

DEER AND THE NATURAL HERITAGE: CURRENT ISSUES

Summary

1. The paper seeks guidance from the Board on a number of current issues relating to deer management. These include: a) proposals for replacing SNH's policy paper '*Red Deer and the Natural Heritage*' (1994) to take account of subsequent developments; b) the development, in an exercise coordinated by SEERAD, of Strategic Principles for the use of Regulation and Incentives, and joint working by Agencies to achieve this; c) outline proposals for new pilot Natural Care Schemes relating to the hill deer range; and d) the process for referring to DCS of 'expressions of concern' in relation to deer impacts on the natural heritage. .

Action

2. The Board is asked to:

- (i) agree that SNH should replace the published SNH policy paper on *Red Deer and the Natural Heritage* with an updated, shorter policy statement (para14);
- (ii) confirm its support for the key overarching principles for joint working with the other Agencies, and advise on its future involvement in approving a joint document *Statement of Principles and Priorities for Managing Deer* (para 17);
- (iii) approve the referral of the pilot scheme sites to DCS as sites where deer are likely to cause damage (para 25) and confirm that referral to the DCS of other sites where there is evidence that deer are causing/have caused damage, should be through the SAC and then Area Boards (para 26); and
- (iv) noting the risks and uncertainties inevitably involved in developing incentives for better deer management, approve the development and launch of specific pilot incentive schemes as part of the Natural Care programme in 2004/05.

Preparation of Paper

3. This paper has been prepared by Roger Burton based on contributions from Stan Whitaker, Des Thompson and Ro Scott, with inputs from Alan Hampson and Mark Wrightam and comments from Management Team. It is sponsored by John Thomson.

Background

4. Members of the Main Board, Area Boards and the Scientific Advisory Committee considered the issues set out in this paper at a Board Seminar on 7th October 2003.
5. During the latter part of 2002 both DCS and SNH sought guidance from the SEERAD on the use of incentives to promote better management of deer and on the balance to be struck between incentives and the use of DCS's regulatory powers. A Management Team paper in December 2002 (MT/02/18/3) explored these issues. The potential role for deer management incentives within Natural Care schemes was recognised, but it was concluded that further work was required to clarify an appropriate balance between 'carrot' and 'stick'.
6. This work was taken forward through a joint DCS / FC/ SEERAD / SNH workshop, held on 4 March 2003. There was general acceptance that while a regulatory approach was appropriate in the prevention of damage by deer, it was not, on its own, the most effective way to bring about the changes in deer management required to secure natural heritage interests. In principle, it was felt that there was a justifiable role for the use of incentives to achieve specific public objectives, in terms of habitat enhancement, where these required an intensity of effort above and beyond that which could reasonably be expected as a matter of basic sustainable management. Payments of up to £3.60 per hectare are already available for reducing deer numbers on woodland SSSIs and Natura sites under SFGS.
7. SEERAD took forward the outputs of the workshop by drafting a Strategic Statement of Principles which was presented, in draft, at the Board seminar. This has been subject to a number of iterations between the participating agencies and is not yet in a final form. In the meantime, SNH has adopted a cautious approach towards the development of incentives for deer management as part of Natural Care schemes.
8. The policy memorandum to the Nature Conservation (Scotland) Bill states
*" the new system for nature conservation...is intended to acknowledge the needs of both people and nature....between interests which must ultimately be reconciled in pursuit of the wider public good...
It will never be possible to protect and preserve our natural heritage effectively if the legitimate concerns of individuals, and the economic needs of local communities, are not also acknowledged.
It is right and proper that the public purse should contribute to supporting the favourable management of SSSIs.... beyond the requirements of other regulatory regimes or standards of good farming practice"*

a) Policy Refresh

9. *Red Deer and the Natural Heritage (1994)* was one of the first policy papers produced by SNH. It is now considerably out of date. At the Board seminar on 7th October 2003, it was agreed that a short, revised statement of SNH's

policy on deer and related issues should be produced for external consumption. This would set SNH's policies in context in relation to the developments in wider public policy which have taken place during the intervening decade. These developments include: the Deer (Scotland) Act 1996; the publication of the Deer Commission for Scotland's "Vision" (2000) and Strategy (2001); the Scottish Forestry Strategy (2000); the Scottish Agriculture Strategy (2001); and the Scottish Executive's developing approach to "joined-up working". In addition SNH has published its "Natural Heritage Futures" which set out the basic components of our own vision for the habitats with which deer are associated.

10. In a number of respects (e.g. dealing with sites of concern; policy on the appropriate use of deer fencing) SNH's policy will need to conform to the joint agency approaches currently being developed. This might argue for delaying publication until these have been finalised. There is, however, an alternative: the production of a single broad statement of policy, supplemented in due course by a series of single issue policy statements, would more easily allow SNH to take its own robust stance on certain issues while working within the current legislation over the medium term. For example it would allow SNH to call for better and more openness of information about deer management, particularly at the level of Deer Management Groups, and to promote the need for further change in approaches to deer management more widely. Such a statement would also provide a helpful context for any incentive-led action to encourage change that SNH might take, focused on Natura sites and SSSIs.
11. Any such overarching SNH deer policy should be extended to include the other species of deer resident in Scotland (roe, sika and fallow, with muntjac as a possible coloniser); this would be in line with DCS' policy statements. It should also recognise the complex interrelationship between deer and other herbivores, both domestic and wild. To ensure broad acceptability and to respect established liaison processes, a draft would need to be circulated to all other relevant bodies for comments before publication.
12. The updated policy statement would not need to include all the background material which was included in *"Red Deer and the Natural Heritage"*. Much of this could be updated by a series of operational guidance notes. Some of these, such as guidance on deer fencing and methods for deer management and carcass extraction, would be based on currently-evolving joint work with DCS including their Best Practice Guidance. Some would be internal to SNH e.g. working with other agencies and with Deer Management Groups. Work could also be commissioned to provide an updated and accessible summary of recent research and management demonstrations.

Resource implications

13. Revision of the policy and subsequent associated products will require input from National Strategy and Advisory Services staff, co-ordinated through the Deer Strategic Issues Group and making use of established liaison mechanisms with DCS, ADMG and other relevant agencies.

Consultation with Area staff could be achieved through the Deer Co-ordination Team. There would also be consultation of some Area Board and SAC members. Modest research and publication costs will be incurred and can be secured through the appropriate budgets.

14. **The Board is asked to agree that a refreshed, short policy statement on deer and the natural heritage should be prepared for their consideration during 2004/05, to be supplemented later by single issue statements/guidance as appropriate.**

b) Strategic Statement of Principles for the use of incentives and regulation

15. The overarching principles which have emerged from the SEERAD-led work are:

- incentives and regulation should be led by clear site objectives, effective use of resources and specific, targeted outcomes;
- public investment should not normally be used to repair damage but where this is considered necessary then clear and specified public benefits should be demonstrated; and
- there is a need to avoid being seen to financially reward land managers whose management leaves most to be desired (at the expense of managers who are already taking action).

16. Because of interactions with domestic livestock and the dispersal of relevant powers and responsibilities amongst different public bodies, a multi-agency approach is required to deal with the impacts of wild deer (as well as those of other herbivores) on the natural heritage. This means working together to bring to bear all the tools available in the most effective way, be these regulatory powers, financial incentives or a combination of the two. The principles proposed to guide joint working are:

- the combined impacts of deer, livestock and other animals on the natural heritage has to be taken into account;
- joint action should complement agencies' remits and clarify accountability, but not compromise sovereignty nor constrain or limit effective joint action;
- Ministers expect to see agencies working together closely, to co-ordinate the use of existing resources, specialist skills and powers;
- it is essential to establish reliable and robust baseline monitoring data in all cases where regulatory action might be required (resourcing the evidence gathering should normally be a matter for arrangement between partner bodies); and
- there should be a referral mechanism upwards to national level to allow resolution of local differences between partner agencies.

17. SEERAD expects that the two sets of principles outlined above will form the basis of a '*Statement of Principles and Process for managing deer*' on the use of incentives and regulation, and on joint working, which will be endorsed the Boards of the relevant agencies and by the Minister. There is an opportunity for staff to influence the final form of the document at a proposed workshop early in January 2004. **It would be helpful to have the Board's view as to whether these principles provide an adequate basis for determining the balance to be struck between incentives and regulation and to guide the development of joint working arrangements with the other agencies and SEERAD and on the nature of its further involvement.**

c) Referral Arrangements

18. One of the main barriers to the effective use of regulatory powers by DCS has been their need to establish robust evidence that deer are causing or have caused damage to a site. This is often complicated by the presence of other herbivores (both domestic livestock and feral or wild species). The lack of such evidence has restricted both the number of 'sites of concern' which SNH has referred to DCS and the speed with which DCS has been able to progress these.
19. As a result of the discussions on the use of incentives and regulation there are now two routes by which SNH may wish to engage with DCS over the appropriate management of deer in relation to the natural heritage.
20. In order to expedite action, the 'joint group' of agencies would weigh up the merits of offering incentives for habitat enhancement alongside a simple Section 7 agreement (under the Deer (Scotland) Act 1996) and robust baseline habitat monitoring, as against those of pursuing a purely regulatory route. This will inform a prior options assessment, undertaken by the relevant SNH Area, based on the objectives for the site, the evidence of damage and the willingness of the owner to work towards habitat enhancement. The flow chart in **Appendix 1** outlines how this might be used to determine the route which should be followed and what this then involves.
21. Where the objective is prevention of damage, SNH will refer the site to DCS who will assess the robustness of the evidence that deer *are causing or have caused* damage. If DCS are satisfied that the case has been demonstrated, the site will become a 'Priority Site' and will be progressed through the *regulatory route*. *This will involve* either a voluntary section 7 agreement to prevent further deterioration or (failing that) a compulsory section 8 agreement.
22. Where SNH and the land owner(s) agree that habitat enhancement is the desired objective for the site, an *incentive-led* route will be followed. SNH will develop a Natural Care Scheme (or agreement) and may refer the site to DCS as one where deer are considered likely to be a cause of damage. This will give DCS an indication of SNH's priorities for action and can be

used to initiate the DCS 'Priority Sites' assessment process. If DCS accept this, it will unlock the use of DCS resources. This may involve an underpinning section 7 agreement to put in place a robust baseline against which changes in habitat condition can be measured (and expedite future regulatory action if necessary) and/or the use of DCS' section 12 powers to provide assistance to the land manager with initial damage prevention costs.

23. Since many of our upland sites would currently fall into this latter category of sites, a key issue for SNH and DCS is the implications of these assessments for workload and resources. The flow chart attempts to set out how effect can be given to the recognition in the Strategic Principles of the need for agencies to retain sovereignty of decision taking over their resources. Both routes have potential resource implications for both agencies which will differ according to the precise way a case is progressed through ongoing dialogue.
24. The sites listed in **Appendix 2: Table 1** include all those sites where it is thought deer are *likely to be causing* damage. The first three sites are listed as pilots where DCS is already informally engaged, but this needs to be put on a formal footing. A prior options assessment has not yet been undertaken to determine the most appropriate route of action for the remaining sites. The programme of scheme development put to the Board each year will reflect the outcome of these risk assessments and can then be used as a basis for SNH's referral of these sites.
25. The sites in **Appendix 2: Table 2**, are currently thought *to be damaged* by deer, but available information is still insufficient to complete prior options assessments to confirm that they should be taken forward through the regulatory route. **The Board is asked at this stage to approve the formal referral of the sites identified as pilots in Table 1 and (subject to assessment) Table 2 to DCS.**
26. For the **Table 2** (and any other) sites assessed as being appropriate to the so-called regulatory route, it is proposed to: a) ask the Scientific Advisory Committee to quality assure the evidence for damage (this would in practice be led by a SAC sub-group), and b) if the SAC supports the case, ask the relevant Area Board to agree that the site should be referred to the DCS as a formal 'damage' expression of concern. If there are situations where the Area Board is undecided, or reaches a view different from the SAC, the site(s) would be put to the Main Board for consideration. **The Board is asked to approve this process of site referral to the DCS.**

d) Natural Care Issues

27. The Natural Care programme expenditure profile submitted to the Board in November 2003 (SNH/03/07/08) included provision to include support for improved deer management within schemes designed to secure enhancement of SSSIs within the red deer range. The estimates in that paper were based on having schemes to address the range of management

needs of most of those upland sites not currently under assured management – an eligible area in the order of 260k hectares. This area represents a significant proportion (approximately 25%) of the SSSI series and the launch of schemes over it will strongly influence SNH's contribution to the Natural Care.

28. A proportion of deer managers will probably not be strongly influenced by what are likely to be relatively modest and marginal incentive levels, hence a relatively low overall uptake rate of 50% has been assumed at this stage. On this basis the maximum cost for all schemes which include deer management measures is estimated at £550k per annum by 2010/11. This sum should be seen in the context of the forecast for the overall Natural Care programme expenditure of some £7.6M per annum by this time.
29. The cost estimate above is based on land use information supplied by Areas, and includes estimates for livestock and moorland management as well as habitat condition monitoring and deer management planning. A sensitivity analysis put lower and upper confidence limits on this figure of £250k to £1.2M. The upper limit is based on 70% uptake and increased ceilings on payment rates for deer management and the amount allowed for managing key populations of deer on adjacent land holdings.
30. The phased approach adopted by the Natural Care programme paper aims to manage this risk in two ways. First, the limited number of pilots referred to above would be run to develop greater confidence in cost estimates (as explained in paragraphs to below) as well as scheme design and joint-working issues. Second, the launch of the first significant tranche of upland schemes for 2005/06 onwards would be timed so that the spend can be taken into account in the Spending Review 2006 and subsequent submissions. **Appendix 3** sets out an illustrative timeline for this process, but it should be noted that this summarises what is still only indicative information for individual schemes.
31. The alternative options are to offer Natural Care schemes which address only agricultural and moorland management or not to offer schemes over these sites at all. In practice, it does not make sense to address livestock grazing in isolation from deer grazing, and 'livestock only' schemes would have to operate in parallel to S7 agreements. The 'do nothing' option would not be consistent with Ministerial Policy or the Natural Care Strategy for support to be available to help maintain or enhance key features of our natural heritage. Without these schemes for uplands the current Natural Care programme will only deliver new schemes over 315k hectares, which means a 37% shortfall on our Spending Review 2002 target.
32. Recognising issues of both accountability and presentation (potential PR may be more negative than that associated with Moorland Management Schemes and pro-active briefing material will need to be prepared), the discussion at the Board seminar on the 7th October 2003 identified the following key issues for Natural Care schemes to address:

- *'Polluter pays'* – to ensure that incentives do not benefit those who have allowed deer numbers to rise at the expense of more responsible deer managers;
 - *Additionality* – to ensure that incentives secure public benefits and do not end up paying for prevention damage; and
 - *Affordability* – to provide a suitably robust estimate of costs and justify this expenditure in terms of natural heritage benefits.
33. These points can be addressed through scheme design, the development process (which includes consultation with stakeholders), and business case approval. A flat rate per hectare payment structure ensures all land managers within a scheme are treated equally and avoids drawn-out individual negotiations. Additionality can be assured by setting payments rates at a level which would cover only the costs of deer management over and above a minimum standard of sustainable management. Scheme design can also be used to set limits on SNH's financial exposure, e.g. by limiting payments to a maximum of £4 per hectare of SSSI land and limiting support for deer management to a period of 10 years to assist with 'change management'.
34. An outcome based approach should help to ensure that incentives deliver public benefit in terms of habitat enhancement. Habitat condition targets can be set at a level of enhancement which is clearly over and above prevention of damage to ensure additionality. In many cases however, the deer population reductions required to achieve these targets cannot be predicted with any certainty and will need to be established on a trial and error basis.

Resource implications

35. Scheme design is currently being informed by case studies within the Forest of Clunie Moorland Management Scheme, and in Strathspey, and West Sutherland all of which involve a small number of individual agreements, and in Sunart where a scheme to jointly deliver incentives with FCS is being investigated. These should help build experience of approaches to scheme design and joint working relationships with partner organisations and explore how far funding from different agencies can be combined effectively with that of SNH. **The maximum cost of agreements under these pilots is likely to be £85k per annum by 2007/08, covering a land area of just under 30k hectares.** Estimates of staff costs for developing and implementing mountain and upland schemes can be informed in part by experience of Moorland Management schemes. Additional joint working particularly with DCS, as well as FC and SEERAD will add an extra element to staff cost which is as yet unknown. The estimated staff cost for developing the pilot schemes outlined above is £20-30k or between about 100-140 days over a period of the next 12- 18 months.

36. **Board approval is sought to develop these pilot schemes in order to provide more robust estimates of likely payment rates and uptake levels. This will be subject to prior options assessment where still required and detailed Business Case approval in due course.** Further cost estimates will be presented to the Board in November 2004 when seeking endorsement for any further tranche of scheme development in the context of the annual Natural Care programme report.

Conclusions

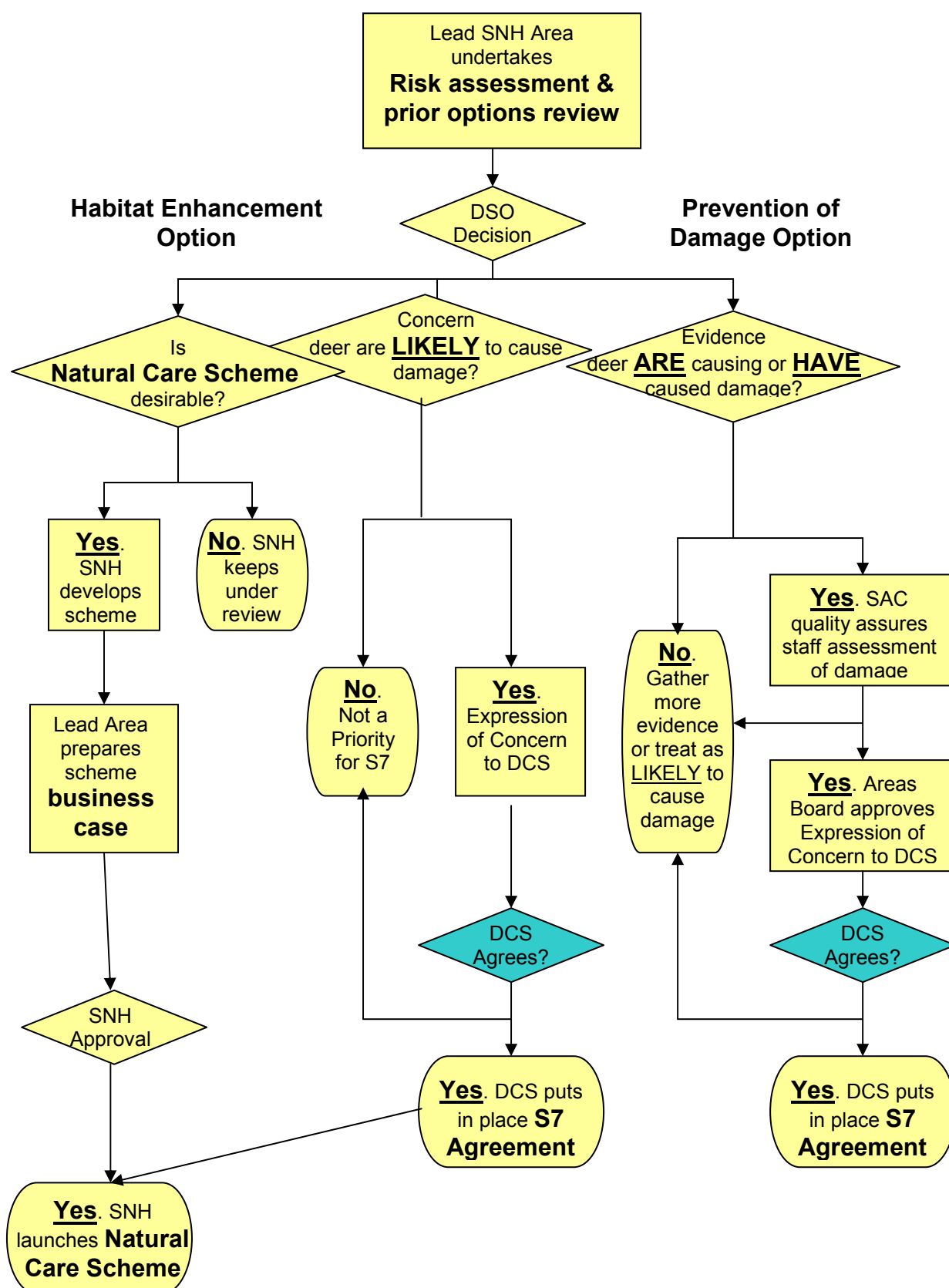
37. This paper is written against an evolving policy backdrop in order to obtain formal Board input to future direction. There is still much work to be done on detail and SNH will wish to proceed cautiously given the sensitivities involved, allowing further opportunity for Board involvement. Further experience needs to be gained by taking forward a limited number of pilot Natural Care schemes in order to be able to answer the questions that will inevitably arise.
38. Finally, we note that there are growing concerns about rising numbers of deer and their (and other herbivore) impacts on the natural heritage. Focussing too tightly on trying to remedy deer impacts on SSSIs may attract the criticism that SNH (and indeed its partners) is overlooking the bigger picture. SNH cannot, however, ignore the special responsibilities that it (and indeed the Government) has in relation to these sites. Moreover experience to date has demonstrated just how difficult it is to make progress on these issues, even on a relatively narrow front, let alone a large proportion of upland Scotland. In these circumstances it seems sensible to press ahead and explore ways of tackling the problem in selected areas where it is especially acute, as proposed in this paper. The success or otherwise of these initiatives will contain important lessons for any effort that is mounted to improve the balance between deer and their habitat over a wider area

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SNH Decision Framework for Sites of Concern about Possible Deer Damage.



Appendix 2

Table 1. List of potential Expressions of Concern for referral to DCS and corresponding Natural Care schemes/pilots

Sites for enhancement	SNH Area	Tentative scheme name	Possible roll-out
Forest of Clunie SSSI, SPA	Tayside & Clacks.	Forest of Clunie Moorland Management Scheme	Pilot Q3 2003/04
Inverpolly SSSI, cSAC	North Highland	West Sutherland	Pilot Q4 2004/05
Kinveachy Forest SSSI, cSAC, SPA	East Highland	Cairngorm/Strathspey	Pilot Q2 2004/05
Strathglass Complex cSAC (Including Affric-Cannich Hills SSSI, Glenstrathfarrar SSSI and Liatric Burn SSSI)	East Highland	South Ross	Tranche 1 Q3 2005/06
Monadhliath SSSI	East Highland	Monadhliath	Tranche 1 Q3 2005/06
Creag Meagaidh SSSI, cSAC, SPA (excluding NNR)	East Highland	Monadhliath	Tranche 1 Q3 2005/06

Table 2. Sites where SNH is unable to proceed at present

Sunart SSSI, cSAC	West Highland	Sunart	Damage route or Pilot Q4 2004/05
Ben Loyal SSSI (part of Caithness & Sutherland Peatlands cSAC and SPA)	North Highland	North West Sutherland	Damage route or Pilot Q3 2004/05
Foinaven SSSI, cSAC	North Highland	North West Sutherland	Damage route or Pilot Q3 2004/05
Ben Hope SSSI	North Highland	North West Sutherland	Damage route or Pilot Q3 2004/05
East Drumochter SSSI, cSAC, SPA	Tayside & Clacks.	Drumochter Hills	Damage route or Tranche 1 Q3 2005/06

Table 3. Sites already referred and subject to regulatory/incentivised action

Caenlochan Glen (part of Caenlochan SSSI, cSAC, SPA)	Tayside & Clacks.	Angus Glens and Deeside	Reconsider once S.7 targets met
Inchnadamph NNR, cSAC (part of Ben More Assynt SSSI)	North Highland	West Sutherland	Reconsider once S.7 targets met
Glenfeshie (part of Cairngorms NNR, SSSI, cSAC, SPA)	East Highland	Cairngorm/Strathspey	Reconsider once WGS/S.7 targets met

Table 3. Estimated time-line for pilot scheme development and roll out of phase 1 schemes

Financial Year:	2003/04	2004/05	2005/06	2006/07	2007/08
Initial pilot agreements	Develop	Approve Launch			
Pilot schemes	Info. gathering /scoping	prior options assessment Develop	Approvals Launch		
Review of experience		Review	Review		
Phase 1 mountain and moorland schemes		Info. gathering /scoping	prior options appraisal	Scheme Development	Approvals Launch