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Assembly

## Research and Information Service Briefing Paper

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# Planning and inland fisheries

This briefing paper sets out the provisions made within planning policy statements for inland fisheries, in the light of potential implications of development on flood plains and riverbanks. A summary of the information is provided in Table 1.

## 1 Context

The Department of Culture, Arts and Leisure is responsible for Northern Ireland's responsibilities under the Convention for the Conservation of Salmon in the North Atlantic Ocean. These responsibilities, along with proposed actions for monitoring and implementation, are set out in the *Atlantic Salmon Management Strategy for Northern Ireland and the Cross-border Foyle and Carlingford Catchments 2008–2012*<sup>1</sup>.

This document sets out within section three an assessment of the nature of threats to salmon stocks<sup>2</sup>. The quality of the estuarine and freshwater habitat is cited, including such issues as the use of nitrates and phosphates, the quality of sewage treatment, land use changes, future development pressures, increased renewable energy sources, climate change, and diseases and parasites. The strategy specifically highlights potential barriers to migration caused by flood protection schemes and drainage maintenance.

<sup>1</sup> *Atlantic Salmon Management Strategy for Northern Ireland and the Cross-Border Foyle and Carlingford Catchments to meet the Objectives of NASCO Resolutions and Agreements 2008–2012* <http://nia1.me/qs>: p5.

<sup>2</sup> *Atlantic Salmon Management Strategy*: pp29–35.

The Minister of Culture, Arts and Leisure has stated in answer to an Assembly question that DCAL<sup>3</sup>:

*...undertakes full technical assessments on all planning applications and abstraction licence applications relating to fish passage issues. Recommendations are forwarded to Planning Service for consideration and these may be incorporated as conditions on any Planning Approval Consent issued.*

The following is a description of the key areas within Northern Ireland's body of planning policy statements which may relate to inland fisheries.

## 2 Planning Policy Statements relating to inland fisheries

PPSs in Northern Ireland do not explicitly address the issue of protection of inland fisheries. However, the various policy statements seek to address development that has an adverse impact on the environment including the prevention and management of flooding; waste management; water sports and their associated facilities; residential and industrial requirements and sewerage.

The information below summarises relevant PPSs likely to affect inland fisheries.

### PPS 2: Planning and Nature Conservation

The policy deals with development affecting sites of natural nature conservation importance, including wetlands. Development proposals will be subject to 'special scrutiny' and developments which may have a significant adverse effect will not be permitted unless 'the reasons for development clearly outweigh the value of the site itself'.<sup>4</sup>

The Department of the Environment when considering planning applications will take into account possible threats to wetlands as well as lakes and rivers.<sup>5</sup> Where development is permitted conditions may be put in place. This can include the provision of new conservation habitats and compensation for lost habitats. However, when considering the development proposal, the policy states that:

*The Planning Service does not have, and cannot reasonably be expected to have, total knowledge of the potential nature conservation significance of every site. It will, however, when processing planning applications, take into account any information obtained through consultation with the*

<sup>3</sup> Minister of Culture, Arts and Leisure, response to NI Assembly question AQW 2996/11-15.

<sup>4</sup> PPS 2, Nature Conservation, June 1997, p17.

<sup>5</sup> *Ibid.*

*Environment and Heritage Service and any representations received from amenity bodies and the general public.*<sup>6</sup>

PPS 2 also makes provision for international obligations, including Special Areas of Conservation (SACs) outlined in the Habitats Directive. Annex 2 of the Habitats Directive names the Atlantic salmon as a 'species of community interest whose conservation requires the designation of special areas of conservation'. There are currently five special areas of conservation in Northern Ireland which feature populations of Atlantic salmon.

With regard to SACs, PPS 2 states that 'a consultation zone will be identified around each SAC and SPA (Special Protection Area), within which all developments will be scrutinised to ensure that they will not adversely affect the interests of the designated site'.

The PPS also makes provision for sites that could 'possibly be' a protected site<sup>7</sup>:

*The Habitats Regulations apply to classified SPAs, and to SACs, only from the time when the Commission and the Government agree the area as a Site of Community Importance to be designated as an SAC. However, as a matter of policy, the Government wishes development proposals affecting all possible European sites to be considered in the same way, ie as if they had already been designated.*

#### **PPS 4: Planning and Economic Development**

PPS 4 addresses planning in having a direct correlation with economic development. Of particular relevance, in terms of managing inland fisheries, is PED 9 which has stated that any development proposal will not be, 'located in an area at flood risk and will not cause or exacerbate flooding' and 'is capable of dealing satisfactorily with any emission or effluent.'<sup>8</sup>

#### **PPS 7: Quality Residential Environments**

PPS 7 details how development plans will set out the main infrastructure requirements that developers will be expected to meet for zoned residential areas. This includes appropriate infrastructure works to include water, sewerage and land drainage.<sup>9</sup>

It also provides local community development guidelines for urban and rural areas. It encourages the establishment of amenities that will provide community greenways.

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<sup>6</sup> *Ibid*, p19.

<sup>7</sup> PPS 2: p8.

<sup>8</sup> PPS 4, Planning and Economic Development, November 2010, p32.

<sup>9</sup> PPS 7, Quality Residential Environments, June 2001, p11.

This includes building connections between nature and the countryside with residents, including linking to rivers, canals, coastal and inland waters.<sup>10</sup>

### **PPS 8: Open Space, Sport and Outdoor Recreation**

The PPS makes reference to angling as one of the more 'popular countryside recreational pursuits'<sup>11</sup> and as a 'tranquil'<sup>12</sup> water sport. Angling is addressed in the broad context of the development ancillary facilities and is not addressed as a single subject area.

Ancillary facilities to accommodate water sports may be granted. One of the criteria for development approval is the assurance that it will not result in water pollution or adversely impact on nature conservation.

Policy OS 6 within the PPS details the intention of the Department with regards to the development of facilities ancillary to water sports.

*It is the general intention of the Department to conserve the environmental quality and character of inland bodies of water and to protect them and their surroundings from harmful development.*<sup>13</sup>

### **PPS 10: Telecommunications**

PPS 10 addresses the issue of placing telecommunication developments in environmentally sensitive locations. The general policy is that placing such developments in conservation areas and protected species sites for example, should be avoided. However, when it has been proven that alternative locations cannot be used;

*Extra care will be required to ensure that the visual and environmental impact of the telecommunications apparatus and any ancillary works, such as an access or power line, is minimised.*<sup>14</sup>

### **PPS 11: Planning and Waste Management**

PPS11 deals with the environmental impact of a waste management facility. This includes addressing the need for protecting the quality of the surface and groundwater. Developers must ensure that there is adequate drainage facilities incorporated into the plan to prevent contaminants reaching groundwater resources.

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<sup>10</sup> *Ibid*, p30.

<sup>11</sup> PPS 8, Open Space, Sport and Outdoor Recreation, February 2004, p25.

<sup>12</sup> *Ibid*, p33.

<sup>13</sup> *Ibid*, p34.

<sup>14</sup> PPS 10, Telecommunications, April 2002, p16.

The policy also points to the Water (NI) Order 1999 which states that a consent to discharge can impose whatever conditions necessary to safeguard water quality.<sup>15</sup>

### **PPS 15: Planning and Flood Risk**

The primary aim of PPS 15 is:

*To prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.*<sup>16</sup>

The PPS makes reference to the EC Water Framework Directive (WFD) and its implications for decision-making in the development sector;

*New development may increase flood risk and alter the pattern of flood events by changing the depth of the floodwater, the duration of its residence, or the footprint of the flood. As such, it has the potential to adversely affect the ecology and the chemical quality of the water environment.*<sup>17</sup>

Policy FLD 1 addresses development in flood plains. It specifically states that development will not be permitted unless it falls within six exceptions or it has overriding regional importance. The justification for the policy addresses development in defended and undefended areas. Paragraph 8.8 addresses the issue of pollution during a flooding incident. Generally sites for hazardous substances, fuel storage and sewage treatment works are a potential source of pollution during a flood risk. However, the policy states that;

*While it may be possible to permit their location in defended areas where it is demonstrated that an alternative lower risk location is not available, their approval will be conditional on the provision of pollution containment measures designed to prevent a pollution incident in the event of flooding.*<sup>18</sup>

Policy FLD 4 addresses culverting or canalisation of a watercourse. The Department will only permit this in exceptional circumstances. The policy recognises that culverting or canalisation can damage the ecological integrity and biodiversity of watercourses. Exceptional circumstances are given as 'examples' and not an entire list.

### **PPS 18: Renewable Energy**

One of the conditions that must be met before development is granted is that the proposed development must not have an adverse effect on water quality.<sup>19</sup>

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<sup>15</sup> PPS 11, Planning and Waste Management, December 2002, p27.

<sup>16</sup> PPS 15, Planning and Flood Risk, June 2006, p. 5.

<sup>17</sup> *Ibid*, p7.

<sup>18</sup> *Ibid*, p18.

<sup>19</sup> PPS 18, Renewable Energy, August 2009, p8.

## PPS 21: Sustainable Development in the Countryside

One of the objectives of PPS21 is to:

*Conserve the natural landscape and natural rural resources of the rural area and to protect it from excessive, inappropriate or obtrusive development and from the actual and potential effects of pollution.<sup>20</sup>*

Policy CTY13 seeks to provide clarification on the integration and design of buildings in the countryside. It states that applicants are 'encouraged' to submit a design concept statement setting out processes involved in site selection and analysis including drainage technologies.

Policy CTY16 addresses development relying on non-mains sewerage. It states that planning permission will only be granted for developments relying on non-mains sewerage if it will not create or accentuate a pollution problem. In justifying this, the policy states:

*New development relying on non-mains sewerage may either individually or cumulatively, increase the risk of groundwater pollution. As such, it has the potential to adversely affect the ecology and chemical quality of the water environment.<sup>21</sup>*

A summary of the relevant sections of the planning policy statements is provided in Table 1, overleaf.

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<sup>20</sup> PPS 21, Sustainable Development in the Countryside, June 2010.

<sup>21</sup> *Ibid*, p40.

Planning Policy Statement (PPS)	Relevance to inland fisheries
PPS 2: Nature Conservation	Developments affecting sites of natural nature conservation will be subject to 'special scrutiny' and those with significant adverse effects will not be permitted unless the reasons for development outweigh the value of the site itself. PPS 2 also makes provision for special areas of conservation, and makes reference to the requirements of the Habitats Directive.
PPS 4: Planning and Economic Development	Development proposals should not be located in an area at flood risk or cause or exacerbate flooding. It should also satisfactorily deal with any effluent.
PPS 7: Quality Residential Environments	Provides for water, drainage and sewerage works to be included in development plan for residential environments. Encourages 'community greenways' to link residential areas with rivers, canals, coastal and inland waters.
PPS 8: Open Space, Sport and Outdoor Recreation	Facilities to accommodate water sports may be granted. One of the criteria for development approval is assurance that it will not result in water pollution or adversely impact on nature conservation.
PPS 10: Telecommunications	Development within environmentally sensitive sites should be avoided. However, permission may be granted when alternative locations cannot be used.
PPS 11: Planning and Waste Management	Addresses the need for protecting the quality of surface and groundwater. Developers must ensure adequate drainage facilities are in place to prevent contamination of groundwater.
PPS 15: Planning and Flood Risk	To prevent future development that may be at risk from flooding or increase the risk of flooding elsewhere, which in turn would have the potential to affect the chemical quality of the water environment.
PPS 18: Renewable Energy	Any proposed development must not have an adverse effect on water quality.
PPS 21: Sustainable Development in the Countryside	To conserve the natural landscape and resources and prevent it from pollution. Developments relying on non-mains sewerage will have to satisfy that it will not create or accentuate a pollution problem.

**Table 1- Summary of Planning Policy Statements affecting inland fisheries**