

Ramsar Case Closure Report – IESS.21.011

Summary

What was the issue?	Environmental Standards Scotland (ESS) previously identified a gap in Scottish law and policy that could theoretically allow for the removal of protected Ramsar areas despite international obligations.
What did ESS do?	ESS liaised with the Scottish Government (the SG) and monitored its progress in revising protections for Ramsar sites to close the identified gap. When it became evident that progress was insufficient, ESS reinitiated engagement with the SG to secure resolution.
What was ESS' conclusion?	Following the publication of a revised Ramsar policy, ESS considers the matter has been informally resolved.

Background

ESS published its Ramsar Case Summary Report on 6 September 2022.¹ Previously, ESS engaged with the SG regarding ESS' concerns that a perceived gap in Scottish law and policy could theoretically allow for a large-scale deletion of Ramsar areas, in contravention of Ramsar Convention requirements. The SG proposed to address the issue through the development of the 30x30 Framework and the Natural Environment (Scotland) Bill.

However, by February 2024, ESS noted a lack of tangible progress and decided to re-open the investigation case. ESS published a monitoring update² reiterating its concerns and the need to resolve the outstanding issues within a defined timeframe.

¹ [Ramsar-case-summary-for-website.pdf](#)

² [ESS-Investigation-Ramsar-Site-Protection-Monitoring-Update-IESS.21.011-1.pdf](#)

The perceived gap

Ramsar sites in Scotland are wetlands of international importance designated under the Ramsar Convention, an intergovernmental treaty focused on the conservation and sustainable use of wetlands. These sites are recognised for their ecological significance, particularly as habitats for waterfowl and other biodiversity. There are 51 Ramsar sites in Scotland, covering around 4% of Scotland's land area. While there is no dedicated legislation in Scotland for the protection of Ramsar sites, these have been protected by being additionally designated as Sites of Special Scientific Interest (SSSIs) and/or European sites (the collective term for both Special Protection Areas and Special Areas of Conservation). The legal protections for SSSIs in Scotland are given in the Nature Conservation (Scotland) Act 2004, and for European sites given in the Conservation (Natural Habitats, &c.) Regulations 1994 ('the Habitats Regulations').

The SG's January 2019 Ramsar policy³ presented an interpretation of how protections are assigned where both SSSI and European site co-designations were present. In practice, this created a two-tier protection system. Individual Ramsar features within Ramsar sites were assigned either European site protections (which are more compatible with Ramsar Convention requirements) or SSSI protections (which are less comprehensive than European site protections). Under this previous system, Ramsar features assigned SSSI protections could theoretically be permitted for development (effectively deleting Ramsar areas) without meeting the Ramsar Convention requirements to first prove an 'urgent national interest' and to compensate for any loss of wetland resources when areas are removed.

In contrast, European site protections require proving 'imperative reasons of overriding public interest' and compensatory measures to ensure the overall coherence of the network in these situations. ESS considers these protections to be better aligned with the Ramsar Convention requirements.

Engagement with the Scottish Government

Following the re-opening of the investigation case, ESS engaged with the SG to seek a timely resolution of the issue. In July 2024, the SG provided ESS with a letter of assurance, outlining its intention to revise its Ramsar policy.

³ [Implementation of Scottish Government policy on protecting Ramsar sites - gov.scot](https://www.gov.scot/publications/implementation-of-scottish-government-policy-on-protecting-ramsar-sites/pages/2/)

The SG considered both legislative and policy changes to address the perceived gap and concluded that policy change was the most suitable method to deliver this. On consideration, ESS was broadly satisfied with the approach outlined in the letter of assurance.

In this letter, the SG proposed a targeted consultation in summer 2024 and publishing a revised policy by autumn 2024. However, the consultation was delayed until October 2024 and subsequently broadened into a full public consultation,⁴ which extended the timescales beyond those previously indicated by the SG. ESS submitted a formal response to the consultation in January 2025,⁵ reiterating its concerns and welcoming the SG's proposals. Despite further delays, ESS continued to press SG for timely publication. The updated policy was ultimately published in July 2025.⁶

Updated Ramsar policy

The SG's updated Ramsar policy establishes that Ramsar sites in Scotland are to be treated as if they were European sites for the purposes of land use change decision-making. This means that any proposed development (plan or project) affecting a Ramsar site must undergo a Habitats Regulations Appraisal ('HRA'). The updated policy confirms that if the HRA concludes adverse impacts on site integrity, the application will not be supported unless there are Imperative Reasons of Overriding Public Interest (IROPI). The policy is stated to be a material consideration for planning and consenting decisions.

ESS' assessment

ESS previously raised concerns that Ramsar features underpinned solely by SSSI designations were afforded weaker protections than those granted to European sites. In ESS' view, the updated SG policy closes this gap by confirming that all listed Ramsar features are to be treated as if they were European site features for the purposes of land use change decision-making. This alignment ensures that all features on Ramsar sites benefit from the same procedural safeguards, including the requirement for a HRA.

⁴ [Proposals to Amend Scottish Government Policy on the Protection Afforded to Certain Ramsar Features: Consultation Paper](#)

⁵ [ESS-Consultation-Response-Scottish-Government-Proposals-to-amend-Ramsar-policy-January-2025.pdf](#)

⁶ [Wetlands – protecting Ramsar sites: updated Scottish Government policy](#)

Additional requirements of the Habitats Regulations

While the updated policy explicitly references the requirement to demonstrate IROPI before permitting development that may adversely affect protected features, ESS noted that it did not explicitly mention other key requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 ('the Habitats Regulations'). Specifically, the policy did not refer to the need to demonstrate that no suitable alternatives exist, nor to the obligation to secure compensatory measures where IROPI is invoked. ESS considers these requirements to be implicit in the application of the HRA process, particularly when reference is made to the HRA guidance from NatureScot.⁷ Nonetheless, to ensure clarity, ESS sought confirmation from the SG that these additional legal tests would apply under the revised policy. The SG confirmed that, as part of the HRA process, where a proposal may adversely affect the integrity of a Ramsar feature, the following three tests must be met to allow development:

- there are no alternative solutions (Regulation 49(1))
- there are Imperative Reasons of Overriding Public Interest (Regulations 49(1) and 49(2))
- necessary compensatory measures have been secured (Regulation 53)

On the basis of this confirmation, ESS is satisfied that the updated policy is aligned with the requirements of the Habitats Regulations and more closely aligns with Ramsar Convention requirements.

Update of National Planning Framework 4

In its November 2024 public consultation, the SG stated that following adoption of a revised Ramsar policy, it intended to bring forward proposed amendments to National Planning Framework 4 (NPF4) at the next relevant and applicable opportunity. However, this commitment was not reiterated in the final published policy. ESS therefore sought clarification from the SG on whether this intention remained. The SG confirmed that it still plans to update NPF4, although no specific timescale has been set. The SG also noted that this commitment would be considered as part of any broader review of planning policies. The SG noted that in the interim, the updated Ramsar policy serves as a statement of Scottish Ministers' expectations and is a material consideration in the determination of planning and consenting applications affecting Ramsar sites.

⁷ [Habitats Regulations Appraisal \(HRA\) | NatureScot](#)

Should ESS become aware of this interim approach providing insufficient protection for Ramsar sites in Scotland, it will consider taking further action on the matter. Otherwise ESS accept the SG's proposal to update NPF4 in due course.

NatureScot Ramsar site citations

ESS sought clarification from NatureScot regarding the status of their ongoing work to update Ramsar site information, particularly in light of a notice on NatureScot's SiteLink homepage⁸ stating:

'Please note that the current list of RAMSAR features as displayed on SiteLink is under review. The features displayed for each RAMSAR site are not always correct. For a current and up-to-date list of all features please see the individual Ramsar Site Citation document in the Documents and Links section for the specific RAMSAR site.'

ESS sought clarification on which specific elements remained under review. NatureScot confirmed that while the full list of Ramsar features is available in each site's citation document on SiteLink, technical issues have delayed the updating of feature lists on the main pages for individual Ramsar sites. These issues are expected to be resolved as part of a broader system migration to a new platform. Additionally, NatureScot confirmed that conservation objectives (which are required for the HRA process) have been published for all but one Ramsar site (Lewis Peatlands), which is still being completed. NatureScot has indicated these tasks will be completed by the end of 2025. Should significant delays occur, ESS may re-engage with NatureScot to secure delivery.

Other developments in the United Kingdom

ESS is aware of the case of *C.G. Fry & Son Ltd v Secretary of State for Levelling Up, Housing and Communities*⁹ heard by the UK Supreme Court on 17 and 18 February 2025 (judgement awaited). This appeal considers, among other matters, whether the National Planning Policy Framework ('the NPPF'), which has the effect of giving Ramsar sites the same protection as a European site under the Conservation of Habitats and Species Regulations 2017, is a material consideration in planning decisions. Should the judgement cause ESS to be concerned over the sufficiency of the new protection regime in Scotland, ESS will consider taking further action.

⁸ [SiteLink - Home](#)

⁹ [UKSC/2024/0108](#)

ESS is also aware that the UK Government has proposed amending the Conservation of Habitats and Species Regulations 2017 through the Planning and Infrastructure Bill to explicitly include Ramsar sites within the scope of legal protection.¹⁰ This would result in Ramsar sites (currently protected through planning policy in England) being formally recognised in law, aligning their protection with those of European sites. Should a divergence in the method of protecting Ramsar sites across the UK demonstrate any significant faults with Scotland's system, ESS may re-consider whether the new protection regime is sufficient.

Conclusion

The updated policy now aligns with ESS's expectations and provides a clearer framework for the protection of Ramsar sites. ESS considers that informal resolution has been achieved and that the case can now be closed without formal enforcement action.

Should any demonstrable risks to Ramsar sites arise before the SG updates NPF4 or there are unreasonable delays in NatureScot delivering its outstanding tasks, ESS may re-engage with these authorities. ESS may also re-consider the sufficiency of the new protection regime based on the outcome of the Supreme Court appeal or other UK legislative developments pertaining to Ramsar protections.

13/08/2025

¹⁰ [Planning and Infrastructure Bill - Parliamentary Bills - UK Parliament](#)