



Sustainability & Environment
Appraisal

LA 115

Habitats Regulations assessment

(formerly HD 44/09)

Revision 1

Summary

This document sets out the requirements for assessment and reporting of the implications, from construction, operation and maintenance, of highways and/or roads projects on European sites. These requirements accord with the relevant national legislation transposing the provisions of Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (Habitats Directive), and Council Directive 2009/147/EC, on the conservation of wild birds (Birds Directive). Habitats Regulations assessment includes Habitats Regulations screening, informing the appropriate assessment and assessment of alternative solutions, IROPI and compensatory measures.

Application by Overseeing Organisations

Any specific requirements for Overseeing Organisations alternative or supplementary to those given in this document are given in National Application Annexes to this document.

Feedback and Enquiries

Users of this document are encouraged to raise any enquiries and/or provide feedback on the content and usage of this document to the dedicated Highways England team. The email address for all enquiries and feedback is: Standards_Enquiries@highwaysengland.co.uk

This is a controlled document.

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Release notes

| Version | Date | Details of amendments |
|---------|----------|--|
| 1 | Jan 2020 | Revision 1 (January 2020) Revision to update references only. Revision 0 (October 2019) LA 115 replaces HD 44/09. The full document has been re-written to make it compliant with the new Highways England drafting rules. |

Foreword

Publishing information

This document is published by Highways England.

This document supersedes HD 44/09 Volume 11 Section 4, Part 1 [Assessment of Implications (of Highways and/or Roads Projects) on European sites (including appropriate assessment)], which is withdrawn.

This document has been re-written to make it compliant with the new Highways England drafting rules and makes provision for requirements outlined within:

- 1) Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (hereafter referred to as the Habitats Directive) 92/43/EEC [Ref 2.I];
- 2) Council Directive 2009/147/EC, on the conservation of wild birds (hereafter referred to as the Birds Directive) 2009/147/EC [Ref 2.N]; and
- 3) relevant transposing national regulations.

Contractual and legal considerations

This document forms part of the works specification. It does not purport to include all the necessary provisions of a contract. Users are responsible for applying all appropriate documents applicable to their contract.

Introduction

Background

Development of new roads, and improvement and maintenance of existing roads can have 'likely significant effects' on, or affect the integrity of, 'European sites'. Likely significant effects can result from the roads project itself (alone) or in combination with other plans or projects.

The development of this document has been specifically influenced by:

- 1) requirements outlined within the Habitats Directive 92/43/EEC [Ref 2.I];
- 2) requirements outlined within the Birds Directive 2009/147/EC [Ref 2.N];
- 3) the UK relevant transposing regulations for the implementation of these Directives; and
- 4) relevant case law.

Assumptions made in the preparation of this document

The assumptions made in GG 101 [Ref 5.N] apply to this document.

It is assumed that practitioners maintain their own up to date knowledge of relevant case-law.

Abbreviations

Abbreviations

| Abbreviation | Definition |
|--------------|--|
| AA | Appropriate assessment |
| ARN | Affected road network |
| ASSI | Areas of Special Scientific Interest |
| cSAC | candidate Special Areas of Conservation |
| EIA | Environmental impact assessment |
| ES | Environmental statement |
| GIS | Geographical information systems |
| GWDTE | Groundwater dependant terrestrial ecosystem |
| HRA | Habitats Regulations assessment |
| IROPI | Imperative reasons of overriding public interest |
| LSE | Likely significant effects |
| pSAC | possible/proposed Special Areas of Conservation |
| pSPA | potential/proposed Special Protection Areas |
| SAC | Special Areas of Conservation |
| SCI | Sites of Community Importance |
| SEB | Statutory environmental body |
| SIAA | Statement to inform the appropriate assessment |
| SPA | Special Areas of Conservation |
| SSSI | Sites of Special Scientific Interest |

Terms and definitions

Terms and definitions

| Term | Definition |
|---|---|
| Alternative solutions | For the purposes of HRA these are locations (routes in case of linear developments), different scales or designs of development, or alternative processes, including the 'zero-option', which are considered satisfactory in terms of the purpose of the project. |
| Appropriate assessment | The assessment 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. |
| Avoidance | The first stage in the mitigation hierarchy in which measures are assessed in advance of minimisation of impacts, and which are 'certain'. |
| Candidate Special Area of Conservation (cSAC) | Sites classified under the Habitats Directive 92/43/EEC [Ref 2.1] that have been submitted for formal designation, but not yet formally adopted. |
| Coherent/coherence | For the purposes of HRA this refers to an ecological network of sites that enable the natural habitats types and species' habitats to be maintained or, where appropriate, restored at a favourable conservation status in their natural range. |
| Compensatory measures | Measures that are independent of the project (including any mitigation measures) intended to offset the negative effects of the plan or project so that the overall ecological coherence of the network of European sites is maintained. |
| Competent authority | Any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office. |
| Conservation | A series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status. |
| Conservation objectives | The reasons for which the site was classified or designated. |
| Conservation status | The sum of the influences acting on a natural habitat and its typical species that can affect its long-term natural. |
| Emergency operation | Defects requiring prompt attention that represent an immediate or imminent hazard that needs to be corrected or made safe at the time of inspection. |

Terms and definitions (continued)

| Term | Definition |
|--------------------------------|--|
| European sites | Habitats Directive 92/43/EEC [Ref 2.I] or Birds Directive 2009/147/EC [Ref 2.N], sites including: <ol style="list-style-type: none"> 1) Special Protection Areas (SPAs), and potential SPAs (pSPAs); 2) Special Areas of Conservation (SACs), and candidate or possible SACs (cSACs or pSACs); and 3) Ramsar sites. |
| Evidence plan | A formal mechanism to agree upfront what information and evidence the applicant needs to supply in the HRA. |
| Favourable conservation status | <p>For a natural habitat, it occurs when</p> <ol style="list-style-type: none"> 1) its natural range and areas it covers within that range are stable or increasing; and 2) 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 3) the conservation status of its typical species is favourable. <p>For a species, it occurs when</p> <ol style="list-style-type: none"> 1) the 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; 2) the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future; 3) there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis. |
| Functionally linked land | Areas of land or sea occupied by the qualifying interests (species) of a European site that lie beyond the boundary of the site. Such areas support activities such as feeding, roosting and migration NECR207 [Ref 3.I]. |
| Habitat of a species | An environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle. |
| Integrity | The coherence of a site's ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it [is or] was classified ODPM Circular 06/2005 [Ref 4.N]. |

Terms and definitions (continued)

| Term | Definition |
|--|--|
| Imperative reasons of overriding public interest | <p>Situations where plans or projects are considered indispensable:</p> <ol style="list-style-type: none"> 1) within the framework of actions or policies aiming to protect fundamental values for citizens' lives (health, safety, environment); 2) within the framework of fundamental policies for the State and society; 3) within the framework of carrying out activities of an economic or social nature, fulfilling specific obligations of public service. <p>These are plans or projects which are:</p> <ol style="list-style-type: none"> 1) both necessary and urgent; 2) of such a scale of importance that the reasons outweigh the scale of harm to the integrity of the site; and 3) deliver public good rather than a private interest. |
| Likely significant effects | <p>Under the Habitat Regulations an effect is likely if:</p> <ol style="list-style-type: none"> 1) it cannot be excluded, in that it is capable of having an effect, on the basis of objective information; and 2) it is likely to undermine the site's conservation objectives. |
| Mitigation measures | Measures aimed at minimising or even cancelling the negative impact of a project, during or after its completion. |
| Natural habitats | Terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural. |
| Natural habitat types of community interest | <p>Natural habitats which, within the territory referred to in Article 2 92/43/EEC [Ref 2.1]:</p> <ol style="list-style-type: none"> 1) are in danger of disappearance in their natural range; or 2) have a small natural range following their regression or by reason of their intrinsically restricted area; or 3) present outstanding examples of typical characteristics of one or more of the five following biogeographical regions: Alpine, Atlantic, Continental, Macaronesian and Mediterranean. |
| Objectivity | Sufficient evidence to prove any conclusions beyond any reasonable scientific doubt. |

Terms and definitions (continued)

| Term | Definition |
|--|---|
| Potential Special Protection Areas (pSPAs) | Sites classified under the Birds Directive 2009/147/EC [Ref 2.N] that have been submitted for formal designation, but not yet formally adopted. |
| Precautionary principle | The conservation objectives prevail where there is uncertainty or harmful effects are assumed in the absence of evidence to the contrary. |
| Priority natural habitat | Natural habitat types in danger of disappearance, which are present on the territory referred to in the Article 2 and for the conservation of which the community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2 92/43/EEC [Ref 2.I]. |
| Project proponent | The party applying for any consent, permission or other authorisation, with responsibilities for provision of information to support decisions by the 'competent authority' on the need for appropriate assessment and to allow the appropriate assessment to be undertaken. |
| Priority species | Species of European interest of which the UK has a particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2 92/43/EEC [Ref 2.I]. Indicated by an asterisk (*) in Annex II. |
| Proportionality | Any residual impact on a qualifying interest that is assessed as greater than 'negligible' is assessed as potentially significant. |
| Qualifying interests | Those habitats or species that are the reason for selection of a European site. |
| Ramsar | Wetlands of international importance designated under the Ramsar Convention. |
| Relevant transposing regulations | For the purposes of HRA these are the country specific regulations in England, Wales, Scotland and Northern Ireland. |
| Special Area of Conservation (SAC) | Sites classified under the Habitats Directive 92/43/EEC [Ref 2.I] that have been formally adopted and designated, on account of their importance for the conservation of habitats or species. |
| Significant effect | For the purposes of HRA an effect that could undermine a site's conservation objectives. |
| Site | A geographically defined area whose extent is clearly delineated. |

Terms and definitions (continued)

| Term | Definition |
|--|---|
| Species of community interest | <p>Species which, within the territory referred to in Article 2, are:</p> <ol style="list-style-type: none"> 1) endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or 2) vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or 3) rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or 4) endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact of their exploitation on their conservation status. |
| Special Protection Area (SPA) | <p>Sites classified under the Birds Directive 2009/147/EC [Ref 2.N] that have been formally adopted and designated, on account of their international importance for the breeding, feeding, wintering or migration of rare and vulnerable bird species.</p> |
| Statement to inform the appropriate assessment | <p>Information necessary for the competent authority to assess the environmental implications of the project, whether alone or in combination with other plans or projects, on the site and its qualifying interests.</p> |
| Sufficient evidence | <p>For the purposes of HRA this is the information needed to demonstrate compliance with the UK relevant transposing regulations and specifically for the competent authority to meet their statutory duties. It includes (where relevant):</p> <ol style="list-style-type: none"> 1) the location and description of European sites; 2) a project's impacts on the integrity European sites; 3) consultation with and regard to comments from the relevant SEBs; 4) mitigation measures which avoid or reduce each impact, together with their effectiveness, timing and delivery mechanism; and 5) residual effects. |

1. Scope

Aspects covered

- 1.1 Habitats Regulations assessment (HRA) shall support the application of the Habitats Directive 92/43/EEC [Ref 2.I], and the Birds Directive 2009/147/EC [Ref 2.N] including the relevant transposing national regulations.
- 1.2 HRA shall include systematic collection, assessment, and reporting of the implications of highway projects on European sites.
- 1.3 In line with the Habitats Directive 92/43/EEC [Ref 2.I], the Birds Directive 2009/147/EC [Ref 2.N] and relevant transposing regulations, sufficient evidence must be collected and made available where:
 - 1) any plan or project is not directly connected with or necessary to the management of the European site; and
 - 2) is likely to have a significant effect thereon.

Implementation

- 1.4 This document shall be implemented forthwith on all projects involving Habitats Regulations assessment on the motorway and all-purpose trunk roads according to the implementation requirements of GG 101 [Ref 5.N].
- 1.5 The requirements in this document shall be applied to the assessment and reporting of the implications on European sites from projects.

Use of GG 101

- 1.6 The requirements contained in GG 101 [Ref 5.N] shall be followed in respect of activities covered by this document.

2. Principles and purpose

Integration with consent procedures and planning policy

2.1 HRA shall report the effects of a project on:

- 1) Sites of Community Importance (SCIs);
- 2) Special Protection Areas (SPAs), and potential/proposed SPAs (pSPAs);
- 3) Special Areas of Conservation (SACs), and candidate (cSAC) or possible/proposed (pSAC) sites; and
- 4) Ramsar sites.

2.2 The precautionary principle shall be applied in reporting through all HRA stages.

2.2.1 Recourse to the precautionary principle may be relevant when there:

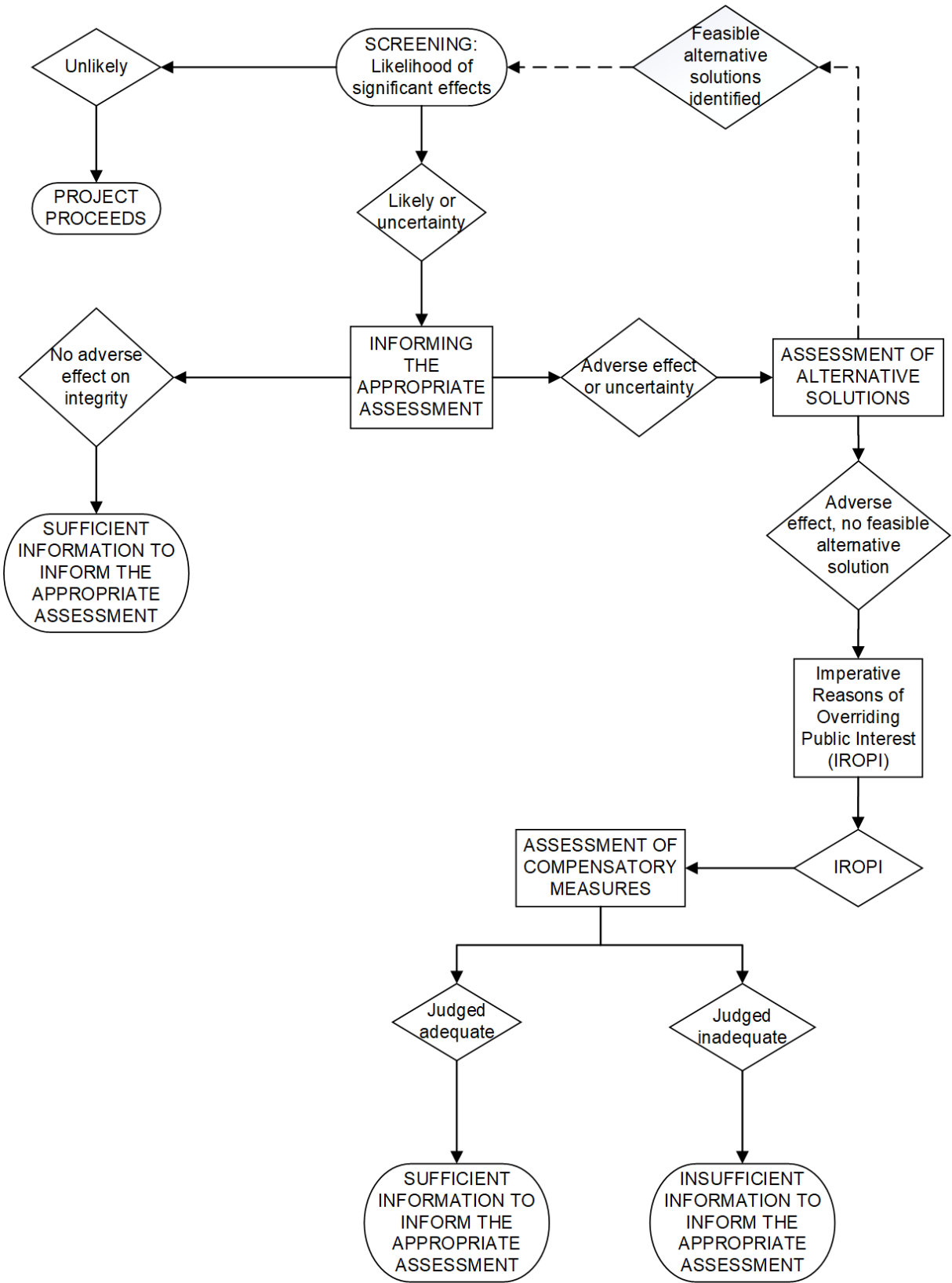
- 1) are "potentially negative effects"; or
- 2) is "insufficiency of the data, which makes it impossible to determine with sufficient certainty the risk in question".

2.2.2 Site conservation objectives should prevail where there is uncertainty.

2.2.3 Adverse effects should be reported in the HRA in the absence of evidence to the contrary.

2.3 The consequential stages set out in Figure 2.3 shall be followed and the outcomes reported using the relevant templates in the Appendices to this document.

Figure 2.3 Generic HRA process



2.4 All HRAs shall provide specific, objective evidence to justify the assessment conclusions or outcome.

- 2.5 Screening shall report likely significant effects where mitigation of potential effects on the interest features of a European site are relied upon.
- 2.5.1 Where the project adopts construction good practice or measures required to avoid nuisance or to ensure wider legislative compliance these measures should be reported as part of the project description.
- 2.6 Where HRA's progress beyond screening, sufficient evidence shall be demonstrated to support all conclusions beyond reasonable scientific doubt.

Uncertainty

- 2.7 The source and relevance of any uncertainty in any HRA shall be explained and reported at each relevant stage of assessment.
- 2.8 The feasibility and effectiveness of mitigation including the ability to deliver such measures shall be evidenced and reported within the HRA.
- 2.8.1 The feasibility and effectiveness of mitigation and compensatory measures may include specific evidence such as contracts or agreements to allow mitigation to be secured and delivered.
- NOTE** *As set out in 5200DC0001 [Ref 1.I].*
- 2.9 The feasibility and effectiveness of compensatory measures and the ability for a project such measures shall be evidenced and reported within the HRA.

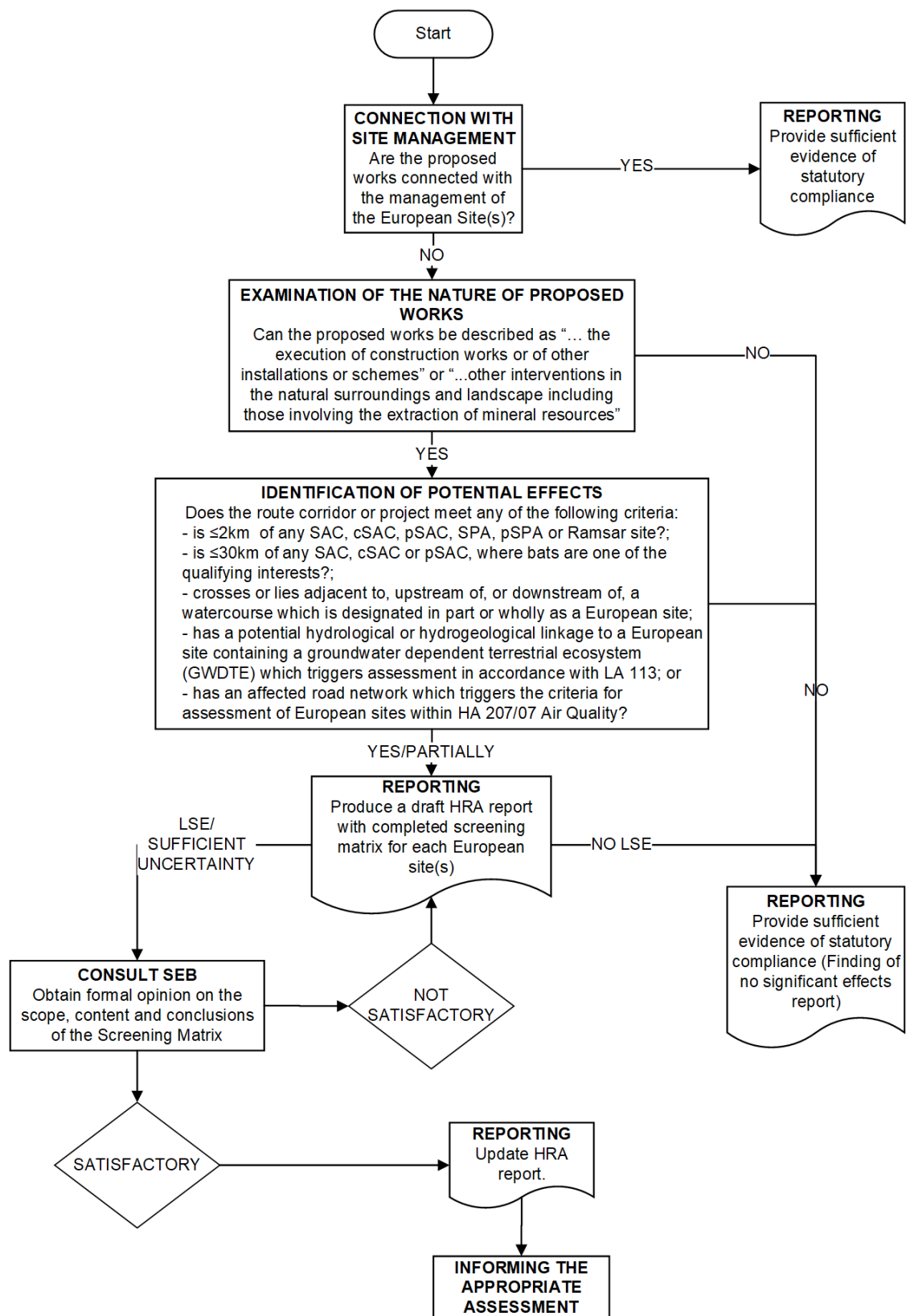
Change management

- 2.10 Where changes are made to a proposed project, the conclusions of the HRA shall be reviewed and any changes in the conclusions reported.
- NOTE 1** *The implications for assessment conclusions and subsequent mitigation and monitoring requirements need to be recorded.*
- NOTE 2** *Changes result from design change including during construction or other project lifecycle stages.*
- NOTE 3** *Re-assessing original conclusions helps to identify the need to amend mitigation and monitoring measures as the design evolves.*
- 2.11 Where a material change, including to mitigation and monitoring, is proposed post consent the implications of this change shall be evaluated, assessed and reported prior to their implementation.
- 2.11.1 Where there are material changes the opinion of the competent authority and relevant statutory environmental body (SEB) should be sought.

3. Screening

- 3.1 The outcomes from the HRA screening process (Figure 3.1) shall be reported in the form of an HRA report.

Figure 3.1 HRA screening process



Determination of connection with site management

- 3.2 The HRA report shall provide evidence of whether the works are connected with or necessary to the management of a European site.
- 3.2.1 Such works should include those that are:
- 1) for conservation purposes;
 - 2) management which is 'directly connected with or necessary' to the site; and
 - 3) solely conceived for the conservation management of a site and not direct or indirect consequences of other activities.
- 3.3 Exceptionally when works are concluded to be connected with European site management, the formal written opinion of the relevant SEB shall be sought on this conclusion.

Examination of the nature of proposed works

- 3.4 The HRA shall record whether the proposed works are projects in accordance with the 2014/52/EU [Ref 3.N].
- 3.5 The description of the project shall include design measures that are considered integral.
- 3.6 The description of project shall not include mitigation measures that are introduced to avoid harm to the European site or to avoid likely significant effects (LSE).

Identification of potential effects on European sites

- 3.7 The screening stage of HRA shall be completed for all European sites where a route corridor or project meets any of the following screening criteria:
- 1) is within 2km of a European site or functionally linked land;
 - 2) is within 30km of a SACs, where bats are noted as one of the qualifying interests;
 - 3) crosses or lies adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a European site;
 - 4) has a potential hydrological or hydrogeological linkage to a European site containing a groundwater dependent terrestrial ecosystem (GWDTE) which triggers the assessment of European sites in accordance with LA 113 [Ref 6.N];
 - 5) has an affected road network (ARN) which triggers the criteria for assessment of European sites LA 105 [Ref 1.N].
- 3.7.1 For the purposes of HRA, where the established risk to GWDTE is assessed to be above negligible, further assessment in accordance with LA 113 [Ref 6.N] may be required.
- 3.7.2 Additional European sites should be subject to screening where the existence of ecological connectivity between projects and European sites is identified beyond the screening criteria.

Reporting the outcomes of screening

- 3.8 The screening stage of HRA shall be reported within an HRA report which includes completed screening matrices for European sites which meet the screening criteria.
- 3.9 Screening matrices shall support a conclusion that either:
- 1) there is an absence of LSE; or
 - 2) there are LSE.
- 3.9.1 Where the screening stage of HRA concludes that there is an absence of European sites which meet the screening criteria, evidence should be reported in the form of a file note or finding of no significant effects report.

NOTE Effect pathways on qualifying interests that are mobile species can extend to land occupied outside of the designated site boundary.

3.10 Where screening concludes that significant effects are likely (alone or in combination) or that sufficient uncertainty remains then further HRA shall be undertaken.

Consultation

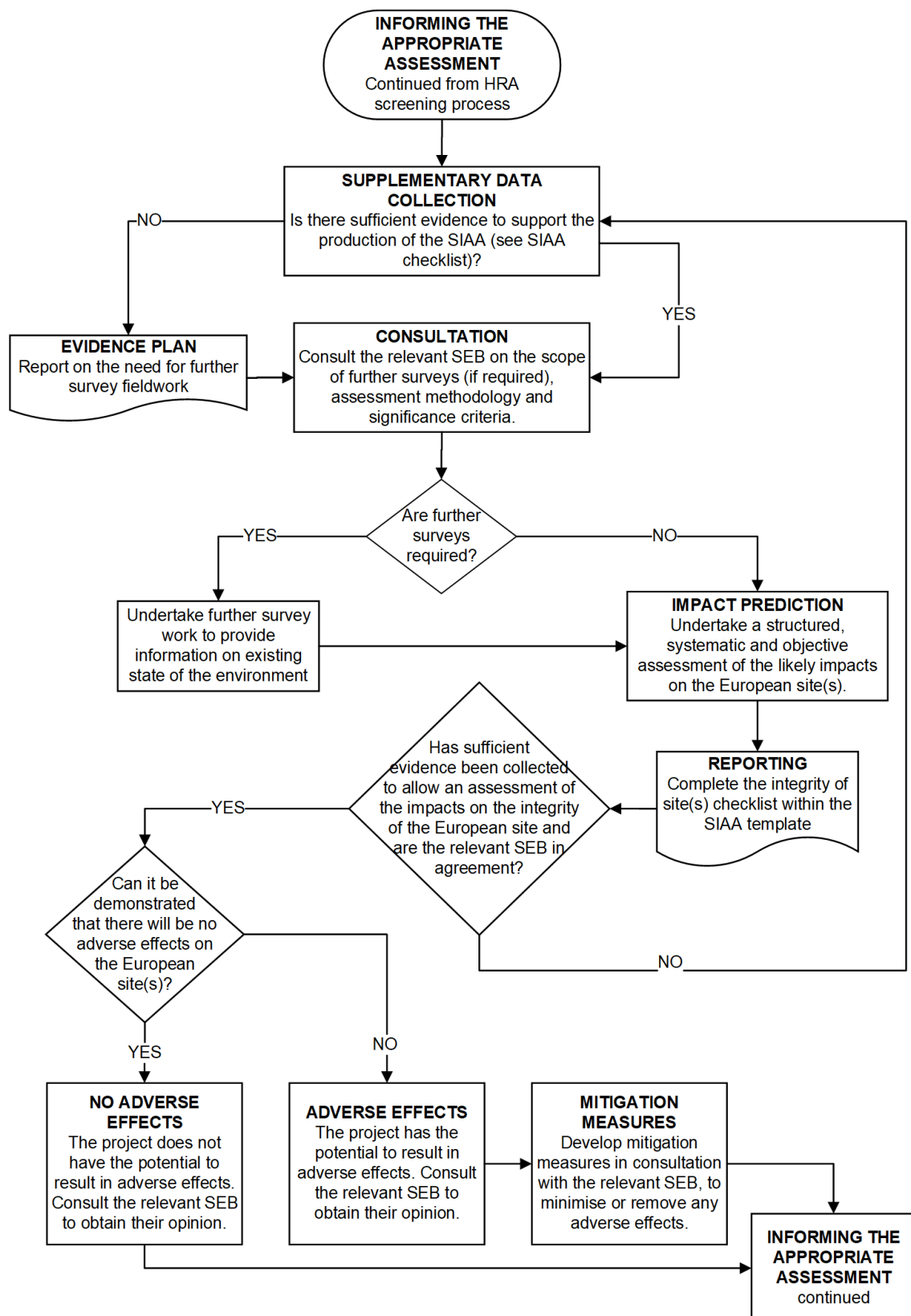
3.11 Where screening concludes that significant effects are likely (alone or in combination) or that sufficient uncertainty remains then the opinion of the relevant SEB shall be sought.

3.11.1 Where the relevant SEB(s) disagrees with the reported screening conclusions and this matter cannot be resolved, then LSE should be assumed.

4. Informing the appropriate assessment

- 4.1 Informing the appropriate assessment shall report on and provide evidence of examination of adverse effects on the integrity of a European site to inform the competent authority undertaking the appropriate assessment.
- 4.2 Informing the appropriate assessment shall be undertaken following the procedure within Figure 4.2.

Figure 4.2 Informing the appropriate assessment process



Supplementary data collection

4.3 An evidence plan shall be produced to agree the scope of the work needed to support the production of the statement to inform the appropriate assessment (SIAA).

NOTE 1 Evidence plans can provide greater certainty to all parties on the amount and range of evidence to be collected.

NOTE 2 Evidence plans can help address and agree issues prior to application supporting robust, streamlined decisions.

4.4 Where a requirement for supplementary data collection is identified, the following information shall be reported in the evidence plan:

- 1) further survey fieldwork;
- 2) survey methodology;
- 3) impact prediction method(s).

NOTE 1 For most projects it is unlikely that adequate information can be obtained from existing sources of information.

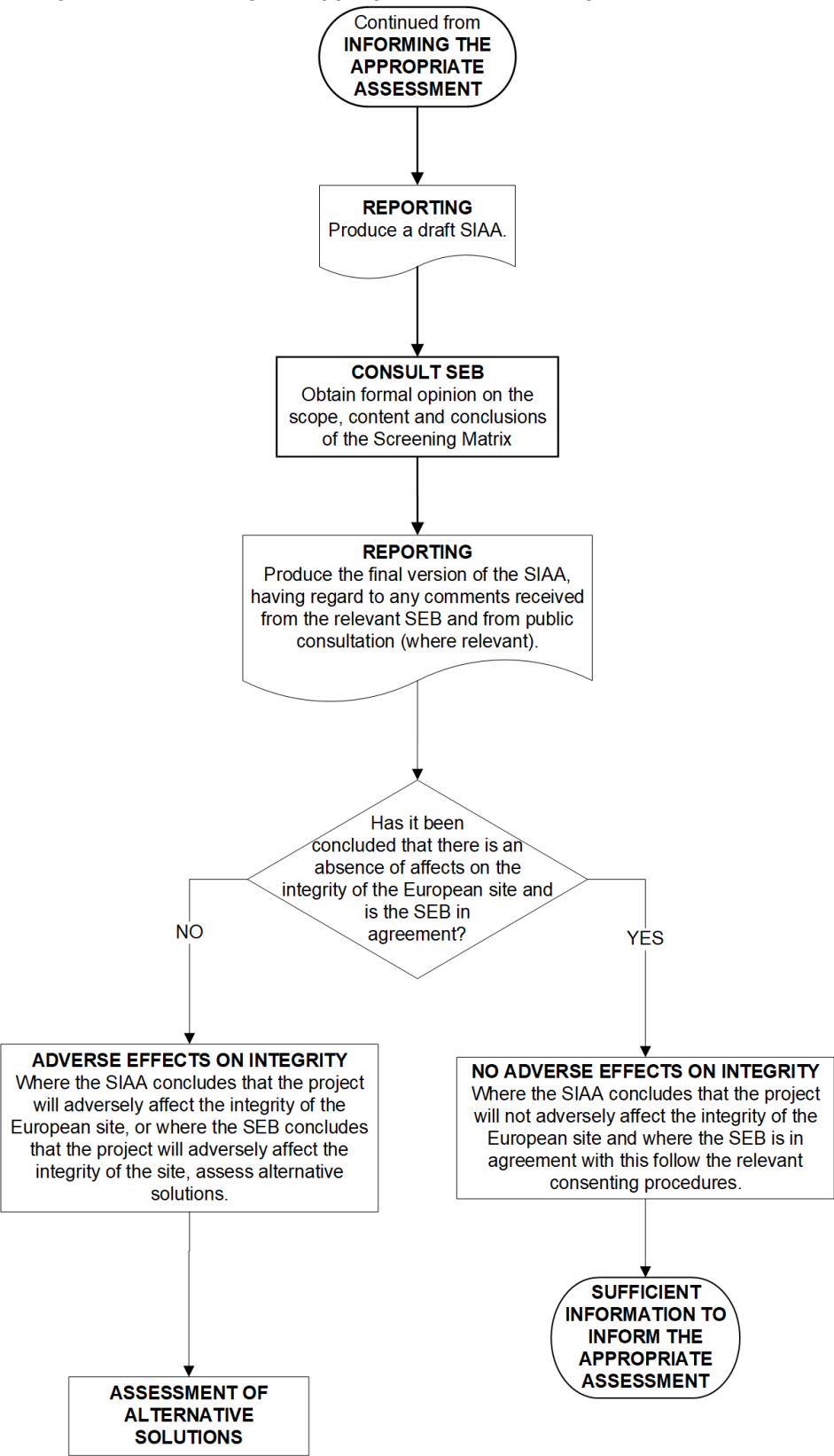
NOTE 2 Available survey and impact methods can include:

- 1) direct measurements;
- 2) flow charts, network and systems diagrams;
- 3) quantitative predictive models;
- 4) geographical information systems (GIS);
- 5) existing information;
- 6) expert opinion and judgement;
- 7) description and correlation (physical factors);
- 8) carrying capacity analysis; and
- 9) ecosystem analysis.

Reporting

4.5 Reporting and consultation shall follow the procedure within Figure 4.5.

Figure 4.5 Informing the appropriate assessment process continued



4.6 A SIAA shall be produced to compile and report on information gathered during further HRA.

4.6.1 The SIAA should include:

- 1) details of the proposed activities;
- 2) information on the affected European Sites;
- 3) details of the anticipated impacts;
- 4) mitigation proposed to avoid or reduce the adverse impacts;
- 5) details of the consultation undertaken with the relevant SEB(s); and
- 6) details of the consultation undertaken with the general public, where relevant.

4.6.2 The outline contents of the SIAA provided in Appendix C should be used for reporting.

4.7 The SIAA shall conclude:

- 1) that evidence is sufficient and that it demonstrates beyond reasonable scientific doubt that there is an absence of adverse effects; or
- 2) that the evidence is sufficient but that it indicates that there is an adverse effect; or
- 3) that there is insufficient information or evidence to inform the competent authority.

4.8 Where the SIAA concludes that there are effects on the integrity of a European site an assessment of alternative solutions shall be undertaken.

Consultation

4.9 The relevant SEB and other relevant non-Governmental organisations shall be consulted on the evidence plan.

4.10 The results of the fieldwork shall be reviewed and an updated evidence plan produced where changes in the methodology for impact prediction are assessed to be necessary.

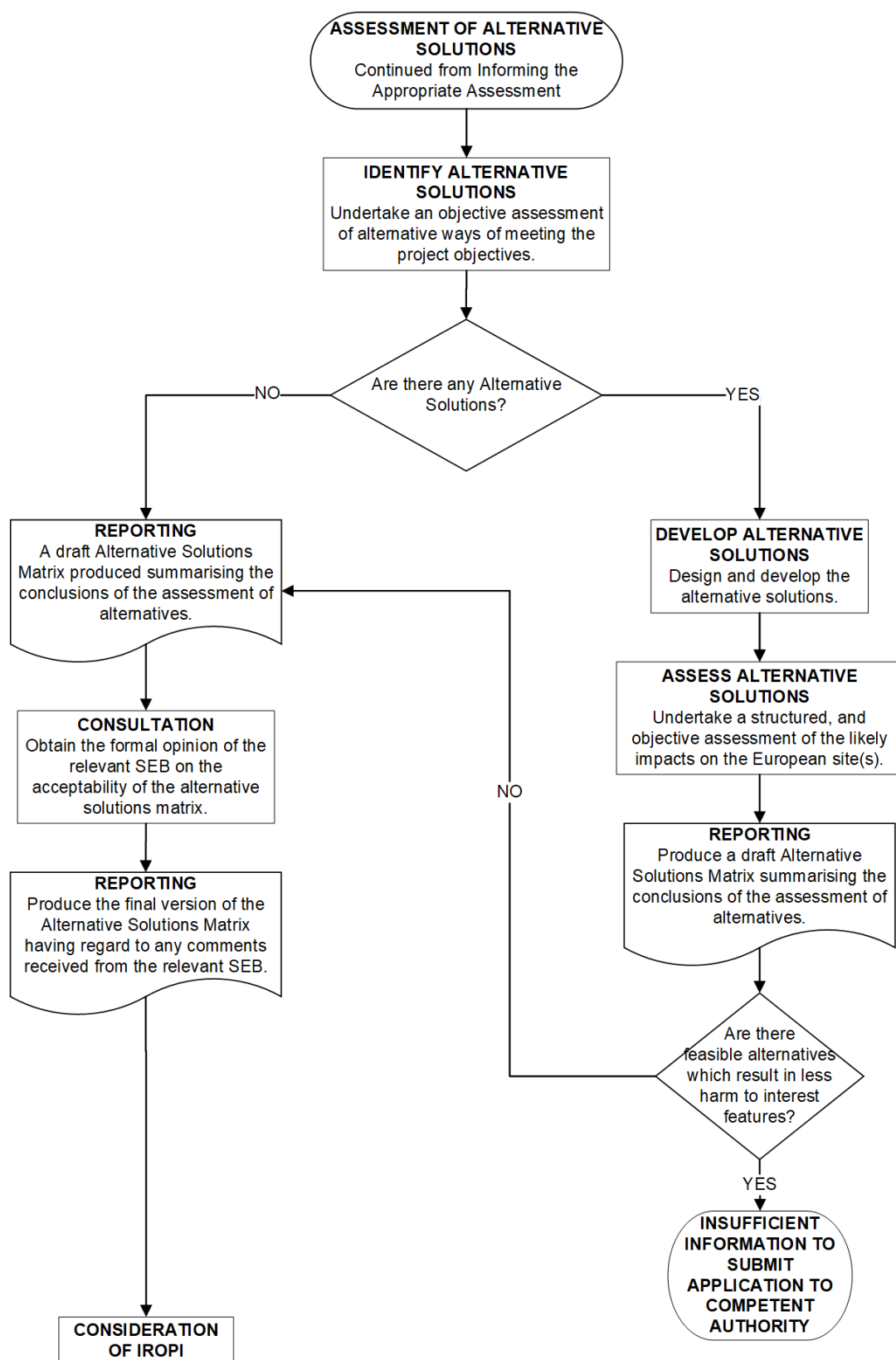
4.11 The relevant SEB and other relevant non-Governmental organisations shall be consulted on the SIAA.

4.12 The SIAA shall be made available to the general public as part of any public consultation exercise.

5. Assessment of alternative solutions

- 5.1 Formal assessment and reporting of alternative solutions shall be undertaken where the SIAA:
- 1) concludes that there are adverse impacts of greater than negligible magnitude; or
 - 2) contains insufficient information on any impact.
- 5.2 Further assessment shall be undertaken and an alternative solutions matrix produced following the process within Figure 5.2.

Figure 5.2 Assessment of alternative solutions process



5.3 The assessment of alternative solutions shall draw on information contained within the environmental assessment report or environmental statement, and examine the range of reasonable and feasible

alternative solutions presented in Figure 5.2, to provide a description of each specified alternative.

5.3.1 The assessment of alternative solutions may include alternative locations or routes, different scales or designs of development, or alternative processes.

5.4 The assessment of alternative solutions shall report on solutions that deliver the objectives of the project and include alternatives that are less damaging to the European site.

5.4.1 The project objectives should be reviewed to identify alternative solutions that are subject to robust and objective examination.

NOTE *The examination of alternatives within environmental impact assessment (EIA) are not as stringent as the requirements for examination of alternatives within HRA.*

5.5 The relative performance of identified alternative solutions shall be assessed and reported against:

- 1) the conservation objectives of the European site;
- 2) the site's integrity; and
- 3) its contribution to the overall coherence of the European site network.

5.6 An assessment of alternative solutions shall be compiled and reported within an alternative solutions assessment matrix (Appendix D).

5.7 The alternative solutions assessment matrix (Appendix D) shall be used as the basis for consultation with the relevant SEB(s).

5.8 Where the alternative solutions assessment matrix reports that there are no alternative solutions to the project and this has been agreed during the consultation exercise the information shall be formally reported within a final alternative solutions assessment matrix.

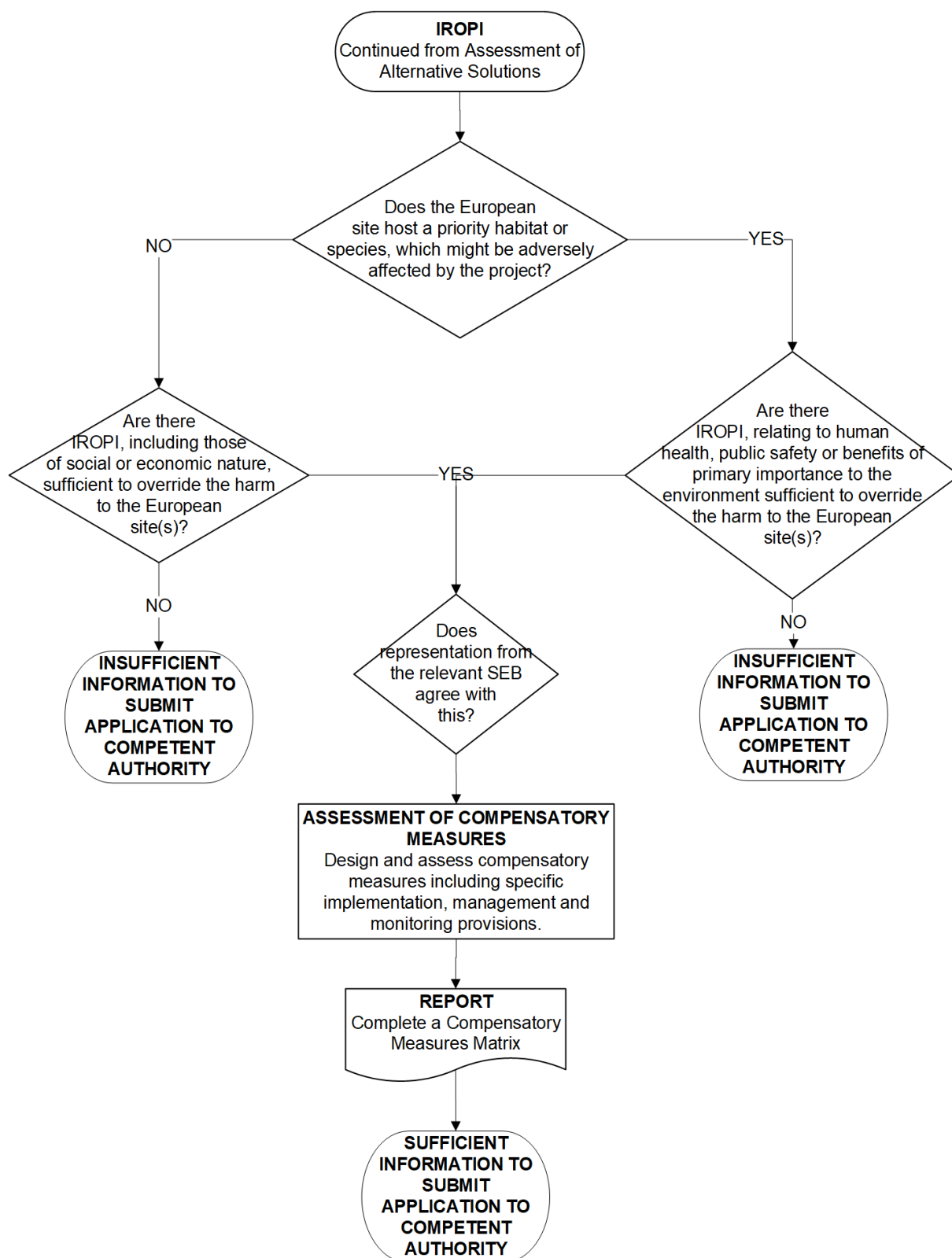
5.9 Where the alternative solutions assessment matrix reports that there are alternative solutions to the project which meet the project objectives but are less damaging to the European site, these shall be developed and subject to habitats regulations assessment.

NOTE *The identification of alternative solutions can lead to delays to the project programme or unacceptable projects.*

6. Assessment of IROPI

- 6.1 Where the alternative solutions assessment matrix reports that there are no alternative solutions to the project and this has been agreed during the consultation exercise an assessment of IROPI shall be undertaken.
- 6.2 The assessment of IROPI shall be undertaken and reported following the procedure within Figure 6.2.

Figure 6.2 IROPI and compensatory measures process



6.3 To inform the assessment of IROPI the presence, at the European site, of priority species or habitats listed in the Habitats Directive 92/43/EEC [Ref 2.1] shall be verified and reported within the prior opinion/compensatory measures matrix.

- 6.4 Where Habitats Directive 92/43/EEC [Ref 2.1] priority habitats or species are absent, assessment and reporting of IROPI shall examine whether the project is being undertaken for any of the following reasons:
- 1) a social or economic nature;
 - 2) human health or public safety;
 - 3) public safety;
 - 4) beneficial consequences of primary importance for the environment; or
 - 5) other imperative reasons of overriding public interest.
- 6.5 Where Habitats Directive 92/43/EEC [Ref 2.1] priority habitats or species are present, assessment and reporting of IROPI shall only examine whether the project is being undertaken for any of the following reasons:
- 1) human health or public safety;
 - 2) beneficial consequences of primary importance for the environment; or
 - 3) other imperative reasons of overriding public interest.
- NOTE Where Habitats Directive 92/43/EEC [Ref 2.1] priority habitats or species are present IROPI do not include reasons of a social or economic nature.*
- 6.6 An assessment of IROPI shall be compiled and reported within a compensatory measures proforma (Appendix E).

7. Assessment of compensatory measures

- 7.1 Where IROPI are established and reported an assessment of compensatory measures shall be undertaken.
- 7.2 The assessment of compensatory measures shall be undertaken and reported following the procedure within Figure 6.2.
- 7.3 An assessment of compensatory measures shall be compiled and report on measures to compensate for the negative impact of the project.
 - 7.3.1 The compensatory measures proforma (Appendix E) should be used to report on compensatory measures.
 - 7.3.2 The compensatory measures proforma (Appendix E) should be used as the basis for consultation, with the relevant SEB(s), to seek their representation on the sufficiency of the compensatory measures.

8. Monitoring of compensatory measures

- 8.1 Where negative effects on the integrity of a European site are identified, monitoring objectives shall be established and reported in the SIAA.

NOTE The outcomes from monitoring have the potential to contribute to future decision making and, where appropriate, scientific knowledge.

- 8.2 Monitoring and evaluation of compensatory measures shall be established and reported to ensure:
- 1) measures are effective/successful;
 - 2) measures which in practice (i.e. when implemented) are associated with a low level of effectiveness are modified and corrective action taken to ensure delivery of the intended objectives; and
 - 3) the ecological conditions needed to ensure the overall coherence of the European site network are maintained or reinstated.
- 8.3 Any monitoring of compensatory measures shall be reported to the relevant Government department to support national level obligations relating to the surveillance of the conservation status of habitats and species.

9. Normative references

The following documents, in whole or in part, are normative references for this document and are indispensable for its application. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

| | |
|---------|--|
| Ref 1.N | Highways England. LA 105, 'Air Quality' |
| Ref 2.N | 2009/147/EC, 'Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds' |
| Ref 3.N | 2014/52/EU, 'Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment' |
| Ref 4.N | ODPM. ODPM Circular 06/2005, 'Government Circular: Biodiversity and geological conservation - statutory obligations and their impact within the planning system.' |
| Ref 5.N | Highways England. GG 101, 'Introduction to the Design Manual for Roads and Bridges' |
| Ref 6.N | Highways England. LA 113, 'Road drainage and the water environment' |

10. Informative references

The following documents are informative references for this document and provide supporting information.

| | |
|---------|--|
| Ref 1.I | 5200DC0001, 'Communication from the Commission on the precautionary principle' |
| Ref 2.I | 92/43/EEC, 'Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.' |
| Ref 3.I | Natural England. NECR207, 'Functional linkage: How areas that are functionally linked to European sites have been considered when they may be affected by plans and projects - a review of authoritative decisions.' |

Appendix A. Screening matrix

Table A.1 Screening - Potential effects summary

| European Site name and designation | Effects described in screening submission | Presented/considered in screening submission under: |
|------------------------------------|---|---|
| Site 1 SPA/SAC/Ramsar | 1) displacement from noise; 2) displacement from visual disturbance; 3) displacement from lighting. | 1) displacement |
| | | |

Table A.2 HRA screening matrix

| | | |
|---|------------------------------------|--------------------------------------|
| Project | | |
| European Site under consideration | | |
| Date: | Author (Name/Organisation): | Verified (Name/Organisation): |
| | | |
| Description of project | | |
| Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the European Site by virtue of: | | |
| Size and scale (road type and probable traffic volume) | | |
| Land-take | | |
| Distance from the European Site or key features of the site (from edge of the project assessment corridor) | | |
| Resource requirements (from the European Site or from areas in proximity to the site, where of relevance to consideration of impacts) | | |
| Emissions (e.g. polluted surface water runoff – both soluble and insoluble pollutants, atmospheric pollution) | | |
| Excavation requirements (e.g. impacts of local hydrogeology) | | |
| Transportation requirements | | |
| Duration of construction, operation, etc. | | |
| Other | | |
| Description of avoidance and/or mitigation measures | | |
| Describe any assumed (plainly established and uncontroversial) mitigation measures, including information on: | | |
| Nature of proposals | | |
| Location | | |
| Evidence for effectiveness | | |
| Mechanism for delivery (legal conditions, restrictions or other legally enforceable obligations) | | |

Table A.3 Screening matrix (continued)

| Characteristics of European Site(s) | |
|---|--|
| A brief description of the European Site to be produced, including information on: | |
| Name of European Site and its EU code | |
| Location and distance of the European Site from the proposed works | |
| European Site size | |
| Key features of the European Site including the primary reasons for selection and any other qualifying interests | |
| Vulnerability of the European Site – any information available from the standard data forms on potential effect pathways | |
| European Site conservation objectives – where these are readily available | |
| Assessment criteria | |
| Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the European Site. | |
| | |
| Initial assessment | |
| The key characteristics of the site and the details of the European Site to be considered in identifying potential impacts. Describe any likely changes to the site arising as a result of: | |
| Reduction of habitat area | |
| Disturbance to key species | |
| Habitat or species fragmentation | |
| Reduction in species density | |
| Changes in key indicators of conservation value (water quality, etc) | |
| Climate change | |
| Describe any likely impacts on the European Site as a whole in terms of: | |
| Interference with the key relationships that define the structure of the site | |
| Interference with key relationships that define the function of the site | |

Table A.4 Screening matrix (continued)

| Indicate the significance as a result of the identification of impacts set out above in terms of: | |
|--|--------------------------------------|
| Reduction of habitat area | |
| Disturbance to key species | |
| Habitat or species fragmentation | |
| Loss | |
| Fragmentation | |
| Disruption | |
| Disturbance | |
| Change to key elements of the site (e.g. water quality, hydrological regime etc.) | |
| Describe from the above those elements of the project, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts is not known. | |
| | |
| Outcome of screening stage (delete as appropriate). | Significant effects are likely/ |
| | Sufficient uncertainty remains/ |
| | Not likely to be significant effects |
| Are the appropriate statutory environmental bodies in agreement with this conclusion (delete as appropriate and attach relevant correspondence). | YES/NO |

Appendix B. Finding of no significant effects report matrix (Screening)

Table B.1 Matrix

| | | | |
|--|------------------------------------|--------------------------------------|--|
| Project name: | | | |
| European Site under consideration | | | |
| Date: | Author (Name/Organisation): | Verified (Name/Organisation): | |
| | | | |
| Name and location of European Site: | | | |
| Description of the project | | | |
| Is the project directly connected with or necessary to the management of the site (provide details)? | | | |
| Are there other projects or plans that together with the project being assessed could affect the site (provide details)? | | | |
| The assessment of significance of effects | | | |
| Describe how the project (alone or in combination) is likely to affect the European Site. | | | |
| Explain why these effects are not considered significant. | | | |
| List of agencies consulted: provide contact name and telephone or e-mail address. | | | |
| Response to consultation | | | |
| Data collected to carry out the assessment | | | |
| Who carried out the assessment? | Sources of data | Level of assessment completed | Where can the full results of the assessment be accessed and viewed? |
| | | | |
| | | | |

Appendix C. Outline contents for a statement to inform an Appropriate Assessment

C1 Executive summary

A separate non-technical summary may also be produced.

C2 Introduction

A brief background to the issues, including the site(s) affected, the nature of the proposals the findings of the screening assessment and thus why the assessment is being undertaken.

Reference to the guidance used to inform the assessment.

A statement of qualification of the author of the Appropriate Assessment.

C3 Background to the project

A description of the main features of the project. The following information should be presented:

Present the following information:

- 1) purpose and objectives of project including strategic importance of the project;
- 2) the physical land-take of the project;
- 3) key stages of the project and the various timescales thereof;
- 4) resource requirements throughout the lifetime of the project;
- 5) waste products arising during construction and operation;
- 6) any other services (e.g. pipelines, electricity, traffic management/technology, lighting, signage etc.) which will be required as part of the project.

Maps and plans which illustrate the nature of the works planned as part of the project. In addition, include any previous screening matrices as supporting evidence in an appendix.

C4 Protected sites potentially affected by the proposals

Description of the European site or sites affected by the proposals with reference to the following:

- 1) physical area of the European site;
- 2) the qualifying interests, i.e. (habitats and Key/Priority species) of the European site;
- 3) conservation objectives of the site and any planned conservation initiatives for the European site;
- 4) details of the existing baseline conditions of the site including details of data collection methodologies, and consultations undertaken;
- 5) the value of the site and the qualifying interests therein to the European site network;
- 6) likely future changes in baseline conditions at the site in the absence of the project;
- 7) details of the key species, habitat dynamics and functional relationships that maintain the sites 'integrity'.

Provide maps indicating the relative positions of the European site to the project.

For each site, present a summary of its reasons for designation. The notification details can be presented in an appendix.

C5 Assessment methodologies and assumptions

Describe and reference the assessment techniques, including details of how magnitude is calculated and the significance criteria used during the assessment of impacts. Reference assessment techniques within DMRB.

Present details of those elements of the project which are considered to be mitigation that is plainly established and uncontroversial (as assumed during screening) or mitigation that has been subject to further assessment (for elements of project that are considered to have any complexity). Mitigation should be considered in response to impacts on the European site identified in

Describe mitigation examined in response to impacts on the European site identified in C6.

Briefly describe the alternative solutions considered as part of the EIA.

Present details of how cumulative impacts have been considered.

C6 Potential impacts on protected sites

For each site present information which clearly identified the specific nature of the impacts of the project on the European Site.

Clearly define the nature of the impacts and described in terms of the following:

- 1) where the impact directly or indirectly affects the site;
- 2) loss of Area of European Site;
- 3) change in species population numbers of qualifying interests;
- 4) disturbance to species within European Site;
- 5) effects of fragmentation caused by the project;
- 6) the reversibility or the impacts;
- 7) the duration (i.e. long- or short-term).

Describe the sources of information used to make this assessment. This may be from the EIA for the project or from surveys commissioned specifically to answer questions raised as part of the HRA process. There should be a statement as to how far professional judgement and the precautionary principle have been used if there are not fully sufficient professional methodologies to enable the impacts to be categorically defined. If a qualifying interest is not affected, this should be clearly stated.

This may be from the EIA for the project or from surveys commissioned specifically to answer questions raised as part of the HRA process. There should be a statement as to how far professional judgement and the precautionary principle have been used if there are not fully sufficient professional methodologies to enable the impacts to be categorically defined. If a qualifying interest is not affected, this should be clearly stated.

Provide a statement of how far professional judgement and the precautionary principle have been used if there are not fully sufficient professional methodologies to enable the impacts to be categorically defined. If a qualifying interest is not affected, this should be clearly stated.

Clearly state if a qualifying interest is not affected.

Use objective evidence including reference to scientific data in order to prove the findings of the assessment of impacts beyond all reasonable scientific doubt.

The following boxes provide examples of considerations to be made when identifying potential impacts of projects.

Table C.1 Integrity of site checklist

| Conservation objectives |
|--|
| <p>Does the project have the potential to:</p> <ol style="list-style-type: none"> 1) cause delays in progress towards achieving the conservation objectives of the site?; 2) interrupt progress towards achieving the conservation objectives of the site?; 3) disrupt those factors that help to maintain the favourable conditions of the site?; 4) interfere with the balance, distribution and density of key species that are the indicators of the favourable condition of the site? |

Table C.2 Other indicators

| Other indicators |
|--|
| <p>Does the project have the potential to:</p> <ol style="list-style-type: none"> 1) cause changes to the vital defining aspects (e.g. nutrient balance) that determine how the site functions as a habitat or ecosystem?; 2) change the dynamics of the relationships (between, for example, soil and water or plants and animals) that define the structure and/or function of the site?; 3) interfere with predicted or expected natural changes to the site (such as water dynamics or chemical composition)?; 4) reduce the area of key habitats?; 5) reduce the population of key species?; 6) change the balance between key species?; 7) reduce the diversity of the site?; 8) result in disturbance that could affect population size or density of the balance between key species?; 9) result in fragmentation?; 10) result in loss or reduction of key features (e.g. tree cover, tidal exposure, annual flooding, etc)? |

C7 Mitigation

Provide details of the proposals to avoid, reduce and remediate any potential impacts. This should include sufficient information on the design, construction and monitoring of such measures to allow their likely success to be determined. Confirmation should be produced to illustrate the applicant's ability to deliver the mitigation. Evidence of where similar mitigative techniques have been used previously would also be helpful.

Include sufficient information on the design, construction and monitoring of such measures to allow their likely success to be determined. Confirmation should be produced to illustrate the applicant's ability to deliver the mitigation. Evidence of where similar mitigative techniques have been used previously would also be helpful.

Provide confirmation to illustrate the applicant's ability to deliver the mitigation. Evidence of where similar mitigative techniques have been used previously would also be helpful.

Provide details of the consultation undertaken with the relevant statutory environmental bodies with regard to the proposed mitigation.

Reassess the impacts of the proposals following mitigation stating the assessment methodology used.

C8 Proposals for monitoring and reporting

Provide details of monitoring methodology, criteria for success and reporting mechanisms.

C9 Consultations

Present details of consultation responses throughout the SIAA. Provide a summary of the consultations undertaken and the responses received.

Present evidence of iterative consultation with Statutory Environmental Bodies and other stakeholders with copies of correspondence in an appendix.

C10 Conclusions

Based on the information presented:

- 1) is the proposal directly connected with or necessary to site management for nature conservation?;
- 2) is the proposal likely to have a significant effect on the features of the site of European importance, alone or in combination with other plans and projects?;
- 3) what are the implications of the effects of the proposal on the site's conservation objectives and will it delay or interrupt progress towards achieving the objectives?;
- 4) can it be ascertained that the proposal will not adversely affect the integrity of the site beyond reasonable scientific doubt?

C11 References

Appendices:

- 1) screening matrix;
- 2) citation sheets for European sites;
- 3) any plans or diagrams showing the relationship between the project in relation to the relevant site(s) in wider context and in detail;
- 4) baseline information summaries (if no ES is supplied);
- 5) consultation responses;
- 6) supporting method statements.

Appendix D. Alternative solutions assessment matrix

Table D.1 Alternative solutions assessment matrix

| | | |
|--|---|---|
| Project name: | | |
| European Site under consideration | | |
| Date: | Author (name/organisation): | Verified (name/organisation): |
| | | |
| Assessment of alternative solutions | | |
| The description and objectives of the project | | |
| The 'do nothing' alternative | | |
| Predicted adverse effects of the project on the European Site following the appropriate assessment | | |
| Comparison with chosen project | | |
| Possible alternative solutions | Evidence of how the alternative solutions were assessed | Description of the relative effects on the conservation objectives of European site (greater or less adverse) |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative size and scale | | |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative means of meeting objectives | | |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative methods of construction | | |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative operational methods | | |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative decommissioning methods | | |
| Alternative 1 | | |
| Alternative 2 | | |
| Alternative 3 | | |
| Alternative timescales | | |

Table D.1 Alternative solutions assessment matrix (continued)

| | |
|---|--------------------------|
| Alternative 1 | |
| Alternative 2 | |
| Alternative 3 | |
| *these alternatives are not necessarily the same, the number of alternatives and type may vary for each aspect. | |
| Conclusions on assessment of alternatives | |
| Describe the alternative solution that would avoid or minimise significant impacts on the European site | |
| | |
| Explain why the proposed project is favoured over the other alternative solutions assessed. | |
| | |
| Provide an overall statement to explain why it is considered that in this instance there are no alternative solutions that would avoid reducing the conservation value of the European site | |
| | |
| Consultation on the assessment of alternatives | |
| Background to consultation | |
| Who carried out the assessment | |
| Sources of data consulted (summary) | |
| Level of impact assessment (i.e. EIA/ES) | |
| List of agencies consulted | Response to consultation |
| | |
| | |

Appendix E. Compensatory measures matrix

Table E.1 Prior opinion/compensatory measures matrix

| | |
|--|---|
| Country: | Date of completion: |
| Project name/reference: | |
| Address: | |
| Contact person: | |
| Telephone/e-mail: | |
| 1. Project | |
| Name and code of European Site affected: | |
| An SPA under the 'Birds' Directive | A proposed SAC under the 'Habitats' Directive |
| Hosting a priority habitat/species | |
| Summary of the project having an effect on the site | |
| | |
| 2. Negative effects | |
| Summary of the assessment of the negative effects on the site | |
| <p>NB: Focus on the adverse effect expected on the habitats and species for which the site has been proposed for the European Site network, include the appropriate maps and describe the already decided measures.</p> | |
| 3. Alternative solutions | |
| Summary of alternative solutions studied | |
| (Reasons why the competent national authorities have concluded that there is absence of alternative solutions) | |
| 4. Imperative reasons | |
| <p>Imperative reasons of over-riding public interest, including those of a social or economic nature (in the absence of priority habitat/species):</p> <ol style="list-style-type: none"> 1) social or economic; 2) human health; 3) public safety; 4) beneficial consequences of primary importance for the environment; 5) other imperative reasons of over-riding public interest. | |

Table E.1 Prior opinion/compensatory measures matrix (continued)

| |
|--|
| Reason to nevertheless carry out this project |
| (Short description of the reason) |
| 5. Compensatory measures |
| Foreseen compensatory measures and timetable (including relevant method statements, management agreements, monitoring proposals and confirmation of how it is to be delivered) |

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Sustainability & Environment
Appraisal

LA 115

England National Application Annex to LA 115 Habitats Regulations assessment

(formerly HD 44/09)

Revision 0

Summary

This National Application Annex sets out the Highways England specific requirements on assessment for use with LA 115 Habitats Regulations assessment.

Feedback and Enquiries

Users of this document are encouraged to raise any enquiries and/or provide feedback on the content and usage of this document to the dedicated Highways England team. The email address for all enquiries and feedback is: Standards_Enquiries@highwaysengland.co.uk

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Release notes

| Version | Date | Details of amendments |
|---------|----------|--|
| 0 | Sep 2019 | Highways England National Application Annex to LA 115. |

Foreword

Publishing information

This document is published by Highways England.

Contractual and legal considerations

This document forms part of the works specification. It does not purport to include all the necessary provisions of a contract. Users are responsible for applying all appropriate documents applicable to their contract.

Introduction

Background

This National Application Annex sets out the Highways England specific requirements relating to the identification of potential for significant effects on European sites as part of the screening stage of Habitats Regulations Assessment (HRA).

Assumptions made in the preparation of this document

The assumptions made in GG 101 [Ref 1.N] apply to this document.

Abbreviations

Abbreviations

| Abbreviation | Definition |
|--------------|--|
| HRA | Habitats Regulations assessment |
| IRZ | Impact risk zone |
| NSIP | National significant infrastructure projects |
| SSSI | Site of Special Scientific Interest |

E/1. Screening

- E/1.1 HRA screening matrices shall be completed for route corridors or projects, in addition to the assumptions within LA 115, where they are within relevant Sites of Special Scientific Interest (SSSIs) impact risk zones (IRZs) in accordance with MAGIC v3.0 [Ref 2.I].
- E/1.1.1 IRZs should be used to support HRA screening and specifically support the assessment of likely significant effects on the interest features of European sites.
- E/1.1.2 Those European sites with IRZs within the project boundary or footprint should be subject to HRA screening.
- NOTE 1 IRZs can be used to identify the areas over which interest features and sensitivities of European sites extent.*
- NOTE 2 IRZs can be used to identify the extent of compensatory measures delivered for other projects or plans, which are not formally included within modifications of the European site boundaries.*
- E/1.2 Screening outcomes shall for nationally significant infrastructure projects (NSIPs), in addition to the assumptions within LA 115, be summarised and reported in accordance with the screening matrices templates in Advice Note 10 [Ref 1.I].

E/2. Normative references

The following documents, in whole or in part, are normative references for this document and are indispensable for its application. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

| | |
|---------|---|
| Ref 1.N | Highways England. GG 101, 'Introduction to the Design Manual for Roads and Bridges' |
|---------|---|

E/3. Informative references

The following documents are informative references for this document and provide supporting information.

| | |
|---------|--|
| Ref 1.I | Planning Inspectorate. Advice Note 10, 'Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects.' |
| Ref 2.I | Natural England. MAGIC v3.0, 'Natural England's Impact Risk Zones for Sites of Special Scientific Interest (For use by Local Planning Authorities to assess planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites and determine when to consult Natural England)' |

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Design Manual for Roads and Bridges



Sustainability & Environment
Appraisal

LA 115

Northern Ireland National Application Annex to LA 115 Habitats Regulations assessment

Revision 0

Summary

There are no specific requirements for Department for Infrastructure, Northern Ireland supplementary or alternative to those given in LA 115.

Feedback and Enquiries

Users of this document are encouraged to raise any enquiries and/or provide feedback on the content and usage of this document to the dedicated team in the Department for Infrastructure, Northern Ireland. The email address for all enquiries and feedback is: dcu@infrastructure-ni.gov.uk

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Sustainability & Environment
Appraisal

LA 115

Scotland National Application Annex to LA 115 Habitats Regulations assessment

Revision 0

Summary

There are no specific requirements for Transport Scotland supplementary or alternative to those given in LA 115.

Feedback and Enquiries

Users of this document are encouraged to raise any enquiries and/or provide feedback on the content and usage of this document to the dedicated Transport Scotland team. The email address for all enquiries and feedback is: TSSStandardsBranch@transport.gov.scot

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Sustainability & Environment
Appraisal

LA 115

Wales National Application Annex to LA 115 Habitats Regulations assessment

Revision 0

Summary

There are no specific requirements for Welsh Government supplementary or alternative to those given in LA 115.

Feedback and Enquiries

Users of this document are encouraged to raise any enquiries and/or provide feedback on the content and usage of this document to the dedicated Welsh Government team. The email address for all enquiries and feedback is: Standards_Feedback_and_Enquiries@gov.wales

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