
FV/AN

LIST OF BACKGROUND PAPERS

1. **Letter from Scottish Executive to Director of Development Services dated 19 June 2000.**
2. **Habitats and Birds Directives - Scottish Executive, June 2000.**

Anyone wishing to inspect the above papers please contact Julian Thorp on (01563) 576789

Implementation Officer: Karl Doroszenko

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AGENDA