

Scottish Executive

Environment

You are here: [Topics](#) > [Environment](#) > [Wildlife and Habitats](#) > [Licensing and Registration](#)
> [European Beaver2](#)

Licensing and Registration

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Dr Ian Jardine
Chief Executive
Scottish Natural Heritage
12 Hope Terrace
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Dear Ian

I am writing to inform you that Scottish Ministers have decided not to grant SNH's application for a licence under Section 16 (4)(c) of the Wildlife & Countryside Act 1981 for a trial re-introduction of the European beaver.

In reaching this decision, Ministers took full account of all the material supplied by SNH in support of this application, in particular:

The application from SNH dated 7 January 2002 to release the European beaver, Castor fiber, for a trial re-introduction in Knapdale, Argyll.

Annex 2 of the 7 January 2002 application - Trial re-introduction of European beaver to Taynish and Knapdale Woods cSAC - "Appropriate Assessment" dated 12 December 2001.

Annex 3 of the 7 January 2002 application - Business Case for a trial re-introduction.

Letter dated 8 February 2005 from Chief Executive of SNH to Head of the SEERAD Environment Group

Appendix 1 of the 8 February 2005 letter - response to the Minister's letter of 20 December 2002

Appendix 2 of the 8 February 2005 letter - report on local consultation published 30 March 2001 SNH letter.

On the basis of the Executive's assessment across a wide range of policy issues, the conclusion is the licence should not be granted. The principal considerations which led to that decision are set out below.

Implications of Article 6 of the Habitats Directive

In his letter of 20 December 2002 to your Chairman, the then Deputy Minister for the Environment and Rural Development asked SNH to review the impact which this proposal would be likely to have upon the Taynish and Knapdale Woods Special Area of Conservation (SAC). The Minister also sought further

information on whether a trial of this type was compliant with Article 6 of the Habitats Directive and I recognise that the supplementary information provided in your letter of 8 February 2005 aimed to address these issues.

The SNH analysis and appropriate assessment contained within Annex 2 of SNH's letter of 7 January 2002 made clear that the impact of the trial would be "certain not trivial" in relation to the Habitats Directive interests of Atlantic oakwoods and "certain" for aquatic plants. Together, these indicated there would be a number of negative effects upon the SAC but led SNH to conclude that a trial of this type would not be in breach of the Directive. This is not a view we share.

We have subsequently discussed with you the relevance of the recent judgment by the European Court of Justice (EC v Government of the Netherlands - the Waddenzee case) where the Court ruled that the test for considering the effects on the integrity of a European site requires there to be no reasonable scientific doubt as to the absence of adverse effects. Ministers fully accept that this ECJ judgement represents a new development. However, viewing the application in light of this judgement, and given that the appropriate assessment identifies the certainty of impact on the features for which the SAC was designated, it appears to us that there is a significant risk that a decision by Scottish Ministers to grant a licence for re-introduction of beavers to this site, could be held to be unlawful in terms of Article 6.

Consideration of Article 12 of the Habitats Directive

The release of the European beaver in Scotland would grant the species full legal protection under the Wildlife & Countryside Act 1981 in accordance with the relevant provisions of the Habitats Directive. This means that options to remove, and certainly to kill, any beaver that is either outwith the trial site or is causing more damage than might initially have been considered, as suggested in Appendix 1 of the SNH letter of 8 February 2005, are limited.

For those Member States with significant beaver populations - Austria, Sweden, Finland, Estonia, Latvia, Lithuania, and Poland - legal provisions have been made through their Accession Treaties to allow those States to remove the level of protection which the European beaver enjoyed in these countries. These measures are now reflected in the consolidated version of the Habitats Directive, which indicates willingness by the European Commission to amend the protected status of the species to reflect their high and healthy populations in certain Member States. But these circumstances do not apply in Scotland, nor has it been demonstrated in the SNH application or supplementary material how the provisions of Article 12 can be satisfied in the event that beavers re-introduced to Scotland had to be killed because of problems they posed in and around the trial site.

In short, we have identified no provision within current UK legislation or European Directives that would allow the exit strategy outlined by SNH to be undertaken in a lawful manner.

Impact upon salmon interests

It is important that the lessons of any trial can be applied across Scotland. While SNH recognises that the trial site at Knapdale does not contain a river in which Atlantic salmon are present, the justifications for selecting this site, set out in your application of 7 January 2002, was the need for natural containment which could not be met on a typical salmon river. However, this means that the site selection would leave open some important questions about the transferability of the trial results to the rest of the country as a whole, particularly given the importance of salmon fisheries for the Scottish economy. While the Norwegian salmon/beaver study quoted in the additional information supplied is informative, it is not a detailed investigation and in our view further trials in Scottish salmon streams would be necessary before any wider reintroduction programme could be sensibly considered.

The additional information relating to Salmon does not give consideration to the issue of the salmon parasite *Gyrodactylus salaris* (Gs). The UK is currently free of Gs and the Executive would need to be convinced that this parasite would not be introduced into Scottish river systems as a consequence of any reintroduction of beavers. A stringent quarantine process would need to be in place to ensure that the beavers would be free of the Gs parasite before they left Norway.

The Economics and Financing of the Trial

On balance, Ministers were doubtful whether the benefits of this proposal would exceed the likely costs and also questioned the relative priority of this initiative as compared with other species measures. The

Deputy Minister has written separately today to your Chairman, indicating her support for your plans to develop a species conservation framework, which has the potential to help both SNH and the Executive to direct future effort to achieve the greatest beneficial effect.

CONCLUSION

After consulting with a wide range of policy interests within the Executive and recognising and appreciating the considerable effort which SNH have made in bringing forward an ambitious project, we have nevertheless concluded that your application to re-introduce the European beaver to Scotland on a trial basis at the site proposed should be refused.

Since there has been significant public interest in this proposal, this letter is being released by means of a Press Release and through the Executive's Publications Scheme.

MIKE FOULIS

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