

SCREENING STATEMENT

IN SUPPORT OF THE
APPROPRIATE ASSESSMENT
OF THE
PROPOSED VARIATION
TO THE
MULLINGAR LOCAL AREA PLAN
2014-2020

IN ACCORDANCE WITH THE REQUIREMENTS OF
ARTICLE 6(3) OF THE EU HABITATS DIRECTIVE

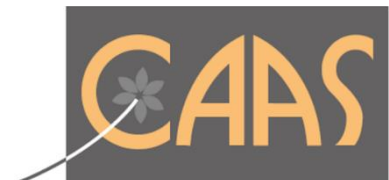
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1 Introduction

1.1 Background

CAAS has been appointed by Westmeath County Council to prepare this Screening Statement in support of the Appropriate Assessment (AA) of the Proposed Variation to the Mullingar Local Area Plan 2014-2020 in accordance with the requirements of Article 6(3) of the EU Habitats Directive¹.

An Appropriate Assessment is a requirement of Article 6 of the Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (as amended) (hereafter referred to as the "Habitats Directive"). The overall aim of the Habitats Directive is to maintain or restore the "Favourable Conservation Status" of habitats and species of European Community Interest. These habitats and species are listed in the Habitats and Birds Directives (Council Directive 2009/147/EC on the conservation of wild birds) with Special Areas of Conservation and Special Protection Areas designated to afford protection to the most vulnerable of them. These two designations are collectively known as European Sites.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the European Sites at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations (in particular Part XAB of the Planning and Development (Amendment) Act 2010 and the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477) (often referred to as the Habitats Regulations) to ensure the ecological integrity of these sites. Appropriate Assessment (AA) is an assessment of whether a plan or project, alone and in combination with other plans or projects, could have significant effects on a European Site in view of the site's conservation objectives.

Emerging socio-economic factors have resulted in amendments and Variation to public policies and developmental requirements within the county. Mullingar Local Area Plan 2014-2020 has already been subject to an Appropriate Assessment and Strategic Environmental Assessment which were both accepted. The mitigation measures proposed within the documents were deemed sufficient to ensure the implementation of the Plan would not result in any likely significant effects to European Sites. The Proposed Variation will be considered alone and in-combination with Mullingar LAP, due to the existing LAP assessments.

Similarly, a Strategic Environmental Assessment (SEA) has been undertaken in tandem to assess the impacts of the Proposed Variation on a number of environmental considerations including biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage, landscape and the interrelationship between these considerations, whenever applicable.

1.2 Legislative Context

The Appropriate Assessment process (AA) is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the conservation objectives of a European Site. These sites consist of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and provide for the protection and long-term survival of Europe's most valuable and threatened species and habitats.

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as "The Habitats Directive", provides legal protection for habitats and species of European importance. Articles 3 to 9 provide the legislative means to protect habitats and species of Community interest through the establishment and conservation of an EU-wide network of sites known as Natura 2000. In Ireland, these are candidate Special Areas of Conservation (cSACs) designated under the

¹ Directive 92/43/EEC

Habitats Directive and Special Protection Areas (SPAs) designated under the Conservation of Wild Birds Directive (79/409/ECC), hereafter referred to as European Sites.

Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to affect European Sites. Article 6(3) establishes the requirement for AA:

"Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subjected to appropriate assessment of its implications for the site in view of the site's conservation objectives. In light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

If, in spite of a negative assessment of the implications for the [Natura 2000] site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, Member States shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest."

These requirements are implemented in the Republic of Ireland by the European Communities (Birds and Natural Habitats) Regulations 2011. These regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in judgements of the Court of Justice of the European Union (CJEU).

If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project may nevertheless be carried out for "Imperative Reasons Of Overriding Public Interest", including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of European suite is protected. It shall inform the Commission of the compensatory measures adopted. Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Appropriate Assessment should be based on best scientific knowledge and Planning Authorities should ensure that scientific data (ecological and hydrological expertise) is utilised. This report details a Screening Statement to inform the AA process which is finalised by the statutory authority.

1.3 Guidance

This Screening Statement has been prepared in accordance with the following guidance:

- *Appropriate Assessment of Plans and Projects in Ireland. Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, 2010.*
- *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 Environment DG, 2002.*

- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC: European Commission, 2000.*
- *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, Office for Official Publications of the European Communities, Luxembourg (EC 2001);*
- *Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC – Clarification of the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence, opinion of the commission. Office for Official Publications of the European Communities, Luxembourg (EC 2007).*
- *Flora (Protection) Order, 1999 (As amended 2015)*

In addition, a detailed online review of published scientific literature and 'grey' literature was conducted. This included a detailed review of the National Parks and Wildlife Website including mapping and available reports for relevant sites and in particular sensitive qualifying interests/special conservation interests described and their conservation objectives. The EPA Envision Map-viewer (www.epa.ie) and available reports were also reviewed.

Definitions of conservation status, integrity and significance used in this assessment are defined in accordance with 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC' (EC, 2000).

- The conservation status of a natural habitat is defined as the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species;
- The conservation status of a species is defined as the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its population;
- The integrity of a European Site is defined as the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified;
- Significant effect should be determined in relation to the specific features and environmental conditions of the protected site concerned by the plan or project, taking particular account of the site's conservation objectives.

1.4 Approach

There are four main stages in the AA process; the requirements for each depending on likely impacts to European Sites (SAC/ SPA).

Stage One: Screening

The process which identifies the likely impacts upon a European Site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts are likely to be significant.

Stage Two: Appropriate Assessment

The consideration of the impact on the integrity of the European Site of the project or plan, either alone or in combination with other projects or plans, with respect to the site's structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts. If adequate mitigation is proposed to ensure no significant adverse impacts on European Sites, then the process may end at this stage. However, if the likelihood of significant impacts remains, then the process must proceed to Stage 3.

Stage Three: Assessment of Alternative Solutions

The process which examines alternative ways of achieving the objectives of the project or plan that avoids adverse impacts on the integrity of the European Site.

Stage Four: Assessment where no alternative solutions exist and where adverse impacts remain

An assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

The Habitats Directive promotes a hierarchy of avoidance, mitigation and compensatory measures. First, the plan should aim to avoid any impacts on European Sites by identifying possible impacts early in the plan-making process and writing the plan in order to avoid such impacts. Second, mitigation measures should be applied, if necessary, during the AA process to the point where no adverse impacts on the site(s) remain. If the plan is still likely to result in impacts on European Sites, and no further practicable mitigation is possible, then it must be rejected. If no alternative solutions are identified and the plan is required for imperative reasons of overriding public interest (IROPI test) under Article 6(4) of the Habitats Directive, then compensation measures are required for any remaining adverse effect.

1.4.1 Source-Pathway-Receptor Model

Ecological impact assessment of potential effects on European Sites is conducted following a standard source-pathway-receptor model, where, in order for an effect to be established all three elements of this mechanism must be in place. The absence or removal of one of the elements of the mechanism is sufficient to conclude that a potential effect is not of any relevance or significance.

- Source(s) – e.g. pollutant run-off from proposed works.
- Pathway(s) – e.g. groundwater connecting to nearby qualifying wetland habitats.
- Receptor(s) – qualifying aquatic habitats and species of European Sites.

In the interest of this report, receptors are the ecological features which are known to be utilised by the qualifying interests or special conservation interests of a European Site. A source is any identifiable element of the Proposed Variation which is known to have interactions with ecological processes. The pathways are any connections or links between the source and the receptor. This report determines if direct, indirect and cumulative adverse effects (however minor) will arise from the proposed development.

1.4.2 Zone of Influence

Following the source-pathway-receptor process a Zone of Influence (ZOI) will be determined based on the characteristics of the Plan/Project (detailed in section 2) and the foreseen distribution of likely effects through any pathways identified. Once the ZOI is established, all European Sites within it will be assessed with specific reference to the sensitive receptors of each site and pathways for effect that relate to the ecological integrity of the site.

1.5 Relationship between the Appropriate Assessment process and the Plan

Appropriate Assessment (AA) needs to be fully integrated with the various stages of the development plan process in order to ensure that the ecological implications of the plan do not affect any areas designated as European Sites. As the AA process, has been managed by part of the Forward Planning team, interaction has occurred from the early stages of writing of the Proposed Variation and preceding Plan to impress the importance of protection of European Sites and that the plan should be formulated to avoid adverse impacts on these sites. In addition, the Strategic Environmental Assessment Screening process has been taken into account in the appropriate assessment process. The screening of objectives and the assessment of objectives in the context of mitigation measures and potential effects of the designated sites, has been an iterative process throughout each stage of the plan-making process.

2 Description and background of the Proposed Variation to Mullingar LAP 2014-2020

2.1 Mullingar Local Area Plan

This Local Area Plan (LAP) sets out an overall strategy for the proper planning and sustainable development of the administrative area of Mullingar Town Council and immediate environs of Mullingar Town for the period 2014 to 2020, together with the provision of policies and objectives for the future development of the town and environs. The plan will provide for and manage the physical, economic and social development of the town in a sustainable manner, in the interests of the overall common good, whilst protecting and enhancing the cultural and environmental assets of Mullingar. The plan also provides an opportunity to reaffirm and realise the role of Mullingar as a driver of growth at local, regional and national level, commensurate with the status of the town as a "Linked Gateway" town. The Local Area Plan for Mullingar includes both the functional area of Mullingar Town Council and the environs of the town. The LAP comprises of an area of approximately 1,548 hectares (ha).

2.1.1 Previous Assessments

A detailed Natura Impact Report in support of the AA of Mullingar Local Area Plan 2014-2020 was compiled along with a detailed Strategic Environmental Assessment and Strategic Flood Risk Assessment. These assessment processes were conducted through an iterative process to ensure their findings were incorporated into the policies and objective of the LAP itself. This process resulted in a robust set of mitigation and monitoring measures to ensure there were no likely significant adverse effects to any European Site arising from the implementation of the LAP. Given the uncertainties that exist with regard to the scale and location of developments facilitated by Mullingar LAP, it is recognised that the identification of effects is limited and effects to the integrity of European Sites will be further assessed through project-level AA.

2.2 Proposed Variation to Mullingar LAP 2014-2020

It is proposed to amend the Mullingar Local Area Plan 2014 – 2020 to accommodate the development of a social housing scheme at Ennell Court, Patrick Street, Mullingar, at the junction of Robinstown Road and Delvin Road, Mullingar and to the rear of O'Growney Drive, Mullingar. The land to be re-zoned from 'open-space' collectively comprise an area of approximately 1.51 hectares.

At Ennell Court, the development would form an extension to the Ennell Court Estate. Ennell Court is an estate of single storey dwellings and was constructed in the early 1970's by the NBA (National Building Agency) for Westmeath County Council. There were originally 55 houses in Ennell Court (some of these have been refurbished, demolished or reconstructed). Collectively, it is envisaged that a minimum of 18-21 units can be developed in Ennell Court as part of an overall regeneration and integrated framework approach

All proposed development at the junction of Robinstown Road and Delvin Road will have regard to the need for a percentage of open space, and with due consideration for existing dwellings in the vicinity, is it considered that the site might accommodate 3-4 units.

At the rear of O'Growney Drive site access will determine the site layout and location of open space. For this reason, it is not prudent to specify the location of the area that should remain as open space but to include an objective as part of the variation to maintain an area (of 50%) for open space.

2.3 Relationship with other Relevant Plans and Programmes

The Proposed Variation relate to Mullingar LAP which sits within a hierarchy of strategic actions such as plans and programmes. The Proposed Variation must comply with the existing Mullingar LAP and relevant higher level strategic actions and may, in turn, guide lower level strategic actions.

2.3.1 The National Spatial Strategy

The National Spatial Strategy (NSS) is the national planning framework for Ireland to achieve a better balance of social, economic and physical development as well as balanced population growth between the regions. The aim of the Strategy is to utilise urban land sensitively and efficiently, reduce dereliction and encourage refurbishment.

2.3.2 Regional Planning Guidelines (South East Region 2010-2022)

Ireland was divided into eight regional forward planning regions, Dublin, Midlands, Mid East, Mid-West, South East, South West, West and Border, each with its own regional planning authority composed of Elected Members selected by the constituent local government councils. Regional planning authorities were required, under the Planning and Development (Regional Planning Guidelines) Regulations 2003 (SI No. 175 of 2003), to draw up Regional Planning Guidelines (RPGs), long term strategic planning frameworks, for their relevant region. Since 2015, three new regional assemblies (the Northern and Western, Southern and Eastern and Midland Regional Assemblies) undertake the work previously undertaken by the Regional Authorities, including the implementation of the Regional Planning Guidelines. Carlow County Council was part of the South-East Region Authority and is now part of the Southern and Eastern Regional Assembly.

2.3.3 Westmeath County Development Plan 2014-2020

The Westmeath County Development Plan (WCDP) compliments the Mullingar Town Plan and both are consistent in their policies safeguarding European Sites. Throughout the draft plan for County Westmeath there is an overarching message to ensure that all plans and projects in the County which are likely to have significant effect on a European Site, either individually or in combination with other plans and projects, shall be subject to Appropriate Assessment of its implications for the site in view of the site's conservation objectives. Of particular relevance are the natural and built heritage policies outlined in Chapter 5 outlining details of sites and species that are designated under National and European legislation and discusses the role of Westmeath County Council in protecting designated sites, in conjunction with NPWS. Overall, the Development Management process and the application of policies / objectives in the plan will assess any future development proposals within the Plan area to ensure the protection of the natural environment and in particular European Sites.

2.3.4 Mullingar Local Area Plan 2014-2020

The Local Area Plan for Mullingar has been formulated to seek to align policy and objectives with the County Development Plan (CDP) and the Region Planning Guidelines (RPGs) with a particular focus on the population targets as set out in the County Development Plan Core Strategy. The proposed LAP also contains extensive policy and objectives to refocus on the achievement/enhancement of recreation and amenity access to the considerable natural assets both within and surrounding Mullingar. The Policies/Objectives/framework requirements and general intentions of the proposed Local Area Plan can only be implemented in accordance with the provisions of the County Development Plan, an extensive range of policies and objectives have been proposed in the draft Westmeath County Development Plan 2014-2020 pertaining to the protection of European Sites.

2.3.5 Environmental Protection Objectives

The Proposed Variation is subject to a number of high level environmental protection policies and objectives with which it must comply. Examples of Environmental Protection Objectives include the aims of the EU Habitats Directive which is to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the European territory of Member States and the purpose of the Water Framework Directive which is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which, among other things, prevents deterioration in the status of all water bodies and protects, enhances and restores all waters with the aim of achieving good status.

3 Screening for Appropriate Assessment

3.1 Introduction to Screening

3.1.1 Background to Screening

This stage of the process identifies any likely significant affects to European Sites from a project or plan, either alone or in combination with other projects or plans. The screening phase was progressed in the following stages. A series of questions are asked during the Screening Stage of the AA process in order to determine:

- Whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of a European Site.
- Whether the project will have a potentially significant effect on a European Site, either alone or in combination with other projects or plans, in view of the site's conservation objectives or if residual uncertainty exists regarding potential impacts.

An important element of the AA process is the identification of the 'conservation objectives', 'Qualifying Interests' and/ or 'Special Conservation Interests' of European Sites requiring assessment. Qualifying Interests (QI's) are the habitat features and species listed in Annex I & II of the EU Habitats Directive (92/43/EEC) for which each European Site has been designated and afforded protection. The 'Special Conservation Interests' (SCI's) are wetland habitats and bird species listed within Annex I & II of the Birds Directive. It is also vital that the threats to the ecological / environmental conditions that are required to support QI's and SCI's are considered as part of the assessment.

Site specific conservation objectives have been designed to define favourable conservation status for a particular habitat or species at that site. According to the European Commission interpretation document 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC', paragraph 4.6(3) states:

"The integrity of a site involves its ecological functions. The decision as to whether it is adversely affected should focus on and be limited to the site's conservation objectives."

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing,
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats,
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

The screening stage of the Appropriate Assessment takes account of the elements detailed above with regard to the details and characteristics of the project or plan to determine if potential for effects to the integrity of the European Site are likely. The characteristics of the draft plan were constructed through an iterative process, as a result the European Sites which are screened below may differ from those of high level plans, due to refinements in the methods/project details available.

3.1.2 Desktop Studies

The ecological desktop study was completed by Andrew Torsney (Senior Ecologist; MRes, BSc, ACIEEM) for this Appropriate Assessment of the Proposed Variation comprised the following elements:

- Identification of European Sites within 15km with identification of potential pathways links for specific sites (if relevant) greater than 15km from the proposed development study area.;
- Review of the NPWS site synopsis and conservation objectives for European Sites with identification of potential pathways from the proposed development; and
- A series of ecological desk studies were undertaken in April 2017. This included but is not limited to the collation of information on protected species including Bats, Otters, Bird species (including Annex I species), Annex II habitat types, protected and Red Data Book Flora species, invertebrates and amphibians. The results of these studies are included as part of the Appropriate Assessment where they were deemed relevant to the European Sites and their QI's/SCI's.

3.2 Identification of Relevant European Sites

This section of the screening process describes the European Sites which exist within the Zone of Influence of the site. The DoEHLG (2010) Guidance on Appropriate Assessment recommend a 15km buffer zone be considered around the site. The ZOI is set with specific regard to the characteristics of the Proposed Variation and elements with potential to effect ecological processes.

3.2.1 Elements of the Proposed Variation with Potential to Give Rise to Effects

The existing Mullingar LAP 2014-2020 provides for development within the Mullingar Town Area. The Proposed Variation provides further detail on three areas in Mullingar which are zoned for Open Space to be re-zoned for the development of social housing. As the existing Mullingar LAP contains provisions for development which has been subject to a full NIS, it is determined that there are no additional sources for potential effects to the ecological integrity of any European Sites. As there are no additional sources for additional effects there are no potential effects identified for any European Site.

3.2.2 Is the Plan Necessary to the Management of European Sites?

Under the Habitats Directive, Plans that are directly connected with or necessary to the management of a European Site do not require AA. For this exception to apply, management is required to be interpreted narrowly as nature conservation management in the sense of Article 6(1) of the Habitats Directive. This refers to specific measures to address the ecological requirements of annexed habitats and species (and their habitats) present on a site(s). The relationship should be shown to be direct and not a by-product of the plan, even if this might result in positive or beneficial effects for a site(s).

The primary purpose of the Proposed Variation to the Mullingar LAP is not the nature conservation management of the sites, but to provide for development of social housing. Therefore, the Proposed Variation are not considered by the Habitats Directive to be directly connected with or necessary to the management of European designated sites.

3.3 Other Plans and Programs

Article 6(3) of the Habitats Directive requires an assessment of a plan or project to consider other plans or programmes that might, in combinations with the plan or project, have the potential to adversely impact upon European Sites. As there are no additional sources for effects identified in the Proposed Variation the projects considered in the existing NIR for the Mullingar LAP are seen to be sufficient.

4 Conclusions

Stage 1 Screening for AA of the Proposed Variation to the Mullingar Local Area Plan 2014-2020 has been carried out. It has been demonstrated that implementation of the Plan is not foreseen to impose any additional sources for effects, therefore no likely significant effects on any European Site.

The Proposed Variation must comply with the policies, objectives and mitigation measures contained within this existing Mullingar Local Area Plan 2014-2020. The LAP was subject to its own AA and SEA process which determined there are no likely significant effects to the integrity of any European Site foreseen as a result of the implementation of the plan.

The Appropriate Assessment screening process considered potential effects which may arise during implementation of the Proposed Variation. Through an assessment of the sources for effects and an evaluation of the Proposed Variation it was determined that the existing LAP accounts for development within the Mullingar area. The existing mitigations within this Plan are seen to be robust, thus the effects arising from the Proposed Variation are thought to be very low. It has been evaluated that the Proposed Variation have no likely significant adverse effects on the qualifying interests, special conservation interests or the conservation objectives of any designated European Site. Any effects arising from the development of Regeneration Areas will be subject to project level AA's when fine scale detail is known.

It is concluded that the Proposed Variation to the Mullingar Local Area Plan 2014-2020 is not foreseen to give rise to any significant adverse effects on designated European sites², alone or in combination with other plans or projects. This evaluation is made in view of the conservation objectives of the habitats or species for which these sites have been designated. Consequently, a Stage 2 – NIS is not required for the Proposed Variation.

² Except as provided for in Section 6(4) of the Habitats Directive, viz. There must be:

- a) no alternative solution available,
- b) imperative reasons of overriding public interest for the plan to proceed; and
- c) Adequate compensatory measures in place.