



## Habitat Regulations Assessment

**Advice note ten:** Habitat Regulations Assessment relevant to nationally significant infrastructure projects

### Status of this advice note

This advice note forms part of a suite of advice on aspects of the Planning Act 2008 ('the 2008 Act') process provided by the Planning Inspectorate. It has no statutory status. The advice contained in this note is not definitive. An authoritative statement of the law can only be made by the Courts. This version of this advice note supersedes all previous versions.

### Summary of this advice note

When preparing an application for NSIPs under the 2008 Act, applicants should consider the potential effects on protected habitats. If an NSIP is likely to affect a European site<sup>1</sup> and/or a European marine site, the applicant must provide a report with the application showing the site(s) that may be affected together with sufficient information to enable the decision maker to make an appropriate assessment (AA), if required<sup>2</sup>. This note provides some advice for applicants in relation to the preparation of that report, and the 2008 Act processes relating to Habitats Regulations Assessment (HRA).



All references and a definition of terms and abbreviations can be found at the end of this advice note.

Please refer to [Appendix 1](#) and [Appendix 2](#) in conjunction with this advice note.



## This advice note seeks to:

- provide a brief description of the legal context and obligations placed on both the decision maker and the applicant under the Habitats Directive<sup>3</sup> and the 2010 Habitats Regulations (as amended)<sup>4</sup>;
- explain how the 2008 Act process aligns with the HRA process;
- highlight the relevant bodies that should be consulted by the applicant throughout the development consent application process, the suggested timing of engagement and recommended level of interface required;
- clarify the information to be provided with a development consent application with respect to HRA;
- explain the process that will be carried out by the Planning Inspectorate as part of their duties and the interface with HRA which will be followed to seek compliance with the legal requirements.

## Context

This advice note should be read in conjunction with the Habitats Directive, the Habitats Regulations, the 2008 Act, relevant Government Planning Policy<sup>5</sup>, Government Circulars<sup>6</sup>, and recognised European Commission guidance<sup>7</sup>. Specific documents are itemised in the references of this advice note to assist applicants, but it is the applicant's responsibility to ensure that all relevant policy, legislation and guidance has been considered.

## EC Directives

The UK is bound by the terms of the Habitats Directive, the Birds Directive, and the Ramsar Convention. This advice note concentrates on the Habitats Directive. The aim of the Habitats Directive is to conserve natural habitats and wild species across Europe by establishing a network of sites known as Natura 2000 sites.

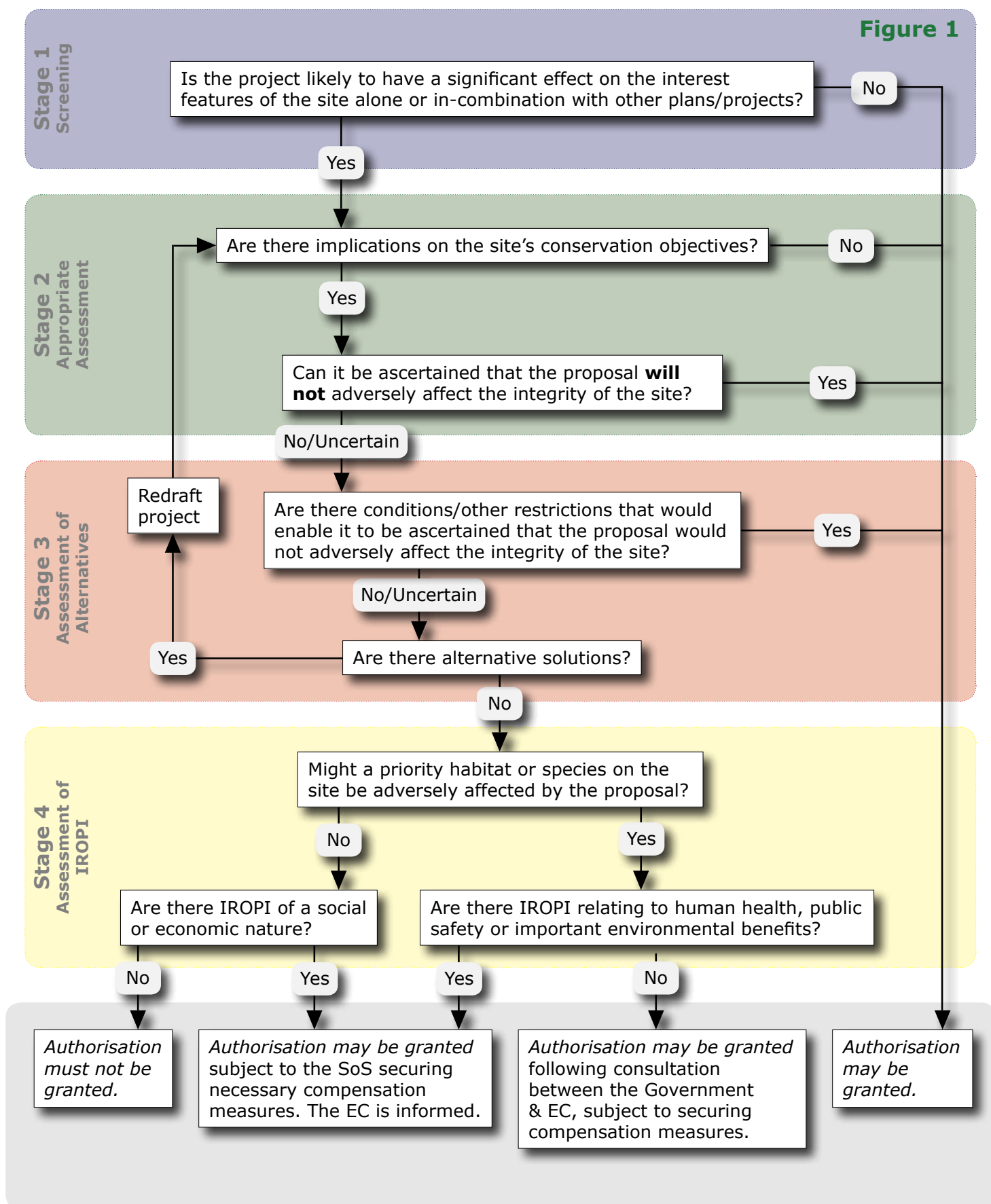
Under Article 6(3) of the Habitats Directive, an appropriate assessment is required where a plan or project (in this case an NSIP proposal) is likely to have a significant effect upon a European site, either individually or in combination with other projects:

Further to this, Article 6(4) states that where an appropriate assessment has been carried out and results in a negative assessment (in other words, the development will adversely affect the site(s) despite any proposed avoidance or mitigation measures or if uncertainty remains<sup>8</sup>), consent will only be granted if there are no alternative solutions, there are Imperative Reasons of Overriding Public Interest (IROPI) for the development,<sup>9</sup> and compensatory measures have been secured.

The protection given by the Habitats Directive is transposed into UK legislation through the Habitats Regulations. Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs) are protected under the Habitats Regulations<sup>10</sup>. As a matter of policy<sup>11</sup> the Government also applies the procedures described below to potential SPAs (pSPAs), Ramsar sites, and (in England) possible SACs, proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on any of the above sites.

## Planning Act process and HRA process

HRA is a step by step process which helps determine likely significant effect and (where appropriate) assess adverse impacts on the integrity of a European site, examines alternative solutions, and provides justification for IROPI. European guidance describes a four stage process to HRA, summarised in Figure 1 below.



Adapted from: DEFRA (2012) Report of the Wild Birds and Habitats Directives Implementation Review (Annex E). It is assumed for the purposes of this advice note that the project is not directly connected with or necessary to the management of the site.





## HRA within the 2008 Act process

### **Pre-application (no prescribed timeframe)**

The Habitats Regulations require the competent authority (in this case the relevant Secretary of State) before authorising a project likely to have a significant effect on a European site 'to make an appropriate assessment of the implications for that site in view of that site's conservation objectives'<sup>12</sup>. Anyone applying for development consent NSIP must provide the competent authority with such information as may reasonably be required 'for the purposes of the assessment' or 'to enable them to determine whether an appropriate assessment is required'<sup>13</sup>. This information normally takes the form of a Habitats Regulations Assessment Report (HRA Report).

Applicants should be aware that if insufficient information is submitted with an application, then it may not be accepted. Applicants are therefore strongly advised to use the pre-application consultation process to provide assurances from the statutory nature conservation bodies (SNCBs) and other bodies that all potential impacts have been addressed appropriately and in sufficient detail before an application is submitted.

Applicants are encouraged, whilst they carry out consultation and work up detailed proposals in order that key issues can

be identified before the application is submitted, to submit draft HRA reports and any supporting documents to the Planning Inspectorate. Where time allows, the Planning Inspectorate will comment on the draft HRA report.

The HRA report should deal with the following:

#### *HRA Stage 1*

Screening for likely significant effects (alone or in-combination with other projects): if there are no likely significant effects, then the report will take the form of a 'No Significant Effects Report' (NSER)(see below) and HRA stages 2-4 will not be required

#### *HRA Stage 2*

If Stage 1 identifies likely significant effects: an assessment of the implications of the project on the site(s)'s conservation objectives

#### *HRA Stages 3 and 4*

If Stage 2 concludes that the project will adversely affect the integrity of the site(s), or is inconclusive: consideration of alternatives, compensatory measures and whether the project is justified by IROPI.

### **HRA Stage 1: Screening**

When considering whether a proposal has the potential to significantly affect European sites it is advised that the applicant commences consultation with the relevant statutory and non-statutory nature conservation bodies at the earliest point in the pre-application process. This is the applicant's responsibility but in due course the competent authority will also need to be satisfied with the conclusions, having regard to the views of the nature conservation bodies.

Applicants' attention is also drawn to the evidence plan process promoted by the Major Infrastructure and Environment Unit in Defra ([MIEU@defra.gsi.gov.uk](mailto:MIEU@defra.gsi.gov.uk)).



Issues for the applicant to consider and include within their HRA screening assessment may include:

- a detailed description of the development, processes, timings, and method of work proposed
- details of the methodology used to determine which European sites to include within the assessment
- a plan and description of the European site(s) and all of the associated interest features potentially affected
- an appraisal of the project's likely impacts on the European site(s);
- an outline and interpretation of baseline data
- an appraisal of any other plans or projects likely to have a significant effect in combination with the proposed development
- an evaluation of the potential for the scheme to require two or more appropriate assessments by different competent authorities, and;
- a statement which specifies where the site boundaries of the scheme overlap into devolved assemblies or other European member states.

The general approach taken to HRA throughout preparation of the Development Consent Order (DCO) application should be iterative to ensure that a robust assessment of the likely significant effects is carried out. There should be a continuous evaluation of the assessment findings against thresholds of likely significant effect. If at any time the HRA assessment determines 'no significant effect (alone or in-combination)' beyond reasonable scientific doubt<sup>14</sup> then the assessment can be concluded. The applicant should then provide the results of their HRA with the DCO application in the form of a No Significant Effects Report.

As the likely outcomes of the HRA process emerge, consultation on significant impacts should continue throughout the pre-application stage. Applicants are strongly advised to take advantage of pre-application consultation, and use completed matrices as outlined below to agree and negotiate issues with consultees and to minimise the number of issues that might otherwise remain unresolved and may require exploration during the examination.

At Stage 1, in relation to each European site considered as part of the screening exercise, the applicant will need to conclude from baseline information and consultation responses received that either:

- a. There are no likely significant effects on the European site(s), either alone or in combination with other plans or projects and therefore no further assessment is required (see later section entitled 'No significant effects report'), OR
- b. Likely significant effects on the European site(s) exist, alone or in combination with other plans or projects, therefore requiring an appropriate assessment by the competent authority.



## Matrices

A set of matrices has been developed by the Planning Inspectorate to assist the relevant SoS as competent authority in fulfilling the requirements of the Habitats Directive and the Habitats Regulations in the context of the 2008 Act process. These matrices are developing best practice and may be revised in light of experience. The matrices comprise:

**Screening Matrices** which summarise the likely significant effects of the project on the European site, and

**Integrity Matrices** which summarise the information required for the appropriate assessment if one is required.

The template and example matrices are provided in [Appendix 1](#) (Screening Matrices) and [Appendix 2](#) (Integrity Matrices). As relevant, matrices should be appended to the applicant's NSER (screening matrices) or HRA report (both matrices), but should not replace the applicant's NSER or HRA report.

The screening matrices must reflect the screening exercise undertaken in its entirety, including *all* sites considered and *all* features for which the European site(s) is designated even if the screening exercise has concluded no likely significant effects on certain features.

If the relevant matrices are not submitted with the DCO application the Examining Authority (ExA) will request these in their first round of examination questions (see later section entitled 'Examination').

Applicants will need to give careful consideration to the avoidance and reduction of impacts by the use of mitigation e.g. through specific timing of particular construction activities, amending the application boundaries, or modifying aspects of the project design. The applicant's HRA report should provide details of the mitigation measures<sup>15</sup> and demonstrate how these have fed into the assessment to reach the conclusion on whether any residual effects exist, alone or in combination with other schemes.

As a general guide, if a large amount of information gathering and data collection is required in order to identify the likely significant effects of the project, these probably exist and an appropriate assessment is likely to be required (meaning a NSER cannot be produced).

### **No significant effects report**

If, as a result of the HRA screening, the applicant concludes there is no likely significant effect on any European site, a 'No Significant Effects Report' should nonetheless be submitted to meet the requirements of Regulation 5(2)(g) of the APFP Regulations 2009 (any European sites potentially affected by the proposed development must be identified).

The NSER must be clear, be supported by sufficient information, and provide reasons why the applicant has reached the view that there are no significant effects and an appropriate assessment will not be required.

► *The applicant should also provide confirmation from the SNCBs and other bodies, as relevant, that this conclusion is supported.*





There is no prescribed format for the NSER or for the reporting of the outcomes of the screening stage. Applicants should complete the screening matrices set out in [Appendix 1](#) and append these to their NSER, for each European site included in the assessment. It would be helpful if the NSER was also cross referenced at Box 16 of the application form.

### **Anticipated likely significant effect(s) on European site(s)**

If the applicant has concluded that the proposal is likely to significantly affect any European sites, alone or in combination with other projects, the applicant's HRA needs to move to Stage 2 (Appropriate Assessment) of the HRA process. The report on the outcomes of the screening assessment should clearly show which European site(s) and interest features are being taken forward to Stage 2 and which European site(s) and interest features have been screened out of further assessment.

► *Applicants are advised to consult relevant SNCBs, and should confirm in their applications, where appropriate, that the SNCB supports the conclusions of the screening stage.*

## **HRA Stage 2: Appropriate Assessment**

Where likely significant effects on a European site are identified the applicant needs to consider whether those effects will adversely affect the integrity of the site in view of its conservation objectives<sup>16</sup>. The Integrity Matrices should be completed in order to summarise this part of the assessment (see [Appendix 2](#)).

In addition to the issues for an applicant to consider, as set out under 'Stage 1: Screening' above, the submitted applicant's HRA report should include:

- evidence about the project's impacts on the integrity of protected sites
- a description of any mitigation measures proposed which avoid or reduce each impact, and any residual effect
- a schedule indicating the timing of mitigation measures in relation to the progress of the development
- cross references to the relevant DCO requirements and development consent obligations that secure these mitigation measures, and identification of any factors that might affect the certainty of their implementation
- a statement as to whether any residual effects constitute an adverse impact on the integrity of European sites
- evidence to demonstrate that the applicant has fully consulted and had regard to comments received by the relevant SNCBs during pre-application consultation.

### **Negative appropriate assessment**

Unless the applicant's appropriate assessment concludes, beyond reasonable scientific doubt (see footnotes 8 and 14), that the project will not adversely affect the integrity of any European site, the applicant's assessment will need to move to Stage 3 and 4 of the HRA process.

The matrices at Appendices 1 and 2 do not cover Stages 3 and 4. They deliberately deal with only the screening and integrity elements of the HRA process.



### Stage 3: Assessment of alternatives

The applicant's assessment should identify and assess alternatives that have been considered.

Alternative solutions can include a proposal of a different scale, a different location, and an option of not having the scheme at all – the 'do nothing' approach. The ExA will only examine the case for IROPI and compensatory measures after it is shown that there are no alternatives to the proposal.

### Stage 4: Consideration of IROPI

Where it can be demonstrated that there are no alternative solutions to the proposal that would have a lesser effect or avoid an adverse effect on the integrity of the site(s), the project may still be carried out if the competent authority is satisfied that the scheme must be carried out for imperative reasons of overriding public interest. In cases where there are priority natural habitats or species adversely affected by the development, the IROPI justification must relate to either;

- human health, public safety or beneficial consequences of primary importance to the environment, or
- any other imperative reasons of overriding public interest<sup>17</sup>.

### Compensatory measures

An assessment of compensatory measures must also be included with the applicant's HRA report in the event of a negative applicant's appropriate assessment. Consultation must have been undertaken with the relevant SNCBs and with landowners, and applicants are strongly encouraged to undertake this consultation as early as possible within the pre-application stage.

- ▶ *Statement(s) of common ground - The applicant is strongly urged to seek to agree statements of common ground (SoCG) with relevant organisations, in particular the SNCBs, and submit these with the application. The SoCGs should clearly identify the extent to which relevant matters are agreed, and areas where disputes remain. This will assist the ExA in focusing on the principal issues in the examination, and reduce the potential areas of contention.*

## Acceptance of the application (28 days)

### Submitting the DCO application

When an application containing the applicant's HRA report is submitted the Planning Inspectorate will review it against their acceptance checklist (see advice note 6) in order to decide whether the applicant has

complied with procedural requirements to submit 'sufficient' information to enable appropriate assessment to be carried out if necessary<sup>18</sup>. The Planning Inspectorate is not able to request further information to supplement or clarify matters within the application at the acceptance stage.





### **Pre-examination (approximately three months)**

Pre-examination provides the opportunity to carry out a more detailed assessment of the applicant's findings as provided in their HRA report and to determine whether additional information is needed.

A preliminary meeting will be held to hear views about how the application is to be examined. Anyone who has made a relevant representation<sup>19</sup> will be invited to make representations to the ExA about the examination procedure prior to the preliminary meeting. They will also be invited to attend the preliminary meeting, as will SNCBs and other statutory consultees.

Any persons attending the preliminary meeting are recommended to make any representations about how HRA issues should be examined to the ExA through relevant representations or at the preliminary meeting, so that the ExA can decide how to structure the examination and consider whether any further written information may be required during the examination.

The ExA will use the information provided in the screening and integrity matrices submitted with the application to inform their initial assessment of the principal issues, i.e. whether there are significant effects leading to an adverse effect on the integrity of European sites, and if so what these may be. The initial assessment will take place before the preliminary meeting and will help to inform the structure of the examination.

The procedural decision (which will be made by the ExA at or after the preliminary meeting) will set out the ExA's initial questions and a timetable for receipt of any further written information, including any information required to supplement the applicant's HRA. If the relevant matrices

have not already been provided, they will be requested from the applicant by the ExA at this stage.

### **Examination (up to 6 months)**

The examination provides an opportunity to formally consult the SNCBs in order to inform the SoS's appropriate assessment. The ExA will set the timeframe for seeking further representations from them if required in the procedural decision, and have regard to their representations in making a recommendation to the SoS on the DCO application<sup>20</sup>. The timetabling and conduct of the examination is under the control of the Examining Authority<sup>21</sup>. The procedure ExAs normally expect to follow is set out in this section of the advice note.

The ExA will seek opinions specifically on matters relating to the competent authority's duty under the Habitats Regulations as part of the examination, if considered appropriate. The way in which views will be collected as part of the examination will be set out in the ExA's procedural decision and may take the form of requesting written representations or holding a hearing, if considered necessary. The ExA may, where necessary, ask the SoS<sup>22</sup> to appoint an assessor to provide technical expertise in assessing the evidence.

#### **Requiring further information**

At any time during the examination the ExA may require the applicant to provide further information. The information may relate to additional environmental information, or further clarification about the proposal, including:

- new information from surveys that have been, or need to be, carried out, or
- interpretation or analysis of existing data.

If information which the ExA considers is reasonably required in order for the



competent authority to carry out the appropriate assessment cannot be produced and consulted on within the examination period, the ExA will have to consider either recommending that the SoS may need to consider refusing consent or consider seeking an extension to the timetable.

If the further information sought is also information which the ExA thinks should have been included in the Environment Statement (ES), the ExA must suspend the examination until the information is provided<sup>23</sup>. This emphasises the importance of seeking and reaching agreement at the pre-application stage between all parties that sufficient information has been provided in the application documents.

It is strongly recommended that SoCGs are agreed at the earliest possible stage.

### **Hearings**

Unless the ExA considers that a hearing is considered necessary to allow oral representations about HRA issues, the examination of HRA matters will normally take the form of consideration of written evidence. For further information about the examination process, see advice note 8.5 – Participating in the Examination.

### **Updating of HRA Matrices**

The Planning Inspectorate, on behalf of the ExA, will revise the initial matrices provided with the application documents using the evidence gathered throughout examination. This evidence will include SoCGs, written representations, responses to ExA questions, examination responses and hearings (where held). There will be a clear audit trail to explain the basis for any revisions, and to identify where agreement has been reached between parties as part of the examination process. All of the evidence incorporated into

the revised matrices will be publicly available.

The revised matrices and evidence gathered throughout the examination will be presented as a 'Report on the Implications for European Sites' (RIES). Comments on the RIES will be invited as part of questions issued under Rule 17<sup>24</sup> to the SNCBs and interested parties towards the close of the examination period. A minimum of 21 days will be allowed within the examination timetable to enable parties to review the RIES and to respond to this consultation. The ExA will inform all parties about the timetable for consultation at the earliest practicable opportunity.

### **Recommendation (three months)**

The RIES (as issued during the examination), the responses to questions and all matters relating to HRA issues will form part of the evidence base for the ExA report and recommendation to the SoS.

The ExA's report will address the likely significant effects of the project on European site(s) and, if appropriate, also consider whether the project will have an adverse effect on integrity. The report will have regard to the RIES, and the comments received from the SNCBs and interested parties. Where necessary, the report will assess evidence from the examination relating to the case for no alternatives, IROPI and compensation.

### **Competent Authority's Decision (three months)**

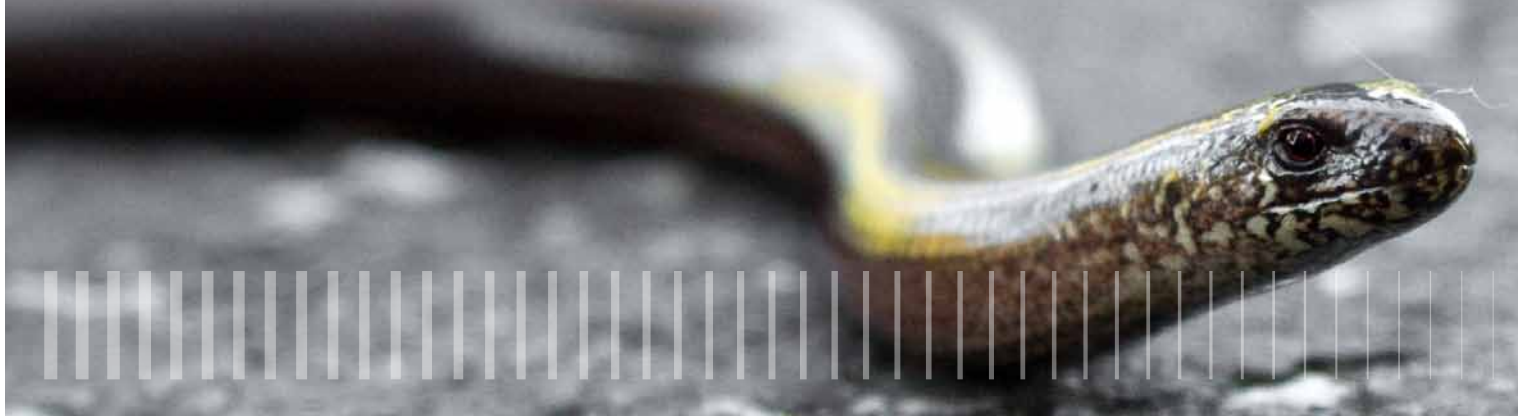
The competent authority will consider all the examination evidence prior to making a determination on the DCO application.

Table 1 on page 11, summarises the interface between the application process and the HRA process (as shown in Figure 1).

**Table 1: Summary of the relationship between DCO applications and the HRA process**

<b>Planning Act stages</b>	<b>HRA stages</b>	<b>Activity</b>	<b>Responsible parties</b>
<b>Pre-application</b> (no prescribed timeframe)	<b>Stage 1:</b> Screening	Applicant submits draft HRA report and Planning Inspectorate responds if possible.  Applicant concludes on likely significant effect(s) of project on European site(s), and consults with statutory consultees.	Planning Inspectorate
	Provision of information to support <b>Stages 2-4</b>	Applicant to prepare NSER or sufficient information to enable an AA to be carried out, for submission with DCO application.  Applicant to prepare and consult on Screening Matrices and, if applicable, Integrity Matrices.  If negative AA anticipated, applicant to prepare 'no alternatives' assessment, statement of IROPI, and details of compensatory measures in consultation with nature conservation bodies and landowners.  Preparation of Statements of Common Ground.	Applicant  Consultees including SNCBs
<b>Application/Acceptance</b> (28 days)		The SoS determines whether sufficient information has been provided by the applicant and whether or not the application meets the standards required to be formally accepted for examination.	Planning Inspectorate on behalf of the SoS
<b>Pre-examination</b> (approximately three months)	<b>Stage 1 and 2:</b> Consideration of screening information and need for appropriate assessment	Initial assessment by ExA of the principal issues from the application information, including matrices.  Applicant advertises accepted application and invites interested parties, SNCBs, and others to submit representations by a set deadline.	Examining Authority  Applicant  Consultees including SNCBs
<b>Examination</b> (up to 6 months)	<b>Stage 1 and 2:</b> Consideration of evidence for screening and appropriate assessment (if applicable)	Procedural decision sets out how the HRA issues will be examined.  ExA will request relevant matrices if not provided.  ExA examines the likely significant effects, and if adverse effects on the integrity of the European site can/cannot be excluded.  ExA may request further information from any parties including applicant.  The Planning Inspectorate on behalf of the ExA will update the HRA matrices on the basis of information gathered during the examination and will release these within a RIES for consultation as part of questions to the SNCBs and other interested parties.	Examining Authority  Applicant input may be required  Consultees including SNCBs
<b>Stages 3 and 4 only apply in light of a negative appropriate assessment</b>			
<b>Examination</b>	<b>Stage 3:</b> Assessment of alternatives	ExA examines evidence (including submitted 'no alternatives' assessment) to identify if alternative solution(s) exists and would avoid adverse effects on the integrity of the European site(s).	Examining Authority
	<b>Stage 4:</b> IROPI Compensatory measures	ExA examines any case for IROPI that has been put forward.  ExA examines any compensatory measures and the consultations undertaken with the SNCBs to determine if these are appropriate and sufficient.	Examining Authority  Consultees including SNCBs
<b>Recommendation</b> (three months)	All	The ExA makes a report and recommendation to the SoS.	Examining Authority
<b>Decision</b> (three months)	All	The SoS will undertake any necessary appropriate assessment, consideration of alternatives, compensation measures and IROPI and come to a decision.	Secretary of State





## Relationship with environmental impact assessment (EIA)

The majority of proposals will require a HRA and an Environmental Impact Assessment (EIA). Although the HRA and EIA are separate and distinct elements of the DCO application both are integral to the decision making process. The EIA will assess impacts on European sites and will include an assessment of effects on flora and fauna (as defined in the EIA Regulations 2009<sup>25</sup>). This is information which is likely to support the applicant's HRA assessment.

However, the EIA and HRA apply differently to decision-making:

- the Environmental Statement (ES) informs the decision (its findings must be 'taken into consideration'<sup>26</sup>), whereas;
- the DCO can only be made if the decision maker has followed the stages prescribed by the 2010 Habitats Regulations (as amended) (see Figure 1).

Work associated with the preparation of the environmental statement, including any formal scoping request and formal consultation<sup>27</sup>, is also likely to help inform the HRA screening assessment and could assist applicants to identify much of the baseline data needed to satisfy the HRA requirements. Careful consideration should be given to ensure information is obtained in a timely manner so that it does not adversely affect the pre-application programme.

## Co-ordinating parallel consents and other appropriate assessments

NSIPs, by virtue of their scale and complexity, are likely to require separate licences or permits under other regulatory regimes<sup>28</sup>. Activities requiring consent not included or capable of being included in an application for development consent under the 2008 Act, may

also have a significant effect on a European site and may also require appropriate assessment by a different decision maker (competent authority) under other regulatory regimes before it can be authorised.

Applicants are encouraged to consult other competent authorities about the level of information those competent authorities will require in order to undertake their appropriate assessment, if required. Applicants should confirm with those competent authorities whether they are likely to wish to adopt the reasoning or conclusions of the appropriate assessment carried out by the competent authority under the 2008 Act.

The applicant's HRA report should make clear that any likely significant effects of the proposed development, which may be regulated by other competent authorities, have been properly taken into account in the applicant's HRA for the DCO application<sup>29</sup>.

If the applicant decides or needs to apply for consents under other regulatory regimes which themselves require an appropriate assessment, consideration should be given to the likelihood of the other licence consent being authorised. The applicant should also consider the timing of the relevant competent authority's decision, and the impact this may have on the examination of the DCO application and the preparation of its appropriate assessment. It is recommended that applicants submit with the application, if possible, relevant comments/views of other competent authorities obtained during pre-application consultation.

Applicants may also wish to consider the help offered on large infrastructure projects by the Major Infrastructure and Environment Unit (MIEU) which has been set up to assist applicants whilst complying with the Habitats Directive (MIEU@defra.gsi.gov.uk).

## Terms and abbreviations used in this advice note

AA	Appropriate assessment
Applicant	The party applying for development consent. Responsible for carrying out the necessary preparatory work in support of the application to enable the competent authority to carry out its duties.  It is likely to be in the applicant's best interests to undertake both formal and informal consultation with the SNCBs at an early stage of the pre-application process.
APFP	The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Birds Directive	Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.
Competent Authority	In the case of NSIPs the competent authority, the decision-maker, is the relevant SoS.
cSAC	candidate Special Area of Conservation
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
European site/ European marine site	Natura 2000 sites (SACs, cSACs SPAs) and;  In England: <ul style="list-style-type: none"> <li>• pSPAs and possible Special Areas of Conservation; and</li> <li>• listed or proposed Ramsar sites; and</li> <li>• sites identified, or required, as compensatory measures for adverse effects on Natura 2000 sites, pSPAs, possible SACs, and listed or proposed Ramsar sites.</li> </ul> In Wales: <ul style="list-style-type: none"> <li>• pSPAs, and</li> <li>• listed Ramsar sites.</li> </ul>
ExA	Examining Authority  Information provided within the development consent application and gathered during examination will enable the ExA to make a report for the SoS to consider when undertaking their appropriate assessment. The ExA will ensure sufficient information is provided to enable the SoS to meet their statutory duties as the competent authority under the 2010 Habitats Regulations (as amended).
Habitats Directive	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.
Habitats Regulations	Conservation of Habitats and Species Regulations 2010 (as amended)
HRA	Habitats Regulations Assessment
Integrity Matrices	Method for summarising the HRA appropriate assessment stage within the application information. A matrix should be produced for each European site considered within the AA.
NPPF	National Planning Policy Framework



## Terms and abbreviations used in this advice note (continued)

NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
pSPA	potential Special Protection Area
RIES	Report on the Implications for European Sites
SAC	Special Area for Conservation
Screening Matrices	Method for summarising the HRA screening stage within the application information. A matrix should be produced for each European site considered at the screening stage.
SNCB	Statutory Nature Conservation Body  Formal input of the SNCBs (or prescribed consultees) during pre-application will be in response to consultation under section 42 of the Planning Act (2008, as amended) and the EIA scoping opinion process (if requested <sup>30</sup> ). It is recommended that consultation between the applicant and the nature conservation bodies about HRA issues is undertaken as early as possible and throughout pre-application. Applicants should discuss and agree working arrangements with the relevant SNCB(s), i.e. Natural England (schemes solely within England), Countryside Council for Wales (schemes solely within Wales), and the Joint Nature Conservation Committee (JNCC) (schemes beyond 12 nautical miles).
SoCC	Statement of Community Consultation  The applicant may wish to take the SNCBs' and local planning authorities' advice about how to incorporate HRA consultation into the published SoCC <sup>31</sup> .
SoCG	Statement of Common Ground  Applicants may wish to make use of a SoCG to identify matters which have been agreed with the nature conservation bodies and to flag areas which remain in dispute. The Screening and Integrity Matrices can also be used for this purpose. If the application is accepted the matrices will help the ExA to assess the issues and to decide how to carry out the examination.
SoS	Secretary of State  The role of the SoS as competent authority (under Provision 61(1) of the Habitat Regulations) is to determine if there are likely significant effects and carry out the appropriate assessment, if required, before a decision is made. The SoS is also required to consult with the relevant SNCBs (and the public, if considered appropriate) before deciding to authorise the DCO, and where adverse effects remain they must undertake further assessments on alternatives and prepare a justification statement for IROPI.
SPA	Special Protection Area
TAN	Technical Advice Note





## List of references

- 1 For all the sites included under this term, refer to the table of terms and abbreviations at the end of this advice note.
- 2 Regulation 5 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 3 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.
- 4 Habitats Regulations 2010 (as amended). The Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 as amended (Offshore Marine Regulations) will apply beyond UK territorial waters (12 nautical miles). These regulations are relevant when an application is submitted for an energy project in a renewable energy zone (except any part in relation to which the Scottish Ministers have functions).
- 5 National Policy Statements, National Planning Policy Framework (England), Planning Policy Wales and Technical Advice Note 5 (TAN 5): Nature Conservation and Planning (2009).
- 6 ODPM Circular 06/2005.
- 7 European Commission (2001), Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC; European Commission (2000) Managing Natura 2000 Sites: the Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC; Guidance Document on Article 6(4) of the Habitats Directive 92/43/EEC.
- 8 Decision of the ECJ in Waddenzee (C-127/02) – In the light of the precautionary principle, a risk of significant effects exists if it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the conservation objectives of the site concerned; in case of doubt as to the absence of significant effects an appropriate assessment must be carried out. All aspects of the plan or project which can, either individually or in combination with other plans or projects, affect those objectives must be identified in the light of the best scientific knowledge in the field.
- 9 If the site hosts a priority natural habitat type or a priority species, further conditions apply in relation to the reasons as explained in this advice note.
- 10 Regulation 8 of the Habitats Regulations.
- 11 In England, the NPPF paragraph 118. In Wales, TAN5 paragraphs 5.2.2 and 5.2.3.
- 12 Regulation 61 of the Habitats Regulations and Regulation 25 of the Offshore Marine Regulations.
- 13 Regulation 61(2) of the Habitats Regulations, Regulation 25(2) of the Offshore Marine Regulations, and the IP (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP) paragraph 5(2)(g).
- 14 Decision of the ECJ in Waddenzee (C-127/02), see reference 8 for details.
- 15 61(6) of the Habitats Regulations and 25(6) of the Offshore Marine Regulations.
- 16 61(5) of the Habitats Regulations and 25(4) of the Offshore Marine Regulations.
- 17 In limited circumstances within Regulation 62(2) of the Habitats Regulations.
- 18 Section 55 of the Planning Act 2008 (as amended) and Regulation 5(2)(g) of the APFP Regulations.
- 19 As defined in section 102 (4) of the Planning Act 2008.
- 20 The Habitats Regulations, 61 (3).
- 21 The Infrastructure Planning (Examination Procedure) Regulations 2010.
- 22 Under Section 100(2) of the Planning Act 2008 (as amended).
- 23 Regulation 17(1)(c) of the Infrastructure Planning (EIA) Regulations 2009.
- 24 Of the Infrastructure Planning (Examination Procedure) Regulations 2010.
- 25 Infrastructure Planning (EIA) Regulations 2009, Schedule 4 Part 1 paragraph 19.
- 26 Regulation 3(2) of the Infrastructure Planning (EIA) Regulations 2009.
- 27 Infrastructure Planning (EIA) Regulations 2009, paragraph 8(6).
- 28 Refer to Guidance: Defra (2012) Guidance on competent authority coordination under the Habitats Regulations
- 29 The Habitats Regulations 65(2).
- 30 Regulation 8(6) of the Infrastructure Planning (EIA) Regulations 2009.
- 31 Required to be prepared by the applicant by s47 of the 2008 Act.



### Further information

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