

# Habitats regulations assessments

## This guidance applies to England

### Guidance for competent authorities and applicants about how to carry out a Habitats Regulations Assessment.

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This guidance applies to habitats sites in England, on land and in inshore waters (meaning up to 12 nautical miles off the coast).

Guidance for competent authorities and applicants in Wales about how to carry out an habitats regulations assessment (HRA) can be found on Gov.Wales - [Habitats regulations assessments: protecting a European site.](#)

Habitats sites are protected (designated) for their features. These sites have individual or multiple habitats, species or a combination of these which are internationally important, and that must be protected. In this guidance, habitats sites mean those defined as European sites in the Conservation of Habitats and Species Regulations 2017, as amended (known as the Habitats Regulations) and other sites that are protected by the HRA as a matter of policy.

The following sites are protected by the Habitats Regulations:

- [Special Areas of Conservation \(SACs\)](#)
- [Special Protection Areas \(SPAs\)](#)

- Ramsar sites – wetlands of international importance (both listed and proposed)

Any plan or project that could significantly affect them will require the HRA process to be followed.

Plans and projects affecting the following sites would also require an HRA because these are protected by government policy:

- proposed SACs
- potential SPAs
- areas identified or secured as compensation for effects on habitats sites

The geographic extent of all habitats sites in England, except for areas identified or secured as compensation, can be found online on the MAGIC interactive map. Local Planning Authorities (LPAs) and relevant SNCBs should hold records about compensatory measures.

The Sites of Special Scientific Interest (SSSIs) impact risk zones data on MAGIC and the Natural England Open Data Geoportal can help understand whether a plan or project could affect a habitat site on land. Not all SSSIs overlap with habitats sites, and they may be designated for different reasons.

Information about habitats sites' protected features can be found on Natural England's designated sites database.

This guidance helps competent authorities and applicants meet the requirements of the Habitats Regulations and protect habitats sites.

## **The role of competent authorities**

Competent authorities are responsible for deciding whether or not to allow a plan or project

that affects a habitats site to go ahead.

Competent authorities should consider this guidance when carrying out their legal obligations for habitats regulations assessments.

Competent authorities include:

- public bodies, such as the local authority, the Environment Agency, and Inshore Fisheries and Conservation Authorities
- the statutory nature conservation bodies (SNCBs) – such as Natural England
- statutory undertakers, such as a water company, port authority, or energy provider
- ministers or departments of government
- anyone holding public office

This also includes anyone formally acting on behalf of these authorities.

This guidance also applies if the competent authority is intending to carry out a plan or project themselves.

They can also read the [Ministry of Housing, Communities and Local Government's Planning Practice Guidance](#), which gives additional detail for LPAs carrying out Stage 2: Appropriate Assessments as part of the HRA process.

## **How applicants should use this guidance**

Applicants include anybody proposing a plan or project. This could be:

- developers, for example property developers
- property owners, including farmers, landowners or businesses
- consultants acting on behalf of developers or property owners
- public bodies making plans
- statutory undertakers carrying out projects or making plans

Applicants should consider this guidance to help them work with competent authorities and make the HRA process efficient and effective.

This guidance applies no matter how big or small the plan or project is. Not all plans or projects will need to progress through all stages of the process in this guidance. This will depend on the specific circumstances of each plan or project and its potential impact. Applicants should, however, read all the guidance to be sure they're considering the parts that are relevant and appropriate for their plan or project.

### **Further guidance on HRAs**

Applicants of Nationally Significant Infrastructure Projects (NSIPs) can also read [Planning Inspectorate's Advice on Habitats Regulations Assessments](#) which gives additional detail specific to these projects.

## When to use the HRA process

A plan or project may need an HRA if it:

- is in the boundary of a habitats site
- is close to the boundary of a habitats site
- affects a habitats site further away - for example air, water or noise pollution and recreational disturbance can affect habitats sites which are some distance away from the plan or project itself
- affects land which is 'linked' to a habitats site because it provides an important role in supporting the species which are a feature of the site – this is known as functionally linked land

Applicants should consider as early as possible in the development of their plan or project:

- whether an HRA might be required
- whether their plan or project could be designed or altered to avoid or minimise an effect on a habitats site – for example choosing a location outside published impact-risk zones can help avoid effects on a habitats site and reduce the need for further assessment
- the information they will need to provide to the competent authority - for example, they may need to provide data from ecological surveys, which may only be possible at certain times of the year

## Identifying a plan or project

If a proposal, activity, or changes to a proposal or activity, could have a significant effect on a habitats site it should be regarded as a plan or project for the purposes of the Habitats Regulations. Competent authorities should give the terms 'plan' and 'project' a broad meaning to cover a wide range of activities and proposals.

A plan sets out where and what future activities should take place in an area. A plan usually leads to physical changes or activities that affect the environment. Plans could be, or could include those relevant to:

- local areas and developments

- neighbourhoods
- national policy statements
- marine areas
- flood and coastal erosion risk management
- river basin management
- forestry plans

A project is the activity itself. A project usually involves physical work or activities that affect the environment. This could be an activity that needs permission from a competent authority before it is carried out (for example, planning permission for a housing development), or it could be an activity that a competent authority is intending to carry out itself. Projects could include:

- building or installing transport schemes, housing, retail and industrial developments, wind farms, ports and marinas, tidal energy schemes, flood and coastal defence schemes and extraction of minerals or water
- an activity that requires licensing, permitting or other regulation - for example, activities that require planning permission, licences, consents or permits issued under byelaws and other legislation, and activities under permitted development rights
- statutory bodies carrying out their activities, like maintaining highways and flood defences, repairing underground cables or keeping powerlines clear

If the competent authority is satisfied that a proposal or activity is not a plan or a project, they do not need to carry out an HRA.

## Identifying other regulatory requirements

The HRA process is part of a framework of protections given to habitats and species by the Habitats Regulations. This includes an ongoing general duty to help protect, conserve and restore European (Habitats) sites. Competent authorities must take this into account.

There are other related regulatory assessments that are not specific to habitats sites. These include:

- strategic environmental assessments (SEAs)
- environmental impact assessments (EIAs)
- marine conservation zone (MCZ) assessments

- management of requirements under The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

## **Coordinating other environmental assessments**

Competent authorities should work with applicants early to determine whether multiple environmental assessments are needed and avoid duplication.

For example, evidence gathered for an EIA, such as a new habitat survey for a SAC, can also inform the HRA, provided the legal requirements for both are met.

## **Work with other competent authorities**

There may be several competent authorities involved in the same plan or project. This means that more than one competent authority may need to give consent, permission or authorisation to a plan or project, for example:

- when a plan or project sits across LPA boundaries
- where a project requires different types of permission - such as a new factory that needs both planning permission and an environmental permit

Wherever possible, where a plan or project overlaps with other competent authorities' areas of responsibility, competent authorities must take a coordinated approach to their HRA responsibilities.

Competent authorities should agree a lead competent authority, based on who has the:

- best technical expertise - when a technical issue is the most important factor in assessing the effects of the plan or project
- main interest in cross-boundary cases
- capacity to manage the project, where there are many complex and cross-boundary issues

The lead competent authority should:

- act as the single point of contact for the HRA
- make sure all other competent authorities understand their roles and responsibilities

- set up a memorandum of understanding between all parties - for complex cases
- coordinate between other competent authorities
- coordinate between the applicant and the competent authorities
- delegate responsibility for various elements of the HRA to the competent authority which is best suited to them (this may be more than one other competent authority)
- plan capacity to make sure there are no delays
- agreeing a decision timetable
- make sure all SNCBs are consulted and nominate a lead body where there are split responsibilities
- share existing evidence and identify evidence gaps
- scope any in-combination assessment that may be necessary in consultation with other competent authorities
- coordinate consultations and any recommendations

Competent authorities are not required to assess any implications of a plan or project that it would be more appropriate for another competent authority to assess.

The lead competent authority should make sure the assessment considers all likely significant effects of a plan or project, including in-combination effects, even if some are assessed by different authorities.

Applicants and competent authorities of coastal developments in England can also read advice on [coastal concordats](#). This provides a framework for coordination between applicants and different regulatory bodies.

## Getting advice

Applicants should contact the relevant competent authority as early as possible, as they can advise on likely survey requirements, highlight issues that may need to be addressed in the HRA, and signpost useful information.

Competent authorities are responsible for deciding whether to grant consent for a plan or project that affects a habitats site. The relevant SNCB may provide advice.

At Stage 1: Screening, competent authorities should attempt to gather evidence, including from applicants and progress as far as possible before contacting the relevant SNCB for advice. This will help reduce delays and allow SNCBs to advise effectively. The exception to this is for NSIPs where SNCB advice should be sought as early as possible.

If the plan or project gets to Stage 2: Appropriate Assessment, the competent authority must consult the relevant SNCB and have regard to their advice.

To seek advice on a habitats site in England or English inshore waters, competent authorities should contact [Natural England](#) .

If a habitats site overlaps with other UK countries or offshore waters, the competent authority should also contact:

- [Natural Resources Wales](#) for Wales or Welsh inshore waters
- [NatureScot](#) for Scotland or Scottish inshore waters
- [Department of Agriculture, Environment and Rural Affairs](#) for Northern Ireland or Northern Irish inshore waters
- the [Joint Nature Conservation Committee \(JNCC\)](#) beyond 12 nautical miles off the coast

For complex plans or projects and NSIPs, applicants in England can apply to Natural England's [paid pre-application advice service](#).

If applicants are applying to the Environment Agency for a permit, they can use their free service to get basic advice on whether or not their activity may have an impact on habitats sites. See [Environment Agency advice](#) before applying for an environmental permit.

## Principles to follow in the HRA process

Throughout the HRA process competent authorities should:

- work with applicants constructively to find a way to allow plans and projects, if possible, while still complying with legal obligations
- consider opportunities to work strategically across a number of projects where there are common issues

- consider opportunities to use innovative approaches where these have potential to resolve issues more effectively
- use and understand the conservation objectives, and any relevant supplementary advice, published by the SNCBs for the habitats sites affected, and make an assessment in view of the conservation objectives
- make judgements based on the facts of the individual situation and the ecological condition of the site's features
- consider talking to relevant experts or specialists as early as possible and use the best objective and scientific information available to make informed decisions
- only ask applicants for information that's relevant to the site's conservation objectives and proportionate to what is being assessed and needed to carry out the HRA
- agree ways of working with applicants to encourage timely sharing of information
- consider evidence gaps early in the HRA process – gather further evidence, or if none is available, seek ways to address the implications of this uncertainty in the HRA
- consider as early as possible whether a derogation is likely and, if so, engage with applicants and the relevant SNCB to agree an approach to derogation
- make sure the HRA is complete and has precise conclusions
- keep a detailed written record of the HRA and give clear reasons and evidence for decisions
- decide whether it is necessary to consult the public on the HRA

## **The stages of an HRA**

There are 4 stages to an HRA:

- stage 1: screening
- stage 2: appropriate assessment and the integrity test
- stage 3: alternative solutions
- stage 4: imperative reasons of overriding public interest and compensatory measures

A plan or project may not need to go through all stages of the HRA process.

## Preparing to carry out an HRA

### Applicants should

- Consider as early as possible in the development of their plan or project whether an HRA might be required and whether their plan or project could be designed or altered to avoid or minimise an effect on a habitats site.
- Gather information relevant to the HRA as early as possible, including surveys that may be season dependent.

### Competent authorities should

- Re-use existing HRAs or information where possible.
- Only request information that is necessary to make a decision.
- Coordinate early with any other competent authorities, agree who leads and share evidence, where possible.
- Use evidence plans on complex cases.

Competent authorities must carry out an HRA using the information given to them by the applicants as well as any other information necessary for making a decision, for example, the site's conservation objectives. The applicant should provide the information required by the competent authority to make a decision.

The applicant may prepare this information in the form of a draft HRA. An applicant may also employ a suitably qualified person or body to prepare this information on their behalf.

As the decision maker, the competent authority can use this information to inform the HRA. The competent authority should contact the applicant during the HRA process if they:

- need more information
- decide a plan or project does not need to go to the next stage of the HRA process

## Re-using an existing HRA

Before carrying out a new HRA, the competent authority should consider whether an existing HRA already covers the plan or project, and whether a new HRA is necessary. It may be appropriate to re-use an existing HRA for:

- approvals under the same permission – for example, approvals under planning conditions (such as reserved matters) or requirements in a DCO or Deemed Marine Licence
- new or varying consents for the same plan or project – for example, where a new permission is required for the same plan or project (such as an environmental permit after planning permission)

Competent authorities can re-use an existing HRA if:

- it is relevant to the new HRA
- permission of the plan or project would not authorise any new activity that could affect the site
- there is no change to the plan or project, how it will be carried out, or the evidence of potential harm
- the site, its conservation objectives or the condition of its designated features have not changed materially since the previous HRA was conducted
- the previous assessment and its conclusions are rigorous and robust when applied to the new plan or project
- the evidence remains the best available scientific knowledge
- there is no new case law that changes the way an HRA should be carried out or interpreted

For example, a competent authority is considering the renewal of an abstraction licence on the same terms as the previous permission, at a large coastal SAC with multiple features. Since the previous permission was given there has been a significant damage to a feature which cannot be affected by terrestrial freshwater abstraction. Although there has been significant damage to a feature since the previous permission, there would be no possible impact on the feature from terrestrial freshwater abstraction. In this instance the content of the previous HRA might be re-used, with an additional note to indicate that the change to a SAC feature was not relevant.

### **Re-using parts of an existing HRA to complete a new HRA**

If a competent authority needs to complete a new HRA, they should make use of any relevant parts of an existing HRA where possible. This could be an HRA that was previously carried out by themselves or by another competent authority.

For example, a renewal of an abstraction licence is being considered on the same terms as before, but new monitoring data is available that is relevant to understanding how abstraction could affect the site's features. In this case, the previous HRA may still provide useful context, but its conclusions are no longer based on the best available information, so a new HRA would be required.

If the HRA being re-used does not contain all the information and evidence needed for a decision, the competent authority must get the rest of the information and evidence for their new HRA. They can do this by asking the applicant, using other relevant sources, or both.

If a competent authority decides to re-use some of an existing HRA, they are still responsible for making the decisions on the plan or project they are considering.

## **Agreeing evidence plans**

An evidence plan is a voluntary, non-legally binding agreement between the applicant and the relevant SNCB or SNCBs.

Applicants of NSIPs located in England may request and agree an evidence plan.

Similar agreements can be made between any applicant and competent authority before starting the HRA process. For more complex plans or projects, the competent authority should contact the relevant SNCBs to discuss evidence requirements.

An evidence plan, or similar agreement, should:

- provide greater certainty to all parties on the amount and range of information an applicant should collect
- help address and agree issues earlier on in pre-application to aid decision making
- focus the information requirements so they are proportionate

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## **Stage 1: Screening**

**Applicants should**

- Clearly identify any inherent design elements (not HRA-specific mitigation) that avoid or reduce potential effects on a habitats site.
- Provide reasonable information needed to carry out the screening assessment to the competent authority.

**Competent authorities should**

- Only consider real not hypothetical risks.
- Only consider inherent design elements and do not consider HRA-specific mitigation until Stage 2: Appropriate Assessment.
- Screen out plans or projects that have no effect at all (these cannot have an in-combination effect).
- Use appropriate thresholds and criteria to screen out impacts that do not pose a risk.
- Move to Stage 2: Appropriate Assessment if a likely significant effect from the plan or project alone cannot be ruled out with sufficient certainty.
- Only consider plans and projects that could realistically interact when checking in-combination effects.
- Clearly record screening decisions.

Every plan or project that may have a significant effect on a habitats site goes through stage 1. This is known as the 'screening stage'. It is sometimes also called the 'likely significant effects stage'.

Competent authorities use the screening stage to carry out a simple check to determine whether a plan or project:

- is directly connected with or necessary for conservation management of the habitats site
- may have one or more significant effects on the conservation objectives of a habitats site on its own
- may have one or more significant effects on the conservation objectives of a habitats site in combination with other plans or projects

Conservation objectives protect the integrity of the site by setting specifications for maintaining and restoring its habitats, and the populations of its species, and their distribution.

Achieving conservation objectives is how a site contributes to favourable conservation status for its features. Favourable conservation status means

the situation in which a habitat or species is thriving throughout its natural range and is expected to continue to thrive into the future.

## **Checking conservation management plans or projects**

Competent authorities must first check if the whole plan or project is directly connected with or necessary for the conservation management of the habitats or species that the habitats site is protected for.

Conservation management means activities that are necessary to enable a habitats site to meet its conservation objectives.

The competent authority should also check whether the plan or project contains:

- conservation management that could affect an overlapping habitats site, such as where an area is designated as both a SAC and an SPA
- conservation management that could affect a different habitats site, at a different location
- activities that are not conservation management, such as harvesting, commercial operations or recreational events

If the plan or project does contain any of these 3 things, the competent authority should continue with the screening stage.

If it does not, the competent authority can end the screening stage and make a screening decision that the plan or project is exempt and can be screened out.

If the plan or project is not directly connected with or necessary for the conservation management, the competent authority should continue with the screening stage.

## **Checking for likely significant effects on a habitats site**

### **Considering the design of the plan or project**

A plan or project may incorporate measures into its design that avoid or reduce adverse effects to a habitats site. These measures could:

- avoid or reduce the potential for harm to a habitats site but not have been added to the plan or project with the intention of doing this
- be part of the design that are added intentionally to avoid or reduce the potential for harm to a habitats site – these are known as HRA-specific mitigation measures

At the screening stage, the competent authority cannot consider HRA-specific mitigation measures. They can consider elements of the plan or project's design that may reduce or avoid harm to a habitats site, as long as these are constituent or inherent elements of the plan or project, including where a design element is typically incorporated in plans or projects of the same type.

One practical way to consider if a design measure is not an HRA-specific mitigation measure, and could therefore be taken into account in screening, is to ask whether the measure would have been included in the plan or project regardless of the existence of the habitats site. For example, a measure intended to shield residents from construction noise that also protects birds that are a protected feature of the habitats site from disturbance.

HRA-specific mitigation measures are only considered if the plan or project goes to stage 2 of the HRA process. However, the applicant may still discuss HRA-specific mitigation measures with the competent authority at an early stage of the process. This may save time when these measures are assessed at stage 2 of the HRA process.

If it is clear that, without HRA-specific mitigation measures, a plan or project is likely to have a significant effect on a habitats site, the competent authority should move straight to Stage 2: Appropriate assessment.

### **Deciding whether an effect is likely**

In the context of an HRA, an effect is 'likely' if a risk of it occurring cannot be ruled out using objective information.

For an effect to be likely there needs to be more than a hypothetical risk. There must be credible evidence that the risk is real. This means that there does not need to be zero probability of an effect for it to be ruled out.

Deciding if an effect of a plan or project is likely may depend on its location. The competent authority should consider the area where the plan or project would take place, and where the effects of the plan or project would be felt.

The effect could be on:

- the same site, if the plan or project is on a habitats site
- a nearby habitats site
- an area of land, water or sea outside a habitats site, that is necessary for the ecological functioning of the site's protected features - for example migration routes or feeding areas used by individuals within the population of a protected species of the habitats site

Applicants and competent authorities should consider whether a plan or project could also affect a site in another nation in the UK. If it could, they should consult the relevant SNCB in that nation.

### **Deciding whether an effect is significant**

An effect is 'significant' if it could undermine the conservation objectives of a habitats site now or in the future.

Competent authorities must refer to conservation objectives to determine whether an effect may be significant. Depending on the conservation objectives of the site, a significant effect may be an effect on the:

- extent and distribution of habitats, or supporting habitats for species
- structure and function of habitats, or supporting habitats for species
- supporting processes on which habitats or species rely
- populations of species
- distribution of species

If a site is already in an unfavourable state and is not meeting its conservation objectives, a plan or project that would add to this impact and so make the objectives harder to achieve, may have a significant effect.

Where the conservation status of a site is unfavourable, the scope for approving activities which affect the site is necessarily limited, but it is not nil. For example, additional impacts below a certain level may be incapable of causing changes to the conservation status or restricting the restoration of favourable condition.

Where a site in unfavorable condition has a 'restore' conservation objective, plans or projects should not undermine its restoration, but they are not required to provide a contribution to the restoration of the site.

Applicants and competent authorities can find details of the conservation objectives for habitats sites in England on [Natural England's designated sites database](#)

Applicants should give information about possible effects on a site's conservation objectives to competent authorities in their application.

Natural England's designated sites database includes supplementary advice which is relevant to understanding and applying each site's conservation objectives. Applicants and competent authorities should read this supplementary advice for:

- detailed descriptions of each site's protected features, including their attributes, and targets that best describe the site's ecological integrity
- information on what is needed for the site to achieve its conservation objectives

## **Checking for in-combination effects with other plans and projects**

Competent authorities may need to consider whether a plan or project could have a significant effect on a site when combined with effects from other plans and projects. This is known as an in-combination assessment.

### **When it is not necessary to check for in-combination effects**

If a plan or project by itself has a likely significant effect on a habitats site, the competent authority should take that effect forward to stage 2. They do not need to assess whether this effect is significant in combination with other plans or projects, because it is already clear that the effect requires assessment at Stage 2: Appropriate Assessment.

If a plan or project has no effect at all on a habitats site, it cannot have an in-combination effect on that site. The competent authority should end the screening stage and can screen out the plan or project from any further stage of the HRA.

### **When competent authorities do need to check for in-combination effects**

If a plan or project is likely to have an effect on a habitats site, but that effect is not significant alone, the competent authority must consider

whether the combined effect of that plan or project and other plans and projects could be significant.

### **How to check for in-combination effects**

Other plans and projects that are potentially relevant when checking for in-combination effects include:

- applications for a new permission
- applications to change an existing permission
- permitted development proposals, where known
- granted permissions that have not begun – including unused parts of licences
- granted permissions that are being considered for renewal
- plans that have been drafted and published, but not yet given effect
- adopted plans that have not been fully delivered

Plans and projects that are underway, operational or have been completed are not included within the scope of ‘other plans and projects’ for the purpose of an in-combination assessment. These should form part of an assessment of the site’s baseline conditions, which will inform the risk assessment.

To identify other plans and projects that are potentially relevant, competent authorities and applicants can:

- request information about other plans and projects from public bodies such as LPAs – requests must be relevant to the plan or project, specific and be for a proportionate amount of information
- search the public register of marine licence applications and decisions
- search the register of planning decisions for plans and projects on land
- search for Environment Agency permit applications at Environmental permitting: notices of applications made

When considering in-combination effects, the competent authority should exercise judgement in deciding which other plans and projects to take into account. They should only consider parts of plans and projects that could combine with the one under consideration to create a new significant effect, make the possible significant effects more likely, or make the effect more significant.

When considering in-combination effects, it is only the remaining effects of those other plans and projects, after mitigation is applied, that should be taken into account.

The competent authority or the applicant is not required to list and consider every proposed plan and project that is likely to affect the site that's being assessed. The competent authority should only check whether the plan or project they are assessing could have a combined significant effect with at least one other proposed plan or project. If the check shows that there is likely to be a significant effect when combined with another plan or project, the search may stop. This is because it is already clear that stage 2 is triggered. The competent authority should then consider the effects of the other plans and projects contributing to the combined effect at Stage 2: Appropriate Assessment.

When an adverse effect arises from several projects together, each developer is responsible for their own impact, including any additional impact caused by interactions between impacts, or in-combination effects. Competent authorities should work together to manage the overall effect.

## **How to use screening criteria**

If an effect is judged not to be significant either alone or in combination, it does not need to be considered further.

This includes where competent authorities can demonstrate that, because of the very small size of the likely impact, there would be no credible risk of a significant effect even in combination.

Competent authorities can use screening criteria or thresholds to demonstrate that impacts do not pose a sufficient risk.

Thresholds may be developed by competent authorities, and for specific impacts may sometimes be developed by an SNCB.

Competent authorities should use their expert judgement to reach these conclusions where it provides sufficient certainty, without needing more detailed information such as surveys or modelling.

For example, it may be possible to make a sufficiently certain judgement by considering the scale of the effect from the plan or project, alongside high-level information about other plans or projects that could act in

combination (for example, the number of houses which could realistically be expected to come forward in an area).

When using screening criteria or thresholds, the competent authority must be sure that their use would not result in a real risk of a significant in-combination effect on sites.

They should only consider real, not hypothetical risks. To decide whether a risk is real, the competent authority should judge whether looking further into the effects of other plans and projects might alter the screening decision. They should consider:

- the degree of risk and magnitude of the effect of the plan or project alone
- the rate at which plans or projects that might realistically act in combination, can be expected to come forward for approval
- whether there's a risk that continuing use of thresholds or screening criteria over time could lead to significant in-combination effects being missed

Competent authorities should record their reasoning and evidence, for example data or expert judgment, so it's clear why they are satisfied that the risk is not real.

## **Information needed to determine likely significant effect**

Applicants should provide reasonable information that allows the competent authority to judge whether a plan or project will have a likely significant effect and need an appropriate assessment. Competent authorities may require further reasonable information from an applicant.

The nature and scale of the information requirements should be agreed between the applicant and the competent authority early in the process, and ideally before an application is submitted. The competent authority should consider in-combination effects as necessary, in a proportionate manner, ensuring that the scope of any in-combination assessment effort is feasible.

The reasonable information provided by the applicant should not be excessive or irrelevant. The information is only required to demonstrate whether an effect is likely and significant. Once this has been

demonstrated, further evidence on the degree of likelihood or significance of any effect is not required at this stage, as this will be considered as part of Stage 2: Appropriate Assessment.

## **Making a screening decision**

If the competent authority decides a plan or project has no likely significant effect on a habitats site, either alone or in combination with other plans or projects, it does not need to go on to Stage 2: Appropriate Assessment. This is known as being screened out.

The competent authority should:

- record this decision and their reasons for making it
- contact the applicant and tell them their decision, if appropriate

If the competent authority decides a plan or project is likely to have a significant effect on a habitats site, either alone or in combination with other plans and projects, it will go to Stage 2: Appropriate Assessment of the HRA process. This is known as being screened in. If a competent authority cannot rule out a likely significant effect with sufficient certainty, then the plan or project must be screened in.

The competent authority may decide that there is a likely significant effect on some features of habitats sites but not others. They may decide that there is also a likely significant effect through some impact pathways but not others. Impact pathways are the specific mechanisms by which a plan or project may give rise to pressures capable of affecting the features of a habitats site

The competent authority should focus the appropriate assessment on those features at risk and those impact pathways likely to result in a significant effect.

## **Stage 2: Appropriate assessment and the integrity test**

### **Applicants should**

- Provide deliverable mitigation measures with evidence of effectiveness, enforceability, timing, monitoring, triggers and back-up actions.
- Use strategic mitigation schemes where possible.

**Competent authorities should**

- Focus the appropriate assessment on the features and impact pathways screened in at Stage 1: Screening.
- Reach conclusions that rule out adverse effects beyond reasonable scientific doubt, using objective evidence.
- Use conservative assumptions where necessary to deal with uncertainty, but not require absolute certainty.
- Assess mitigation for its effectiveness, including through deliverability, enforceability, monitoring and timing.
- Use strategic, proven mitigation approaches where available (e.g. protected site strategies, local policy frameworks).
- Consult the SNCB on the draft appropriate assessment and have regard to their advice.
- If approving with conditions, use conditions which are precise and, enforceable.

If a plan or project is screened in, the competent authority must carry out an appropriate assessment.

An appropriate assessment must thoroughly assess (identify, characterise, quantify and evaluate) the likely significant effect or effects of a plan or project, either alone or in combination with other plans or projects, on the integrity of a habitats site or sites.

An appropriate assessment should be proportionate to the scale and complexity of the possible effects of the plan or project on a habitats site.

During Stage 1: Screening, if a likely significant effect was only identified in combination with other plans and projects, the appropriate assessment should focus on these in-combination effects.

During screening, if a likely significant effect was identified because of the effects of the plan or project alone, the competent authority should first conduct an appropriate assessment of those effects. If the result of that appropriate assessment is that there is not an adverse effect on the integrity of a site 'alone', but that there is still some effect once mitigation measures have been taken into account, the competent authority must go on to assess whether there is an adverse effect in combination with other plans and projects. The competent authority should consider the residual

effects of the other plans and projects, after taking into account the effects of mitigation measures applied to those other plans and projects.

## **Understanding site integrity**

A site has a high degree of integrity where its inherent potential for meeting its conservation objectives is realised.

In the appropriate assessment, the competent authority must assess the implications of the plan or project on the site, in order to rule out any adverse effect on integrity. The integrity of a site means the coherence of its ecological structure and function, across its whole area. The site's integrity enables it to sustain the habitat, complex of habitats (range of interrelated habitats) and, if the site is (or will be) designated to protect species, the levels of populations of those species.

The integrity of the habitats site is directly linked to the site's conservation objectives.-Conservation objectives are set for each protected feature of a habitats site. They aim to protect the integrity of the site by maintaining or restoring the:

- extent and distribution of habitats, or supporting habitats for species
- structure and function of habitats, or supporting habitats for species
- supporting processes on which habitats or species rely
- number of protected features
- distribution of protected features

## **Assessing the potential effect of a plan or project on the integrity of a site**

An appropriate assessment should consider those aspects of a plan or project that can realistically affect the conservation objectives of the site's relevant features, alone or in combination with other plans or projects. It should assess what might happen to the protected features if that plan or project went ahead, in view of the conservation objectives of the site.

A plan or project could affect the integrity of a habitats site by:

- destroying, damaging or significantly changing all or part of the site
- significantly disturbing the population of a species
- harming the site's ecological connectivity with the wider landscape, for example, harming a woodland that is important in supporting a species from a nearby habitats site

- harming the site's ecological function, or its ability to survive damage, and reducing its ability to support a species
- changing the site's physical environment, for example, the chemical makeup of its soil, causing pollution or changing the site's hydrology
- restricting access to resources outside the site that are important to a protected species, for example, food sources or breeding grounds
- preventing or disrupting restoration work, or the potential for future restoration, if it undermines the site's conservation objectives

To assess if a plan or project could affect the integrity of a habitats site, the competent authority should consider how it could affect relevant protected features. They should consider:

- any effects on the features' ecological requirements, in relation to the conservation objectives - supplementary advice from the SNCB may be relevant here
- the current condition or conservation status of the site's designated features being affected, if known
- any identified risk of combined effects with other plans or projects
- the magnitude, extent, timing, duration, reversibility and likelihood of the potential or predicted effects
- how certain they are of the likely effects occurring
- the precise location of protected features in relation to the location of any impact
- the proportion of the feature that might be at risk

## **Checking effects against a site's conservation objectives**

Under the conservation objectives a 'maintain objective' applies if the feature is considered to be in a favourable condition. A 'restore objective' applies if the feature is considered to be in an unfavourable condition.

A plan or project would affect the integrity of a habitats site if it would undermine the site's conservation objectives. The competent authority should check if a plan or proposal would undermine:

- a maintain objective by causing the condition of the feature to become unfavourable
- a restore objective, by preventing or making the restoration of the feature more difficult

If a plan or project does not undermine the achievement of a site's conservation objectives, the integrity of the site will not be adversely affected.

Where there's a temporary effect, the site's objectives will not be undermined if the effect will:

- be fully undone
- not prevent a site achieving its conservation objectives
- not prevent affected areas from returning to the same level of ecological functionality within an appropriate timescale

## **Considering reasonable scientific doubt**

Plans or projects must not be approved unless the competent authority is satisfied beyond reasonable scientific doubt that there will be no adverse effect on the integrity of the site. The competent authority must show this in their appropriate assessment.

This conclusion of no adverse effect does not have to be established with absolute certainty. It involves a judgement by the competent authority, based on the evidence available.

To be satisfied beyond reasonable scientific doubt, the competent authority does not always have to assess the reasonable worst case scenario, and it is not necessary for there to be no risk.

The competent authority must base their decision on objective evidence. Reasonable scientific doubt may arise from a lack of, or uncertainty in, available evidence. If there is a lack of evidence about the predicted effects, and it is not possible to gather additional evidence, it may be difficult to conclude that there is no risk of adverse effects on site integrity. However, if there is no accepted methodology available to understand or quantify the predicted effect, appropriate estimates and expert judgement can be used.

In other cases, there may be some residual uncertainty within the evidence. For example, if an accepted methodology has been used but there is some inherent uncertainty in the predicted outcomes. In these cases, decision makers may be able to satisfy the need to remove reasonable scientific doubt by applying a safety margin or conservative assumptions.

Doubts which are not reasonable should not prevent an appropriate authority from concluding that there is no adverse effect on integrity. Whether there are grounds for reasonable scientific doubt will always be a matter of judgement for the competent authority.

Competent authorities should consider using legally enforceable frameworks to achieve the necessary level of reasonable, but not absolute, certainty.

## **Information requirements for appropriate assessments**

Applicants should provide competent authorities with all the information reasonably needed for the HRA at an early stage so they can make a confident decision. Competent authorities and SNCBs may require further information from an applicant if necessary and reasonable.

The nature and scale of the information needed should be informed by the conservation objectives and agreed between the applicant and the competent authority early in the process.

The information needed for the appropriate assessment should allow the competent authority to reach a complete, precise and definitive conclusion about whether a plan or project would adversely affect the integrity of the site. Information should be proportionate to the scale of the effect. More information is likely to be needed where any of the following apply:

- there are many potential adverse effects
- potential adverse effects are complex
- the ecological consequences of potential adverse effects could be substantial

This is to give more confidence that there will be no adverse effect on the integrity of a site. Where there are fewer, or simpler potential adverse effects, or if the ecological consequences of their impact would be small, less information may be needed.

Any information requested should relate to the likely effect on the qualifying feature or features and be necessary to help the competent authority to make a decision.

In their appropriate assessment, the competent authority should consider the implications of any gaps or uncertainty in the available information. They should show how these do not affect their ability to rule out

reasonable scientific doubt about adverse effects on the integrity of the site. Where reasonable scientific doubt remains, the plan or project cannot be approved unless suitable mitigation measures can be applied or the derogation criteria are met. Derogation criteria are covered at stages 3 and 4.

## **Including mitigation measures in a plan or project**

If the appropriate assessment suggests that a plan or project would adversely affect the integrity of a habitats site, mitigation measures must be considered. These could prevent the effect from happening as predicted. For example:

- amending or adding to the design of the plan or project
- switching to a less damaging method of construction or operation
- undertaking works at a less sensitive time of year (such as outside a breeding season)
- not proceeding with some parts of the plan or project
- incorporating additional works into the plan or project to avoid or reduce its impact
- neutralising the effects of the plan or project (such as temporarily closing a footpath so that planned short-term works do not increase disturbance of birds)

Mitigation measures are not ways to offset an adverse effect – these are known as compensatory measures and should not be part of the appropriate assessment.

Applicants are responsible for identifying and proposing mitigation measures, and for deciding how they could be incorporated into a plan or project. In the appropriate assessment, the competent authority must assess the effectiveness of the proposed mitigation measures.

However, if an applicant does not provide the necessary mitigation, or proposes mitigation that is unlikely to be effective or reliable, the competent authority should consider imposing mitigating measures on the plan or project. These would place certain conditions or restrictions on it to make sufficiently sure there would be no adverse effects on a site's integrity. These should be informed by any advice given by the SNCB.

Applicants can use untested or new mitigation measures if appropriate monitoring and triggers are in place over the lifetime of the plan or project.

A trigger indicates a risk that adverse effects will occur if no further action is taken. If mitigation measures are not working as expected, action must be taken in line with agreed triggers to prevent an adverse effect on site integrity.

## **Taking a strategic approach to mitigation**

If several plans or projects may adversely affect the same habitats site in a similar way, competent authorities and applicants should consider taking a strategic approach. This can mean competent authorities anticipating likely impacts in advance and devising standard mitigation measures for applicants to adopt to address that likely impact on a habitats site.

Taking a strategic approach can save applicants time and money, reduce workloads for competent authorities and can benefit the habitats site. For example, a strategic approach could involve creating Suitable Alternative Natural Greenspaces (SANGs) to mitigate adverse effects from increased recreation resulting from multiple housing developments, removing the need for project-specific surveys, giving confidence that mitigation measures will be delivered.

The competent authority can use strategic mitigation if it:

- removes the risk of adverse effects on the integrity of the habitats site with sufficient certainty
- is effective, fully funded and, where necessary, can be adapted in response to monitoring

Applicants and competent authorities can get advice about taking a strategic approach from:

- the relevant SNCB if the strategic approach has been developed to address common adverse effects on a habitats site, for example through a protected site strategy
- LPAs if the strategic approach has been developed to support a Local Plan, for example through a local planning policy
- other specialist groups, organisations or landowners in the area

Protected site strategies involve Natural England developing a tailored package of measures to address on and offsite pressures that are affecting

the condition of a site or a cluster of sites. Where a protected site strategy is in place, this may enable a strategic approach to mitigation measures. Public bodies, including competent authorities, must have regard to any relevant protected site strategy when complying with their statutory duties in relation to protected sites, including carrying out HRAs.

## **Assessing mitigation measures**

In its appropriate assessment the competent authority must consider the likely effectiveness of proposed mitigation measures. It must be satisfied beyond reasonable scientific doubt that the plan or project will not have an adverse effect on the integrity of the site, once the mitigation measures are taken into account. There is no requirement of absolute certainty. This means that mitigation measures which the appropriate assessment deems necessary must be in place and effective in time to prevent adverse effects on site integrity from occurring.

Competent authorities must consider mitigation measures for projects differently than for plans.

For projects, the competent authority must consider as relevant:

- how the measures would be implemented and monitored, and how long for
- how they would enforce the measures, if needed
- how long it will take for the measures to take effect
- the level of success they expect, or what changes they would make if monitoring shows the measures are not effective
- how convinced they are that the measures would work to avoid an adverse effect on the integrity of the site

The same level of detail may not be available for plans, but similar factors including the effectiveness, reliability, timing, delivery and duration of possible mitigation measures should still be considered. The competent authority must have enough information in a plan to be satisfied that mitigation measures for any projects delivered under the plan can avoid adverse effects on the integrity of a site and can be achieved in practice.

If the competent authority has reasonable doubt as to whether the mitigation measures will work effectively, they will not be able to conclude beyond reasonable doubt that there will be no adverse effect on site

integrity. They should record this in their appropriate assessment and then consult the SNCB.

## **Attaching conditions to a plan or project**

If mitigation measures are needed to avoid adverse effects, the competent authority should attach conditions to its permission or take other necessary steps to make sure the measures are carried out. For NSIPs, conditions are referred to as requirements.

The competent authority must be satisfied that they can monitor and enforce the conditions, and the applicant can fulfil them.

Conditions can allow for flexibility. For example, the competent authority could include the ability to alter measures if monitoring shows that the risk of adverse effects is lower or different than first thought. They should consult the relevant SNCB before deciding to do this.

Further [guidance on the use of conditions](#) in planning is available.

### **Conditions about the design or method**

Competent authorities can attach conditions relating to the design features or methods of a plan or project to avoid an adverse effect on integrity of the habitats sites.

For example, for construction work near a watercourse, the condition could be that the applicant must create a bund to stop sediment or pollution getting into the watercourse.

### **Conditions about timing**

Competent authorities can attach timing conditions so that work does not take place during sensitive times of year or day.

This could be, for example, to avoid disturbing:

- birds, seals and bats during their breeding season
- birds on land or at sea when they're resting or feeding during the winter months

## **Conditions about monitoring the effects of a plan or project, and mitigation**

Competent authorities can attach conditions to monitor whether mitigation measures are working as required. However, monitoring is not mitigation and is not by itself an acceptable way to mitigate harm. Monitoring conditions should clearly state what action the applicant must take if mitigation measures are not working.

To be satisfied that mitigation measures are working, competent authorities can add monitoring conditions that:

- make sure certain actions will be taken before any adverse effects to site integrity occur
- alert the applicant if a pre-agreed 'trigger' is observed – for example, monitoring water levels of a wetland SAC near to a new quarry so that if monitoring identifies an early fall in water levels, this triggers investigation and changes to working practices
- require the applicant to pause and take additional measures when a trigger is reached, before continuing the activity, to prevent adverse effects to site integrity

For example, an appropriate assessment of a proposed industrial development shows that lights and traffic from construction work could disturb a significant number of birds on a nearby habitats site. The site is protected because of breeding birds.

The competent authority could attach conditions to the plan or project so that they are satisfied beyond reasonable scientific doubt that there is no risk of an adverse effect on site integrity. For example, the conditions could make sure that the applicant:

- installs temporary visual and acoustic screens around the construction work
- times the work to start and finish outside the birds' breeding season
- monitors the site to confirm whether the mitigation is effective
- implements extra measures if the original measures do not work as expected within an agreed time period

## **Consulting SNCBs**

Competent authorities must consult SNCBs at Stage 2: Appropriate Assessment.

The competent authority should send the relevant SNCB a copy of their draft appropriate assessment.

The competent authority must have regard to any advice they get from the SNCB. The competent authority may need to amend their appropriate assessment in line with this advice. They may depart from the advice if they have compelling and reasoned justification for not following it.

## **Making a decision at the end of the appropriate assessment**

At the end of the appropriate assessment, competent authorities decide whether they can conclude, beyond reasonable scientific doubt, that the plan or project will not adversely affect the integrity of the site. If they can, the competent authority can grant permission for the plan or project (or proceed with it if the competent authority is undertaking it themselves). This means the competent authority can carry out, allow or adopt the plan or project, subject to any separate permissions or permits that may be required.

If the competent authority concludes that the plan or project may or will have an adverse effect on the integrity of a habitats site, they cannot grant consent or permission for the project or adopt the plan.

The only exception to this is if the plan or project is granted a derogation. To grant a derogation, competent authorities must first:

1. Assess alternatives solutions (Stage 3).
2. Consider whether there are imperative reasons of overriding public interest (IROPI), and secure compensatory measures (Stage 4).

The competent authority should tell the applicant as soon as possible if they will consider a derogation on a plan or project.

The competent authority should keep a record of their final appropriate assessment, particularly if they do not follow the SNCB's advice. They may need it as evidence if there's an appeal or freedom of information request.

## Stage 3: Alternative solutions

### Applicants should

- Provide evidence of realistic alternatives (location, design, scale, route, timing) that could meet the project's objective, or demonstrate why none are feasible.

### Competent authorities should

- Test whether there are feasible alternatives which could meet the project's objective and be less damaging to the network.

If the outcome of the appropriate assessment is that a plan or project will, or might, have an adverse impact on the integrity of a habitats site, but a derogation is being considered, the competent authority must first consider whether there are alternative solutions to the plan or project that would be less damaging to the site.

Alternatives might be for the plan or project to:

- happen at a different location
- use different routes across a site
- change its scale, size, design, method or timing

Alternative solutions need to be evaluated in light of the original purpose of the plan or project, including any relevant policy context. An alternative solution will:

- achieve the same objective as the original plan or project
- be financially, legally and technically feasible
- not have an adverse effect on the integrity of the habitats site or any other habitats site or be less damaging to the integrity of the habitats site affected and to the site series as a whole

Examples of alternative solutions that may not meet the original purpose include a plan or project that:

- offers non-renewable energy where the purpose was to promote renewable low carbon energy sources
- protects fewer homes from flooding than planned in a flood defence policy

- imports freight in a different way instead of increasing port capacity

Applicants should provide competent authorities with information about possible alternative solutions, or the lack of them. The competent authority can use the information provided by the applicant about alternatives. However, they must assess for themselves if there are any alternative solutions.

They should consider the extent of the damage that could be caused by an alternative.

If there are, or appear to be, one or more alternative solutions, the competent authority cannot grant permission for the original plan or project on the basis of a derogation. The applicant should decide whether to redesign and resubmit its proposal based on an alternative solution.

If there are no alternative solutions, the competent authority can then consider whether there are imperative reasons of overriding public interest (IROPI), and if there are, how compensatory measures might be secured (Stage 4).

## Stage 4: IROPI and compensatory measures

### Applicants should

- Work with competent authorities and SNCBs to identify compensatory measures which protect the network's overall coherence.
- Report to the competent authority when measures have been delivered.
- Be aware that compensatory measures do not need to be fully operational before the adverse effect occurs however, additional compensation may be required to account for any delay in effectiveness.

### Competent authorities should

- Ensure compensatory measures maintain the overall coherence of the national site network.
- Understand they are not required to apply the standard of "no reasonable scientific doubt" to compensatory measures, but that

they must still be confident they will fully compensate for the adverse effects of the plan or project.

- Secure compensatory measures through binding, enforceable conditions, including delivery milestones, measurable targets, monitoring, management and, where necessary, adaptive measures.

## Checking for IROPI

If, after considering mitigation, a plan or project may cause damage to a site and there are no alternative solutions, it can be carried out if there are IROPI and compensatory measures can be secured.

IROPI means the plan or project must be:

- imperative - it's essential that it proceeds for public interest reasons
- in the public interest - it has benefits for the public, not just benefits for private interests
- overriding - the public interest outweighs the harm, or risk of harm, to the integrity of the habitats site that's predicted by the appropriate assessment

A plan or project may be more likely to be in the public interest if it is directly connected with:

- national policies – the benefit to the public must be clearly identified and measurable at a national, regional or local level
- actions to protect public health and safety
- carrying out economic, environmental or social activities to fulfil specific public service or statutory obligations - an economic benefit should be public rather than to private individuals

The competent authority should discuss with the applicant what evidence for public interest would be appropriate for their case.

When making an IROPI decision, the competent authority must:

- consider whether the public benefits outweigh the harm or risk to the habitats site that remains from the plan or project under consideration once mitigation measures have been taken into account - plans or projects that cause greater harm will need to provide greater public benefit than those that cause less harm

- use the results of the appropriate assessment to show the harm or risk that would remain from the plan or project under consideration after any mitigation measures are taken into account
- consider the effect on the integrity of the site from the plan or project under consideration, and the effect on the coherence of the national network of habitats sites
- Where appropriate, consider the effect on the specific feature at risk and its national conservation status

### **Getting an IROPI opinion on priority habitats or species**

For SACs only, the competent authority must check whether there are priority habitats and species present at the habitats site in question.

Some of the protected habitats and species of SACs are a special priority for conservation. Examples of SAC priority habitats and species in England include:

- limestone pavements
- active blanket and raised bogs
- some coastal dunes
- yew woodland
- western rustwort - a rare liverwort

If priority features are present at a site, they will be listed on the site's conservation objectives in the designated sites database for England.

If the appropriate assessment has shown that a priority habitat or species could be adversely affected, competent authorities may need to seek the opinion of the appropriate authority before determining whether there are IROPI. This is not necessary for reasons of:

- human health
- public safety
- important environmental benefits

In order to consider other potential IROPI, such as social or economic benefits, competent authorities must first seek the opinion of the Secretary of State. The competent authority must have due regard to that opinion in deciding whether there are IROPI.

To get an opinion competent authorities in England should first email the Department for Environment, Food and Rural Affairs at [hrateam@defra.gov.uk](mailto:hrateam@defra.gov.uk). Use 'FAO Secretary of State: IROPI opinion request: protected habitats sites policy' as the email subject.

## **Making an IROPI decision**

If the competent authority is satisfied that it's possible to demonstrate that the plan or project has IROPI, then the next part of the derogations process can be considered. If it's not satisfied that there are IROPI, the plan or project cannot be permitted, carried out or adopted.

## **Securing compensatory measures**

If there are no alternative solutions and there are IROPI, the competent authority should ask the applicant to identify compensatory measures. The competent authority should attach necessary conditions to the permission for the plan or project that guarantee the delivery of agreed compensatory measures to protect the overall coherence of the national site network, or the national Ramsar site series.

The relevant secretary of state is responsible for making sure these measures are secured. They will need confirmation from competent authorities that measures are secured when they are notified that the competent authority intends to agree to the plan or project on the basis of an IROPI decision.

The competent authority should work with the applicant and should seek advice from the relevant SNCB to identify, design and secure compensatory measures. They should identify compensatory measures that they're confident will achieve effective ecological outcomes to protect the national site network's overall coherence and the compensatory measures should normally benefit the same designated features as those that would be adversely affected or would risk being adversely affected by the plan or project. As far as possible, measures should address local circumstances and should normally be put in place as close as possible to the site. Compensatory measures do not need to exactly replace the damage caused by the plan or project or relate to the affected site. For example, replacing one prey species for another, or the loss of feeding grounds being

compensated by breeding grounds may be acceptable where this would protect the overall coherence of the network.

Where there is a benefit to delivering measures at a wider scale or where compensation measures involve the exercise of statutory powers, a coordinated approach to delivery may be appropriate.

In line with the 'polluter pays' principle, applicants are expected to cover any costs associated with the delivery of compensatory measures.

Compensatory measures must ensure the coherence of the national network of habitats sites is maintained, despite damage to a particular site that might arise from the plan or project under consideration. The measures should:

- have clear objectives, delivery milestones and measurable targets
- be in addition to any normal site management measures that can reasonably be expected to be carried out in the absence of the plan or project coming forwards
- only cover the plan or project's own impacts
- not have a negative effect on any habitats site

Suitable compensatory measures could include:

- creating a new area of habitat or extending an existing one
- enhancing habitats within an existing site

A compensatory measure may sometimes involve creating or restoring a habitat that is not part of a habitats site. Where this happens, the compensatory habitat is protected as if it were a designated habitats site. It should be considered for designation by the Secretary of State once it meets the relevant criteria.

Competent authorities should:

- include the compensatory measures in the conditions attached to the permission
- put in place all the necessary legal, technical, financial and monitoring arrangements to make sure compensatory measures will go ahead as agreed and will remain in place for all the time they're needed, which in most cases will be indefinitely
- request regular reports from the applicant about the implementation of the measures

- make provision for the measures to be adapted or changed if they are not working or are insufficient

Competent authorities are not required to apply the test of 'no reasonable scientific doubt' to compensatory measures. However, they must be confident that the measures will fully compensate for the adverse effects of a plan or project.

Where an adverse effect arises from a plan or project when considered in combination with other plans or projects, the competent authority must be confident that the compensatory measures will fully compensate for the adverse effect associated with that plan or project. Other plans or projects are responsible for compensating for the adverse effects associated with their own impacts.

Competent authorities should consider how:

- technically feasible and effective the measures will be, based on scientific evidence and previous examples
- financially viable the measures are – the applicant must have enough funds to cover costs
- the measures will be carried out, managed and monitored – including whether they will need to be adapted over time to be fully effective in offsetting damage
- the compensatory measures will be secured

In circumstances where compensatory measures can't be in place and operational before the adverse effect on a site is allowed to occur, additional compensatory measures may be required to account for these delays.

Applicants should report to the competent authority when measures have been delivered.

If no compensatory measures can be found, or the competent authority is not satisfied that the measures would be appropriate, effective or be secured, the plan or project cannot be permitted, carried out or adopted.

## **Allowing a plan or project to proceed under a derogation**

A competent authority may allow the plan or project to go ahead through HRA derogation if it is satisfied that there are no alternative solutions, there are IROPI and that the compensation measures have been secured.

Before competent authorities can give permission for a plan or project, or carry it out themselves, they must notify the Secretary of State for the relevant UK government department. Competent authorities must use the HRA derogation notice form to send them:

- a summary of the plan or project
- details about the habitats sites affected
- the HRA that shows how they reached the decision that the plan or project will or could have an adverse effect on the integrity of the sites
- evidence to show that there are no alternative solutions
- evidence to show that there are imperative reasons of overriding public interest for the plan or project to go ahead
- details of the compensatory measures and evidence to show that they will work, how they will be monitored and, where necessary, adapted
- advice they received from the SNCB and other stakeholders, and how they considered it

## Responses from secretaries of state

Competent authorities should get a response from secretaries of state within 21 calendar days. If they do not get a response within this time they can carry out, approve or adopt the plan or project.

If the government is not satisfied that the plan or project has met the tests in stages 3 and 4, it will tell the competent authority to reject or delay approval.

## What to do once an HRA is complete

### Applicants should

- Follow any conditions or requirements attached to the consent.
- Share monitoring results with the competent authority and SNCB in line with agreed timing and format.

- Act promptly if monitoring shows unexpected effects or if conditions trigger additional actions, including back-up or adaptive measures where required.
- Keep clear records of compliance, monitoring, or changes.

#### **Competent authorities should**

- Record the outcome, ensuring the HRA and underlying evidence can be easily referenced in future decisions.
- Actively monitor compliance with any conditions, and require applicants to share monitoring results and respond promptly where issues arise.

An HRA can be completed at the end of any stage of the HRA process depending on the circumstances.

After the HRA process is complete, the competent authority makes a decision on whether the plan or project:

- can go ahead as proposed by the applicant
- can go ahead with conditions
- cannot go ahead

### **Recording permission for a plan or project**

The competent authority should be able to easily reference the HRA and the evidence it was based on.

Where the HRA is part of a wider permission granting process, the competent authority should be clear in any correspondence and records about the scope of the HRA that has been carried out, and whether further HRA is needed.

### **General duty to conserve habitats sites**

Competent authorities have an ongoing duty to protect, conserve and restore European (Habitats) sites.

### **Monitoring compliance with conditions**

If the competent authority gives permission for a plan or project and attaches conditions to it, the applicant must comply with these conditions, and the competent authority should monitor whether they do.

If the plan or project has monitoring conditions attached, the applicant should:

- share the results of their monitoring with the competent authority and relevant SNCB in a timely and agreed manner
- explain any actions they are taking in response to the results
- act on the advice given by the competent authority or the SNCB

Effective monitoring provides competent authorities and applicants with information on mitigation measures that have been successful. This can be used as evidence in future applications to reduce uncertainty and save time and resources. It also provides competent authorities with evidence that they are fulfilling their ongoing duty to protect, conserve and restore habitats sites.

## **If habitats sites are created or changed**

The Secretary of State for the Department for Environment, Food and Rural Affairs can designate or amend habitats sites.

The relevant SNCB will carry out a consultation before a decision is made to create or change a habitats site.

If a habitats site is changed or a new site is designated, competent authorities must review decisions made about plans or projects at the site. They must carry out a new HRA to see if there are any new negative effects on the site's integrity. This is only for plans or projects that have not yet started or have not finished. They do not need to carry out a new HRA for work that has already taken place. Competent authorities can contact the relevant SNCB for advice on reviewing an existing plan or project when a habitats site has been created or changed.