

Managing risks of development near European Sites – a quick and dirty guide to Habitats Regulations Assessment (HRA) requirements

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This presentation will answer the following questions:

- WHAT is HRA?
- WHEN is HRA required?
- WHO needs to be involved in preparing HRAs?
- WHAT is involved in a screening exercise?
- HOW can likely impacts be assessed?
- WHAT is meant by 'alone or in combination'?
- HOW can mitigation required by HRA be secured?
- WHAT is meant by appropriate assessment?

A large flock of birds, possibly swifts or swallows, is shown in flight against a clear, light blue sky. The birds are scattered throughout the frame, with some in the foreground and others further away, creating a sense of depth and movement. The overall scene is bright and airy.

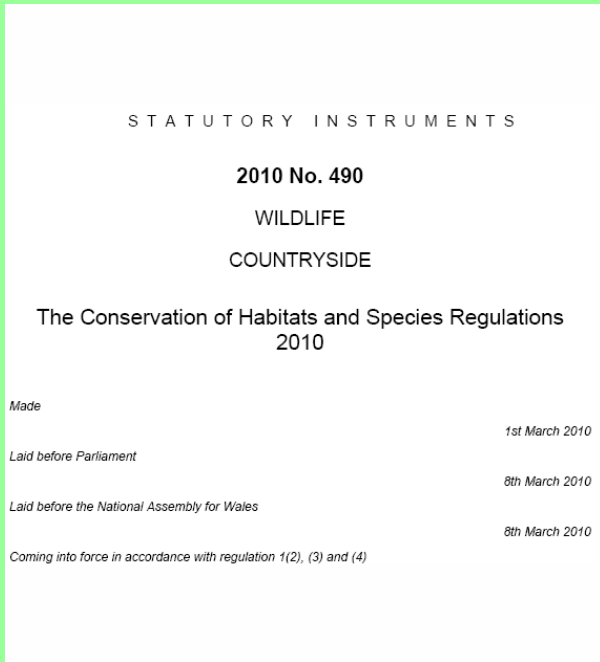
WHY is HRA needed?

- **Habitats Regulations 2010**
- **Risk of Likely Significant Effect on European Sites**
- **NERC biodiversity duty**
- **Decisions based on sufficient biodiversity information**

The legislation

- 2009 – EU Wild Birds Directive (2009/147/EC) (updated 1979 ‘Birds Directive’) (SPAs)
- 1992 – European Habitats Directive (92/43/EEC) (SACs & EPS)
- 2010 - ***The Conservation of Habitats and Species Regulations 2010*** (amended in 2012) transposes EU Directives into domestic legislation
- 1971 Ramsar Convention (international treaty) – treated as European Sites

European Sites in Suffolk



**SPAs : Forest – Woodlark & Nightjar
Heathland & arable – Stone
Curlew**

**Estuaries - wintering wildfowl
and waders**

Marine – Red-throated Diver

**SACs: Sensitive habitats e.g.
wetlands, heathland, shingle**

Ramsars: Wetlands

WHAT is HRA?

- a clear step-wise assessment and decision-making process before deciding whether to permit plans or projects which may affect sites
- it establishes the scale and nature of possible impacts in a precautionary and evidence-based manner. Consent can only be granted when it can be ascertained that there will not be an adverse effect.

WHEN is HRA required?

- When a plan or project is likely to have an effect on an internationally designated site and is not necessary for the management of the site
- Zone of Influence depends on scale and nature of plan or project
- Some professional judgement may be required as to what sites should be included in the basic screening exercise

WHO needs to be involved in preparing HRAs?

- Applicant provides 'information to inform' HRA
- Competent authority carries out HRA, i.e. the permission-giver, such as local planning authority
- Must consult Natural England and may consult general public if appropriate

WHAT is involved in an HRA screening exercise ?

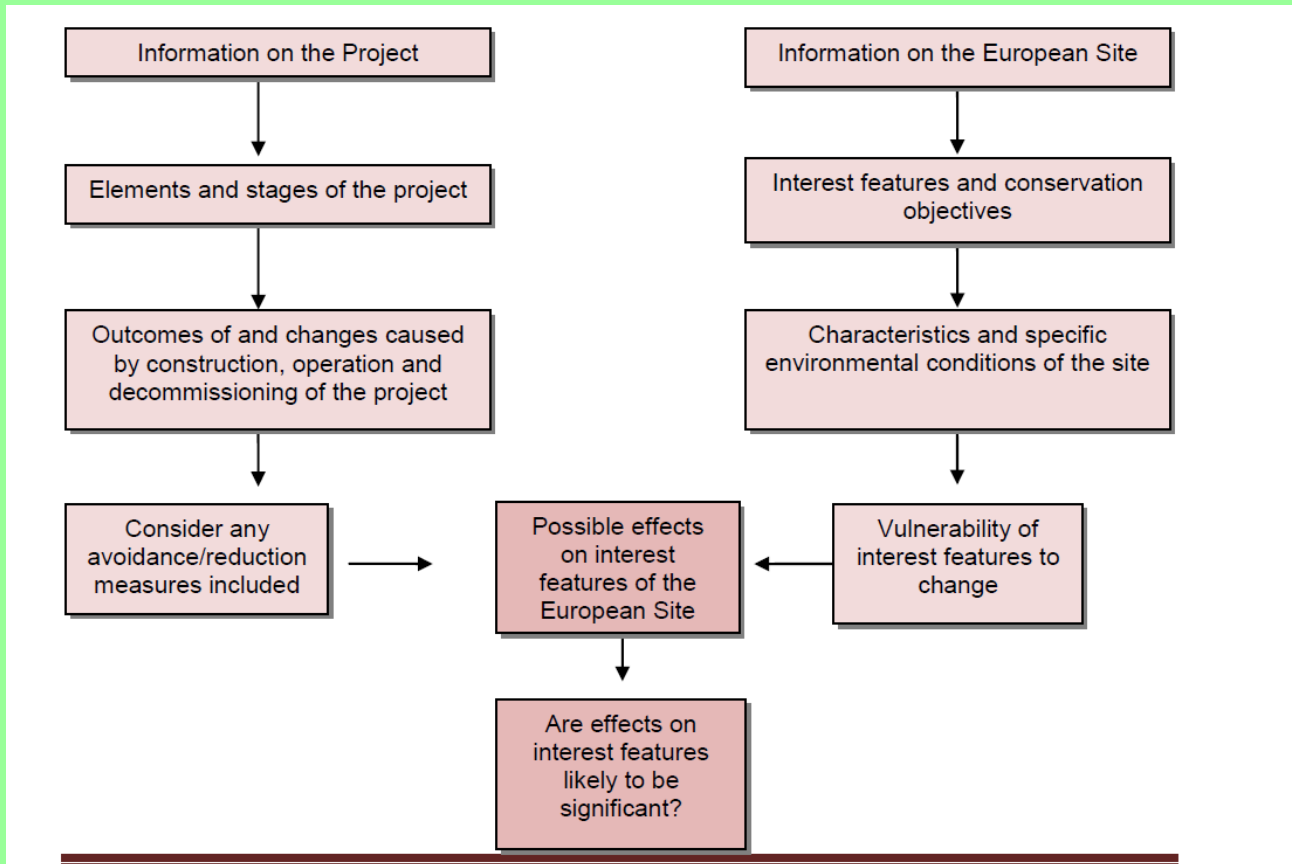
- **Screen for impacts on designation features eg wintering waders**
- **Identify mitigation measures needed to avoid Likely Significant Effect**



HOW are impacts assessed?

- Identification of notified features and conservation objectives for the site
- Consideration of possible environmental 'pathways' between the proposal and the feature(s)
- Quick evaluation of scale and nature of any impacts and their 'likely significant effect' using ecological knowledge, expert judgement etc.
- Mitigation can be identified, if required, and the impact re-assessed
- Alone or in combination with other plans or projects

Checking for the likelihood of significant effects



WHAT is meant by 'in combination'?

An in-combination assessment is required where the project may have an effect on a European site, but on its own, the effects are not likely to be significant.

The potential effects of the project should be considered in-combination with other plans or projects that similarly may have an effect, but where on their own those effects are not likely to be significant.

The combined effects may become significant.

What is meant by appropriate assessment?

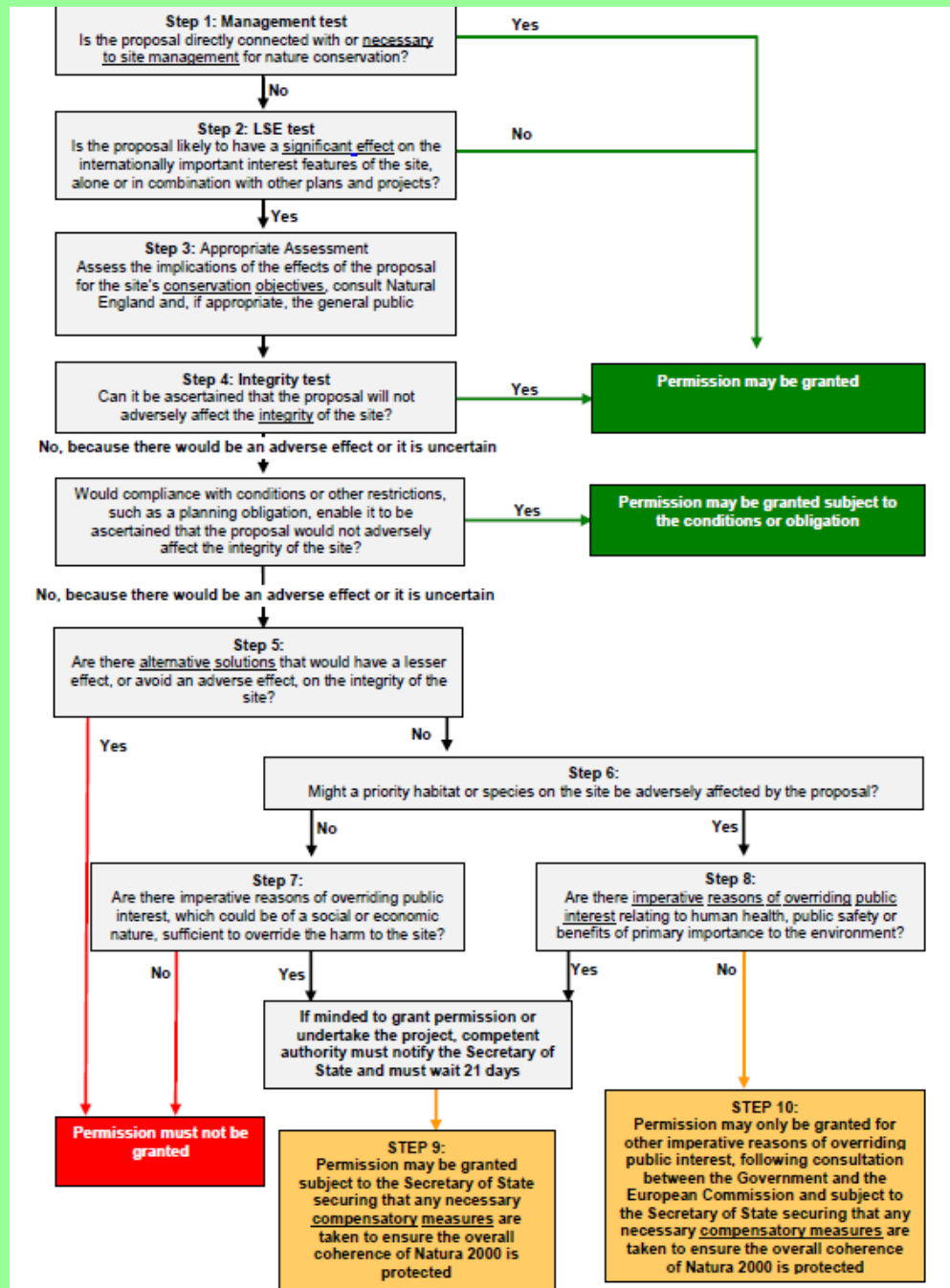
AA should assess the adverse impacts on the features of the European site, taking account of the site's conservation objectives, and be based on the potential impacts determined at the likely significant effect stage.

Scope and nature of AAs will vary considerably from case to case.

WHAT is the difference between mitigation and compensatory measures?

- Mitigation measures are reduction measures which aim to reduce, avoid or otherwise offset any potential adverse effects of new projects on European sites.
- Compensatory measures are considered where there is a net residual adverse effect after Appropriate Assessment (AA) and the integrity test and the competent authority is minded to consent the project and there are no alternative solutions.
- Compensatory measures are intended to ensure that the ecological coherence of the Natura 2000 network is maintained if a European Site is adversely affected.

Ten Steps to HRA



HOW can mitigation required by HRA be secured?

- **Details of development-specific mitigation must be provided by applicant**
- **Strategic Mitigation Scheme developed for in-combination impacts on Suffolk estuaries which is CIL compliant**
- **s106 contributions required for delivery**
- **Conditions (if on-site)**



KEY POINTS FROM PRESENTATION

- Good practice, identify specific, concrete measures for restoration
- Importance of the possibility of flow to the job involving all professionally parties
- Identify further conditions to present what needs to be done and plan for to meet fully restore where flow is present
- Planning and assessment steps should be necessary to ensure any work to be immediately important habitat and create and also be planning solutions.

Defra workshop for LPAs on Habitats Regulations Assessment July 2013

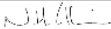
HRA screening reports for planning applications

Pin Mill foreshore, Chelmondiston – retention of jetty HRA screening report Jan 2015

**Habitats Regulations Assessment
screening report
for
Pin Mill foreshore, Chelmondiston
- extension to jetty
(Ref: B/14/01403)**

Prepared by Natural Environment Ecology team
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For Babergh District Council

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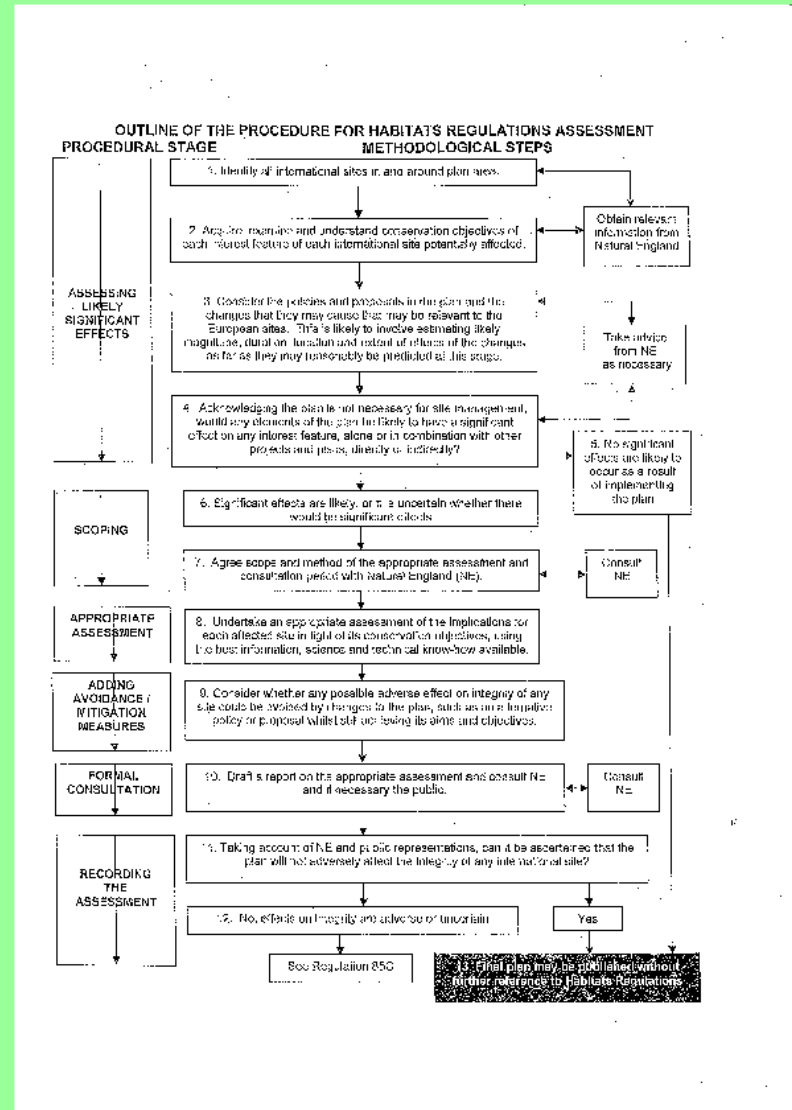
- LPAs need to assess the likely impacts of development on European Sites
- LPA will need information from applicant to prepare HRA
- LPA needs to formally consult Natural England on HRA as well as on the planning application

HOW are likely impacts assessed?

- **Use template approved by Natural England**
- **Assess Alone and In-combination impacts**
- **Liaise with applicant to embed mitigation measures in application**
- **Consult Natural England formally**
- **Advice provided by Natural England**

Need for ecological expertise

- Understanding of Likely Significant Effects
- Good working relationship with local Natural England & RSPB staff
- Identify need for any further surveys eg visitor disturbance
- Assess survey information for impacts on European Sites and consider if there will be a Likely Significant Effect (LSE)



If sufficient mitigation for likely impacts does not accompany applications.....



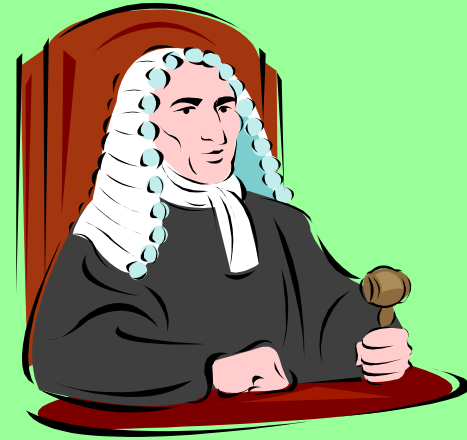
**...the magic gets much harder to do
because the clock is ticking!**

**Additional mitigation to avoid LSE cannot be imposed to
make development acceptable.**

If this process is not followed, there is a risk of legal challenge for non-compliance with Habitat Regulations.

Late Discoveries

- Best avoided as this leads to delays at best and Judicial Review at worst!
- Seek advice from ecologists to find a way forward
- Check all mitigation on offer in an application can be delivered before determination – Who owns the land? Who needs to deliver the various measures ? When does it need to be provided? How will it be secured ?
- Natural England needs LPA to avoid LSE & secure mitigation via CIL or s106



Outcomes

- Know which European Sites may be affected by development
- Understand requirements of Core Strategy policy
- Know the triggers for developments requiring HRA
- Know why it is needed, What is required, How impacts can be assessed & How mitigation can be secured.
- Need for ecological expertise to secure Habs Regs compliance and mitigation & avoid JR !

Any questions ?

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