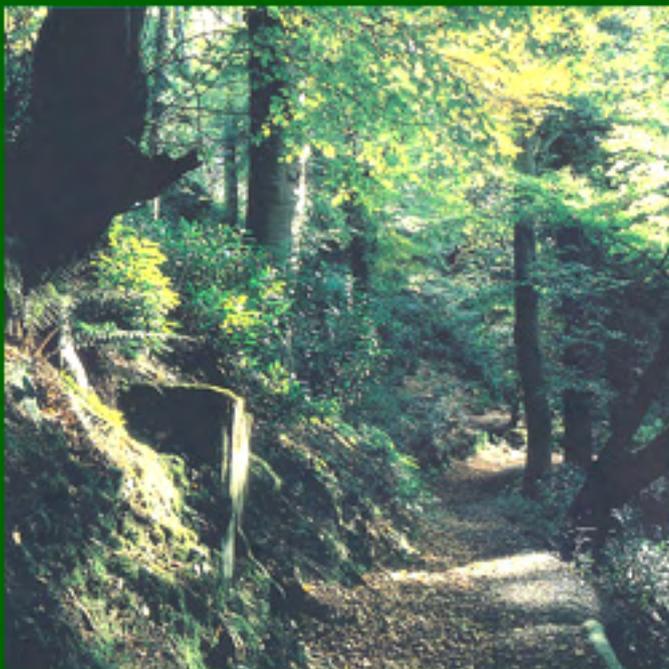




Planning Policy Statement 2
(PPS 2)

Planning and Nature Conservation





PLANNING POLICY STATEMENT 2

PLANNING AND NATURE CONSERVATION

Planning Policy Statements (PPSs) set out the policies of the Department of the Environment on different aspects of land-use planning. Their contents will be taken into account in preparing development plans and may also be material to decisions on individual planning applications and appeals.

This PPS sets out the Department's land-use planning policies for the conservation of our natural heritage. It embodies the Government's commitment to sustainable development and to conserving the diversity of our habitats and wildlife.

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I NTRODUCTION

- 1 Among the numerous functions of the Department of the Environment for Northern Ireland are nature conservation and planning. The Department's Planning Service Agency is responsible for the regulation of development and land use, whilst the Environment and Heritage Service is responsible for conservation of the natural environment and the control of pollution.
- 2 The Department has a statutory duty, laid down in Article 3 of the Planning Order (NI) 1991, to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development.
- 3 Planning Policy Statements, prepared in accordance with the provisions of Article 3 of the 1991 Planning Order, express the policies of the Department on different aspects of land use planning. Their contents will be taken into account in preparing development plans and, in appropriate circumstances, will also be material to decisions on individual planning applications and appeals.
- 4 Planning and Nature Conservation (PPS 2) states the Department's planning policy for nature conservation for the whole of Northern Ireland. Such policy is strongly guided by Government policy on nature conservation and by the statutory framework.
- 5 This Planning Policy Statement describes the statutory framework that helps to protect designated areas, including those of international importance and advises on the treatment of nature conservation issues in development plans. In addition, it outlines the criteria which the Planning Service will employ when processing planning applications which might affect nature conservation interests and to which developers should have regard when preparing proposals.
- 6 The Statement supersedes the following provisions of the Department's A Planning Strategy for Rural Northern Ireland published in September 1993:
 - Policy SP14 - Nature Conservation
 - Policy SP17 - Trees and Hedgerows
 - Policy Con 1 - Areas of Nature Conservation Importance
 - Policy Con 2 - Nature Conservation and Development
 - Policy Con 3 - Trees and Woodlands
- 7 The publication Planning Conservation Guidelines, of November 1990, is now withdrawn.

AIMS, APPROACH AND OBJECTIVES

8 The Government has accepted the concept of sustainable development as a guiding principle in environmental issues and in its 1994 publication *Sustainable Development : The UK Strategy* , described it as follows:

Responsibility for the environment is not solely the preserve of Government. The principles of sustainable development require the responsible use of man-made and natural resources by all concerned in a way that ensures that future generations are not left worse off... Sustainable development does not mean having less economic development... Nor does it mean that every aspect of the present environment should be preserved at all costs. What it requires is that all decisions.... are taken with proper regard to their environmental impact .¹

9 Government has also encouraged the conservation of habitats and species in the UK. Following the Government signing of the Biodiversity Convention in Rio de Janeiro in 1992, *Biodiversity : The UK Action Plan* was launched in 1994. This led to the *Biodiversity : the UK Steering Group Report* published in 1995 which has been endorsed by Government. The Steering Group Report includes action plans for a number of key habitats and species indicating the future conservation direction for all habitats through specifying targets and actions.

10 If Northern Ireland is to develop in a sustainable way, accommodating economic diversity and conserving its natural heritage, then environmental and economic development strategies must be closely integrated and mutually supportive. This approach is underlined in the joint Department of the Environment/Department of Economic Development publication *Growing a Green Economy* (March 1993).

11 The Department will strive to ensure the effective conservation of wildlife and natural features as important elements of a clean and healthy natural environment whilst making adequate provision for development and economic growth. Attractive environments, where attention is given to nature conservation, are essential to social and economic well being. With careful planning and control, conservation and development can be compatible.

12 The conservation of nature is of particular significance in Northern Ireland given its rich natural heritage of wildlife habitats, geological features and landforms, including some of international importance. There is also a considerable diversity of plant and animal species. It is important that this natural heritage be conserved for future generations.

13

The Government's aims for nature conservation are:-

to ensure that its policies contribute to conservation of the abundance and diversity of the United Kingdom's wildlife and its habitats;

to minimise the adverse effects on wildlife, where conflict of interest is unavoidable, and

to meet its international responsibilities and obligations for nature conservation.

STATUTORY FRAMEWORK

Legislation

14 The Government attaches considerable importance to the duties placed on it by the various international Treaties, Conventions and Directives described in detail in Annex 1. These international obligations underlie much of Northern Ireland's legislative framework for nature conservation. Of particular importance are:

- (a) the Amenity Lands Act (Northern Ireland) 1965 which was largely repealed by the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, except for the provisions relating to Areas of Scientific Interest (ASIs), many of which have been re-categorised on declaration as ASSIs;
- (b) the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (as amended 1989) which places particular emphasis on the establishment of a network of Areas of Special Scientific Interest (ASSIs), National Nature Reserves (NNRs), Nature Reserves (NRs) and Marine Nature Reserves (MNRs). These include areas important for their geology and land forms as well as for their wildlife;
- (c) the Wildlife (Northern Ireland) Order 1985 (the Wildlife Order) which allows for the establishment of Wildlife Refuges (akin to Nature Reserves) for the special protection of certain species of rare plants or animals. It also prohibits the intentional killing, taking or injuring of certain wild birds or wild animals or the intentional destruction, uprooting or picking of certain wild plants;
- (d) the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (the Habitats Regulations). These regulations give effect to the 1979 EC Directive on the Conservation of Wild Birds (the Birds Directive) and to the 1992 EC Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive). These Directives provide for the classification and designation of Special Protection Areas and Special Areas of Conservation.

15 Responsibility for the designation of these sites lies with the Department of Environment and Heritage Service. The Department will seek to ensure that, as far as possible and consistent with the objectives of each designation, this network of sites is protected from damage or destruction.

*I*nternational *O*bligations

16 Species other than man do not recognise national boundaries and effective nature conservation cannot depend solely on national action. Government attaches great importance to the various international obligations it has assumed and is determined to honour them. These international obligations underlie much of our legislative framework for conservation.

17 While there are many international measures which affect nature conservation legislation, the key measures are those summarised below; a detailed list of the range of measures is found in Annex^o 1.

The Convention on Wetlands of International Importance, especially as Waterfowl Habitats (the Ramsar Convention) requires Contracting Parties to designate suitable wetlands for inclusion in the Ramsar List and to formulate and implement their planning so as to promote the conservation of wetlands on the List and also, as far as possible, the wise use of all wetlands in their territory.

The EC Council Directive on the Conservation of Wild Birds (The Birds Directive) requires Member States to take special measures to conserve the habitats of certain particularly rare species and of migratory species, including the classification of Special Protection Areas (SPAs).

The EC Council Directive on the Conservation of Natural Habitats and Wild Fauna and Flora (The Habitats Directive) is a major EC measure in the field of nature conservation. Its overall objective is to promote the maintenance of biodiversity (ie the variety in natural wildlife), by taking account of economic, social, cultural and regional requirements. It gives effect to site and species protection measures both through the establishment of the Natura^o2000 (European Sites) network, including the designation of Special Areas of Conservation (SACs), and by modifying certain Articles of the Birds Directive so that the provisions relating to the protection and management of SPAs are virtually the equivalent of those for SACs.

European Sites

- 18** All Natura 2000 sites are termed *European Sites* and will consist of:
- (a) *Special Protection Areas (SPAs)* classified under the *Birds Directive*. SPAs are selected for their importance as areas for breeding, overwintering and migrating birds;
 - (b) *Special Areas of Conservation (SACs)*, designated under the *Habitats Directive*. SACs will be selected for their importance as natural habitat types and as habitats of certain species; after approval by the European Commission for selection as SACs, and before they are formally designated as SACs, such sites will be known as *Sites of Community Importance (SCIs)* and will also be *European Sites*;
 - (c) sites which host a priority habitat or a priority species and which the European Commission considers should have been proposed by the Member State; such sites will be known as SCIs once the Commission opens consultations.

Special Protection Areas (SPAs)

19 The *Birds Directive* lists rare or endangered species for which SPAs must be provided; it also requires Member States to take similar measures to conserve sites used by large numbers of migratory species. Such sites will have first been declared as ASSIs; however, there are proposals to include some marine areas within SPAs, but the means of putting these into effect have not yet been decided.

Special Areas of Conservation (SACs)

20 The *Habitats Directive* lists those habitats and species which the Commission considers are particularly threatened at the European level, and for which a number of SACs must be selected across their total geographical range. Those habitats and species at greatest risk have been further identified as priority habitats or species, and Member States must provide for their declaration as SACs. On land, the selection of potential SACs in Northern Ireland, within the habitats and species targeted by the Directive, has been made from existing or proposed ASSIs. The Directive lists a range of

habitats and species in the marine environment for which alternative methods of conservation will have to be implemented, as coastal ASSIs do not extend beyond the low water mark.

21 On land, both SPAs and possible SACs will already have been declared as ASSIs. Coastal ASSIs do not extend beyond low water mark, and so provision for marine SPAs and SACs will be implemented through other means. The Habitats Regulations (see para 14(d) above) provide for the designation of SACs in accordance with Habitats Directive and apply the specific provisions of the Directive to future SACs and to existing and future SPAs.

22 On the basis of the site selection criteria set out in the Birds and Habitats Directives, which include sites in a wide range of habitats including small lakes, upland and lowland peatlands, estuaries and sand dune systems, a number of sites have been declared or proposed as SPAs or proposed as SACs. In the case of the latter, the EC has to complete its assessment of all proposals by June 1998, following which it will inform the UK Government of those sites to go forward as Sites of Community Importance (SCIs). The UK Government then has a period of six years within which it must designate all of these SCIs as SACs. Lists of those areas proposed for inclusion in the Natura 2000 network are found in Annex 3.

23 It is likely that some sites will merit designation as both an SPA and an SAC. Although sites will be designated under the provisions of one or other Directive, the same planning policies and practice will apply, whether the site is an SPA or an SAC. Information about these areas is available from the Environment and Heritage Service².

***P**olicy on Designated Sites*

24 The Directives require all Natura 2000 sites to be protected from deterioration or damage. Plans or projects likely to have a significant effect on the site must be assessed to decide whether the nature conservation interest would be damaged. If it would, the plan or project can only proceed where there is no alternative solution and where it must be carried out for imperative reasons of overriding public interest. Stricter criteria are applied where a site hosts a priority habitat or species (see para 41(c)).

25

The main amendments made by the Regulations are:

- (a) to restrict the granting of planning permission for development which is likely to have a significant effect on a European site;
- (b) to require the review of existing planning permissions which have not been fully implemented and which are likely to have a significant effect on a European site, and, if necessary, the taking of appropriate action, such as modification or, exceptionally, revocation of a planning permission;
- (c) to prevent the Planning (General Development) Order (NI) 1993 (the GDO) granting permitted development rights which will adversely affect the integrity of a European site;
- (d) to prevent other existing and future development orders, and enterprise zone schemes and any future simplified planning zone schemes, from granting permission for development which is likely to have a significant effect on a European site.

26

The Habitats Regulations apply to classified SPAs, and to SACs, only from the time when the Commission and the Government agree the area as a Site of Community Importance to be designated as an SAC. However, as a matter of policy, the Government wishes development proposals affecting all possible European sites to be considered in the same way, ie as if they had already been designated. The Government has also chosen to apply the same considerations to sites listed under the Ramsar Convention³.

27

There is no intention to exclude human activities from European and Ramsar Sites. The aim is to ensure that those activities are undertaken in ways which do not harm or threaten the nature conservation interest. Sensitive step by step consultation with all concerned is important to ensure co-operation and commitment to the protection of these areas. The Department has begun a long term consultation programme which will continue during the process of European and Ramsar site selection and designation.

28

Further details regarding the legislative framework and the types of designation are given in Annex².

DEVELOPMENT PLANS

29 In Northern Ireland, development plans consist of area plans, local plans and subject plans which apply the regional policies of the Department at the appropriate local level. They set out the detailed planning policies and specific proposals for the development and use of land which guide most day-to-day planning decisions and may include additional site specific policies relevant to local circumstances, eg sites of local nature conservation importance. As well as providing the basis for co-ordinating decisions and development control in the particular area to which they relate, they provide a framework within which informed investment decisions can be made and are the primary means of evaluating and resolving any potential conflict between the need for development and the need to protect the built and natural environment.

Countryside Assessments

30 Countryside Assessments are an integral part of the development plan-making process. They are concerned with establishing and evaluating the assets and resources of the countryside, for example, important landscapes or features of the landscape, significant woodland, wildlife habitats and archaeological and historic features. Countryside Assessments may help in the assembly of information on sites of local nature conservation interest which could then be taken into account in the formulation of area plan policies and proposals.

Environmental Appraisal

31 Development plans have a key role to play in achieving the goal of sustainable development and the Department will carry out environmental appraisal of all policies and proposals contained in each of its development plans. This technique will ensure that due regard is given to nature conservation and other environmental issues in the formulation of proposals. To demonstrate that environmental concerns have been fully integrated into the plan-making process, the environment appraisal, together with the countryside assessment, will be published in the plan's technical supplement.

*D*esignated Areas

32 Where practicable, development plans will identify on the plan proposals map all designated areas within which relevant nature conservation policies apply. Some areas, because of their size or the sensitivity of their conservation interest, or because they are in the process of being designated, will be referred to for information purposes in the text of plans, but only by symbols on the plan map.

*O*utside Designated Areas

33 The Habitats Directive requires Member States to endeavour to encourage the management of features of the landscape which are of importance for wild flora and fauna. These are features which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods) are essential for the migration, dispersal and genetic exchange of wild species.⁴ Where appropriate, development plans may contain policies to protect such features, which are of importance to nature conservation.

NATURE CONSERVATION AND DEVELOPMENT CONTROL

- 34** Planning permission is normally required for the carrying out of any development of land. Development is defined in Article 11 of the 1991 Order as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- 35** The purpose of the planning system is to control the development and use of land in the best interests of the community. The submission of a planning application provides the opportunity for a particular development to be considered against the background of the general interests of the locality. Each application is carefully considered against the relevant development plan, published policy statements, associated practice and planning criteria and standards.
- 36** Many sites important for nature conservation have been designated under the statutes and international measures outlined above. Government wishes to ensure that the requirements of conservation legislation are fully met, and that, as far as possible and consistent with the objectives of the designation, these sites are protected from damage and destruction, with their important scientific features conserved by appropriate management.
- 37** The Habitats Directive gave an international dimension to nature conservation in Northern Ireland with the introduction of European Sites (SACs and SPAs). The Department considers that the significance of this important change should be reflected in its planning policies and specifically by the publication of a new suite of nature conservation policies to replace those relating to nature conservation in A Planning Strategy for Rural Northern Ireland ie, policies SP14, SP17, CON1, CON2 and CON3.
- 38** The hierarchy of nature conservation sites, ie international, national and local, is reflected in the tiered approach of the new policies, the degree of protection afforded to sites increasing in accordance with the importance of the site. The application of these policies is extended by this Planning Policy Statement to the whole of Northern Ireland.

***D** evelopment Affecting Sites of International Nature*

Conservation Importance

39 Proposals for development or land use which may affect a proposed or designated European or Ramsar site will be subject to the most rigorous examination. The Department's Environment and Heritage Service will first establish if a proposed development is directly connected with or necessary to the management of the site. If it is not, and the Department concludes that it is likely to have a significant effect on the nature conservation interests of a European or Ramsar site (either alone or in combination with other plans or projects), it will consider its implications in view of that site's conservation objectives. In such cases, the Environment and Heritage Service will give advice on whether a proposal will adversely affect the integrity of the site and on the scope and content of the appropriate environmental assessment required to accompany the proposal. This will depend on the location, size and significance of the proposed project. The integrity of the site is defined as the coherence of its 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 was classified⁵.

40 The environmental assessment required under the Habitats Regulations does not correspond to an environmental assessment as required by the Planning (Assessment of Environmental Effects) Regulations (NI) 1989 (the EA Regulations), although for some projects an environmental impact assessment will be necessary (see paras 71-74 below). In such cases, the environmental information submitted in respect of the Environmental Impact Assessment Regulations will be sufficient for the environmental assessment required by the Habitats Regulations.

41 If the Department finds that the proposed development will adversely affect the integrity of the site, and that this effect will not be removed by conditions, then planning permission will not be granted except in the following circumstances:-

- (a) The Department must first be satisfied that there are no alternative solutions. This means that the Department will consider whether there are, or are likely to be, suitable and available sites, which are reasonable alternatives for the proposed development, or different, practicable approaches which would have a lesser impact. Applicants should demonstrate that they have fully considered alternative solutions.

- (b) If there are no alternative solutions, and the site does not host a priority natural habitat type or species, planning permission will not be granted unless the proposed development has to be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. Such reasons would need to be sufficient to override the ecological importance of the designation.
- (c) If the site hosts a priority habitat or species, and there is no alternative solution, the only considerations which can justify the granting of planning permission are those which relate to human health, public safety, or beneficial consequences of primary importance to the environment or to other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

42 In order to ensure that the requirements of the Habitats Directive are complied with, a consultation zone will be identified around each SAC and SPA, within which all developments will be scrutinised to ensure that they will not adversely affect the interests of the designated site.

43 The process for considering a planning application for development affecting a European site is represented in the flow chart in Annex 4.

Review of Extant Planning Permissions

Affecting European Sites

44 The Habitats Regulations require the Department to review any extant planning permissions which are likely to have a significant effect on a European site, either individually or in combination with other development, and to take any appropriate action. This requirement applies to:-

- ¥ existing SPAs (listed in Annex 3);
- ¥ future SPAs when they are classified; and
- ¥ SACs, when the Government and European Commission agree that the site is a Site of Community Importance and should be designated as an SAC.

45 The review will assess whether implementation of any permission which is likely to have a significant effect on the site, and is not directly connected with or necessary to its management, would adversely affect its integrity (see paras 39-41 above). If the integrity of the site would be adversely affected, and if the permission does not fulfil the conditions under which a new development proposal affecting the site would be approved, then the Department will take appropriate action to remove the potential for harm, unless there is no likelihood of the development being carried out or continued.

46 Appropriate action means that the Department may modify or revoke the permission, or make an order to discontinue the use. Alternatively, it may be possible to arrive at a planning agreement facilitating, regulating or restricting the development or use of the land so as to safeguard the site's ecological value.

European Sites and Permitted Development Rights

47 Article 3 of the Planning (General Development) Order (Northern Ireland) 1993 (the GDO) grants a general planning permission (permitted development) (subject to specified conditions and limitations) for the types of development set out in Schedule 1 to the GDO. These permitted development rights apply mainly to non-contentious development proposals which, if they required individual consideration, would place an unnecessary burden on householders or other developers and on the Planning Service. Other permitted development rights relate to development controlled through other approval procedures, and to development by statutory and other undertakers and District Councils in the performance of their statutory duties.

48 Regulations 55-57 of the Habitats Regulations ensure that any permission granted under the GDO is not in breach of the terms of the Habitats Directive. They prevent any development, which is likely to have a significant effect on a European site in Northern Ireland, from benefiting from permitted development rights, unless the Department has determined that the development will not adversely affect the integrity of the site. Development which has begun with the benefit of a permitted development right, but has not been completed, shall not be continued until the developer has received a written confirmation from the Department that it will not adversely affect the integrity of the site.

49 Developers should be aware that if they proceed with a development in or near a European site on the assumption that it benefits from a permitted development right, without first checking whether it is likely to have a significant effect on the site, they run the risk of undertaking the project without the benefit of planning permission and being liable to enforcement proceedings.

50 If developers are uncertain about the effect their proposal may have on a European site, they are advised to apply to the Department's Environment and Heritage Service for an assessment. Details of the procedures involved and of the information the developer should provide are given in Annex^o5. There is no charge for this assessment. If the Department decides that the proposal is likely to adversely affect the integrity of the site, then the development cannot benefit from a permitted development right. If the developer still wishes to proceed, a planning application will be required.

European Sites: Simplified Planning Zones and Enterprise Zones

51 The Habitats Regulations provide that existing Enterprise Zone (EZ) schemes, and existing Development Orders, will cease to have effect to grant permission for development which is likely to have a significant effect on a European site. The Regulations also prevent new Simplified Planning Zone (SPZ) and EZ schemes, and new Development Orders from granting planning permission for development which is likely to have a significant effect on a European site.

Unauthorised Developments Affecting European Sites

52 The Department will consider the application of enforcement procedures to remedy any breach of planning control which has, or is likely to have, a significant effect on an European site. If a continuing breach of planning control is likely to result in serious long-term harm to a site, the Department will consider the simultaneous service of a Stop Notice, with the related enforcement notice, to halt an environmentally harmful activity which could otherwise continue for the duration of an enforcement appeal. Alternatively or additionally, while it prepares to take other action to enforce against a breach of control which is having a significant effect on a European site, the Department may consider submitting an immediate application to the Court for the grant of an interim planning enforcement injunction.

***D** evelopment Affecting Sites of National Nature*

Conservation Importance

53 The designation of sites does not form part of the development plan process. Some sites may be referred to in the text of plans or may be included on maps, for information purposes. Others will not be publicised in order to protect the fragile interests in them. Designations made under the Amenity Lands Act (NI) 1965 and the Nature Conservation and Amenity Lands Order 1985 include:

Areas of Scientific Interest - sites of special value because of their flora, fauna, geological or physiographical features; many have been re-declared as ASSIs.

National Nature Reserves - sites of national and sometimes international importance usually managed by the Department's Environment and Heritage Service or by agreement with a voluntary conservation body.

Nature Reserves - include sites particularly appropriate for educational, research or public information purposes.

Areas of Special Scientific Interest - land which in the Department's opinion is of special interest by reason of any of its flora, fauna, geological or physiographical features.

Marine Nature Reserves - inter-tidal or sublittoral areas established for the conservation or study of areas of marine flora, fauna, and geological or physiographical features of special interest.

54 A major component of the Department's nature conservation strategy is the designation and protection of sites which are of national nature conservation importance. Some are particularly important because what they exemplify is rare and irreplaceable. Others are important as representative examples of their type. Such features, of scientific, educational or research interest, once destroyed, cannot be re-created.

55 Development proposals within sites of national importance or outside but likely to affect them, will be subject to special scrutiny. Where it is considered that such development will have a significant adverse effect, directly or indirectly, on the site, it will not be permitted unless the reasons for the development clearly outweigh the value of the site itself. In considering proposals for development affecting such sites, the following matters will be taken into account:

- ¥ the potential damage to habitats or species;
- ¥ opportunities for alternative siting or potential mitigating measures;
- ¥ the possibilities for replacement sites;
- ¥ opportunities to enhance nature conservation, and
- ¥ the importance of the proposed development to Northern Ireland.

56 Development outside, but close to, the defined boundaries of a protected site may have serious repercussions within it, even to the point of destroying its scientific value. Wetlands (including marshes and estuaries, as well as rivers and lakes) are particularly vulnerable to the effects of drainage, alterations to the water table, water-borne pollution and other developments within catchment areas. In considering planning applications in such locations, the Department will take into account the possible threats and its commitment to the wise use of all wetlands, as required by the Ramsar Convention (see Annex^o 1).

57 Where development is permitted, the Department will consider the use of conditions or planning agreements to ensure the protection and enhancement of the site's nature conservation interest. Conditions may be used, for example, to require areas to be fenced to protect them, or to restrict operations or uses to specific times of year. Planning agreements may accompany permissions to secure long term management or to provide new conservation habitats, to compensate for any habitats lost when development takes place. Exceptionally, in order to offset damage to wildlife from development schemes, it may be proposed for animals and plants to be removed to other safe sites.

D *development Affecting Recognised Sites of Local Nature Conservation Importance*

58 Alongside the international and national sites, the Department also recognises a variety of Local Nature Reserves and Wildlife Refuges. These sites include:-

- ¥ Local Nature Reserves, designated by District Councils under Article 22 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- ¥ Wildlife Refuges designated under the Wildlife Order, where special protection measures for some or all species are implemented, and
- ¥ Non-statutory nature reserves managed by voluntary conservation bodies.

59 Development likely to have an adverse effect on recognised sites of local nature conservation importance will not be approved unless there are reasons for the proposal which outweigh the need to safeguard the intrinsic nature conservation value of the site. Where a development is permitted which would adversely affect the nature conservation value of the site, the Department will endeavour to ensure that such effects are kept to a minimum. The Department will consider the use of conditions and/or planning agreements to provide appropriate compensatory measures.

D *development Affecting Sites of Local Conservation Importance Identified In Development Plans*

60 In addition to Local Nature Reserves and Wildlife Refuges, other sites of potential local nature conservation importance may come to light when countryside assessments are being prepared. The importance of such sites will be carefully evaluated. If it is confirmed that a particular site is of local nature conservation importance, it will be formally identified as such in the development plan. Where such sites are identified, plans will set out specific planning policies which will apply to development proposals on those sites.

D *evelopment Affecting Other Sites Of Local Nature*

Conservation Importance

61 Although the network of protected sites is an essential resource for nature conservation, it can cover only a small proportion of the land area. These sites cannot contain more than a representative sample of the natural resource which they have been established to protect. Indeed, many rare and vulnerable species, protected under the Wildlife Order, are not confined to designated areas but occur elsewhere. Survival of the entire range of Northern Ireland's wildlife and the maintenance of the full diversity of its geological and physiographical features cannot be achieved solely by site protection but will require the wise management of the total land resource.

62 Habitats, species and features worthy of protection may occur almost anywhere but they are particularly prevalent in wet grasslands, freshwater lakes, blanket and lowland raised bogs, areas of broadleaved woodland, river corridors and coastal sand dunes. The Planning Service does not have, and cannot reasonably be expected to have, total knowledge of the potential nature conservation significance of every site. It will, however, when processing planning applications, take into account any information obtained through consultation with the Environment and Heritage Service and any representations received from amenity bodies and the general public.

63 Careful consideration will be given to the nature conservation implications of any development proposal where it is known to the Planning Service that the development may threaten any protected species of flora or fauna, any area of wetland as defined in the Ramsar Convention, or any other significant feature of nature conservation value. Wildlife habitats and physical features can sometimes be protected by the careful siting and treatment of developments. In some cases, conditions will be attached to planning permissions to minimise or compensate for the impact on wildlife or physical features. Informatives may also be attached informing the developer of his obligations under the Wildlife Order.

Trees and Woodlands

64 Trees are of immense importance, both as habitats and by providing a strong visual element which helps create a varied, interesting and attractive landscape. The Department will seek to protect trees, groups of trees, and woodland areas of particular importance because of their nature conservation value or their contribution to the amenity of a particular locality.

65 Careful consideration will be given to the potential impact of proposed development upon trees. Landowners and developers will be encouraged to retain existing trees, where practicable, and to plant additional trees. Wherever possible, existing trees, woodlands and important hedgerows will be protected by the imposition of conditions on the grant of planning permission. Opportunities will also be taken to secure new tree planting in development schemes. Where development involves the loss of trees, permission will normally be conditional on a replanting scheme with trees of appropriate numbers, species and size.

66 When considering the making of a Tree Preservation Order (TPO), the Department will not only have regard to the amenity and habitats of the area being considered for protection but also to the cost to the Department if a claim is subsequently made.

67 Tree Preservation Orders (TPOs) may be made by the Department to:

- ¥ reinforce a condition, for the preservation of existing trees;
- ¥ protect trees of outstanding natural beauty or of special value to a particular area, even though no direct threat exists to them;
- ¥ ensure the retention of trees, not protected by a condition of a planning permission which are threatened and whose loss would significantly lower amenity, and
- ¥ protect a woodland area of amenity value, by securing the replacement of trees which have been felled with the Department's consent.

*P*rotection of Species

68 The Wildlife (Northern Ireland) Order 1985 (the Wildlife Order) sets out the protection which is afforded to wild animals and plants in Northern Ireland. The protection afforded by that Order is additional to that offered by the planning system. The presence of a species protected, or specially protected, under the Wildlife Order is material to the consideration of a development proposal, which if carried out would be likely to result in harm to the species or its habitat and, in particular, to places used for shelter or protection. Where necessary, conditions may be stipulated in a planning permission to secure the protection of the species, particularly if a species listed in Annex IV to the Habitats Directive is involved. Developers may also be advised that they must conform with any statutory species protection measures affecting the site concerned.

*P*eatlands

69 Government's policies for protection and conserving peatland in Northern Ireland were first set out in *Conserving Peatland in Northern Ireland - A Statement of Policy* published in 1993. This specified that the measures already in place or proposed for implementation would ensure that representative sites of raised and blanket bogs and other peatland habitats would be protected for the benefit of this and future generations. The policies set forth in this Planning Policy Statement will take precedence over that expressed in *Conserving Peatland in Northern Ireland - A Statement of Policy* in relation to site protection and should ensure that adequate protection is provided for the full range of sites of nature conservation importance, including peatlands.

70 *Conserving Peatland in Northern Ireland - A Statement of Policy* also expressed Government policy on peat extraction. However, this policy has been supplemented by Policy Min 1 *Environmental Protection* of *A Planning Strategy for Rural Northern Ireland*. The Planning Service intends to up-date its policies on Minerals, including peat extraction, in a forthcoming Planning Policy Statement.

ENVIRONMENTAL ASSESSMENT

71 Environmental Assessment (EA) is mandatory for the types of projects listed in Schedule¹ to the Planning (Assessment of Environmental Effects) Regulations (NI) 1989 (the EA Regulations). EA is required for the types of projects listed in Schedule 2 to the Regulations, if the particular development proposed is likely to have significant environmental effects.

72 Consideration will be given to the need for EA, where a Schedule² project would be likely to significantly affect the special character of an ASSI. While each case will be judged on its merits, EA will normally be required where a Ramsar site or a European site would be likely to be significantly affected.

73 Where EA is required, the applicant must prepare and submit an environmental statement with the planning application. An applicant may submit an environmental statement voluntarily but otherwise it will fall to the Department to decide whether EA is necessary. An applicant who is dissatisfied with the Department's request for EA, may seek a hearing before the Planning³ Appeals⁴ Commission.

74 Further information on these requirements is given in Development Control Advice Notice 10 Environmental Impact Assessment available from Divisional Planning Offices.

¹Sustainable Development: The UK Strategy, Cm 2426 (January 1994)

²Environment and Heritage Service, Commonwealth House, 35 Castle Street, BELFAST, BT1⁵1GU.

³A wetland site of international importance, listed under the Ramsar Convention (see Annex⁵ 1).

⁴Article 10: EC Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora.

⁵PPG9 Planning Policy Guidance : Nature Conservation (Annex C) October 199

ANNEX 1

INTERNATIONAL TREATIES, CONVENTIONS AND DIRECTIVES

The Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar 2.2.1971, as amended by the Protocol of 3.12.1982 and the Conference of Parties on 28.5.1987):- Requires the conservation of wetlands; especially sites listed under the Convention. For the purposes of this Convention, wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed 6 metres.

The Bonn Convention on the Conservation of Migratory Species of Wild Animals (June 1979):- Requires the protection of the endangered migratory species listed, and encourages separate international agreements covering particular species. An agreement covering the Conservation of Bats in Europe came into force in January 1994. It deals with the need to protect bats and their feeding and roosting areas.

The Bern Convention on the Conservation of European Wildlife and Natural Habitats (September 1979):- Carries obligations to conserve wild plants, birds and other animals, with particular emphasis on endangered and vulnerable species and their habitats. The provisions of the Convention underlie the EC Habitats Directive (see para 6 below) as well as the UK's wildlife legislation.

EC Council Directive on the Conservation of Wild Birds (79/409/EEC): (The Birds Directive):- Provides for the protection, management and control of all species of naturally occurring wild birds in the European territory of Member States. It requires Member States to take measures to preserve a sufficient diversity of habitats for all species of wild birds naturally occurring within their territories in order to maintain populations at ecologically and scientifically sound levels, and requires Member States to take special measures to conserve the habitat of certain particularly rare species and of migratory species.

EC Council Directive on the Assessment of the Effects of Certain Public and Private Projects on the Environment (85/337/EEC) (The Environmental Assessment Directive):- Requires environmental assessment to be carried out before a decision is taken on whether planning permission should be granted for certain types of project which are likely to have significant environmental effects.

EC Council Directive on the Conservation of Natural Habitats of Wild Fauna and Flora (92/43/EEC): (The Habitats Directive):- Requires Member States to take measures to maintain or restore natural habitats and wild species at a favourable conservation status in the Community, giving effect to both site and species protection objectives.

UN Biodiversity Convention (June 1992):- Provides a framework for international action to protect species and habitats. The UK's overall goal under the Convention is to conserve and enhance biological diversity within the UK and to contribute to the conservation of global biodiversity through all appropriate mechanisms.

ANNEX 2

STATUTORY SITE DESIGNATIONS

IMPORTANCE	SITE DESIGNATION AND EXPLANATION	NI STATUTORY DESIGNATION
SITES OF INTERNATIONAL IMPORTANCE	Ramsar Sites listed under the Convention on Wetlands of International Importance (The Ramsar Convention)	ASSI; MNR
	Special Protection Areas (SPAs) classified under the EC Directive on the Conservation of Wild Birds (The Birds Directive)	ASSI; MNR; NR; SPA
	Special Areas of Conservation (SACs) to be designated under the EC Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (The Habitats Directive)	ASSI; MNR; SAC
SITES OF NATIONAL IMPORTANCE	Nature Reserves and National Nature Reserves (NNRs and NRs) declared under Articles 16 and 18 respectively of the Nature Conservation and Amenity Lands (NI) Order 1985	NR; NNR
	Marine Nature Reserves (MNRs) declared under Article 20 of the Nature Conservation and Amenity Lands (NI) Order 1985	MNR
	Areas of Special Scientific Interest (ASSIs) declared under Article 24 of the Nature Conservation and Amenity Lands (NI) Order 1985	ASSI
	Areas of Scientific Interest (ASIs) declared under the Amenity Lands Act (NI) 1965	ASI
SITES OF LOCAL IMPORTANCE	Wildlife Refuges (WRs) established under Article 16 of the Wildlife (NI) Order 1985	WR
	(Local) Nature Reserves (NRs) established by District Councils under Article 22 of the Nature Conservation and Amenity Lands (NI) Order 1985	NR

Nature Conservation and Planning Legislation in Northern Ireland

The Amenity Lands Act (Northern Ireland) 1965:- Introduced the concept of designating areas because of the importance of their flora, fauna, geological or physiographical or other features; very largely repealed by later Orders.

The Planning (Tree Preservation Order) Regulations 1973.

The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985:- Makes provision with respect to nature conservation, enjoyment and conservation of the countryside, and amenity lands. Places particular emphasis on the establishment of a network of Areas of Special Scientific Interest and Nature Reserves.

The Wildlife (Northern Ireland) Order 1985:- Provides for the protection of certain fauna and flora, and for the creation of conserved sites for various species, especially birds.

The Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989.

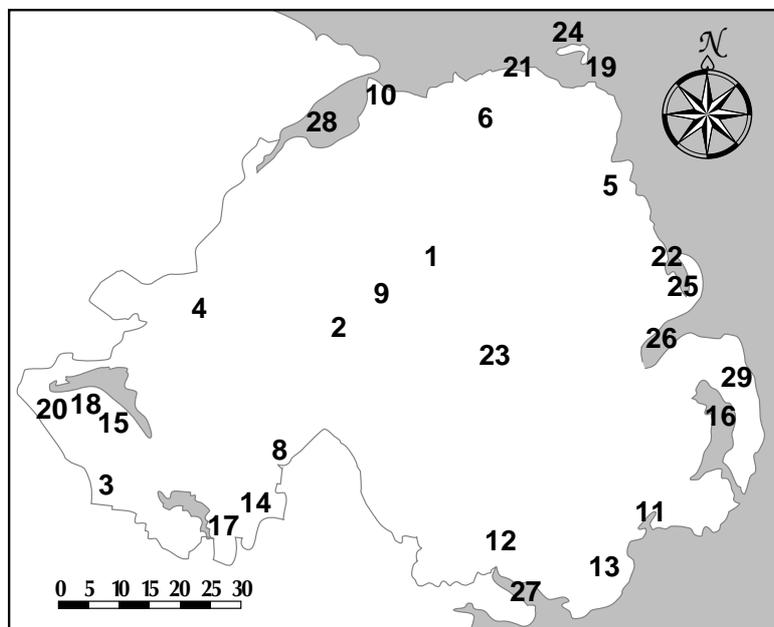
The Planning (Northern Ireland) Order 1991.

The Planning (General Development) Order (Northern Ireland) 1993.

The Conservation (Natural Habitats Etc) Regulations (Northern Ireland) 1995:- Formally transpose the requirements of the EC Habitats Directive into law.

ANNEX 3

PROPOSED AND DESIGNATED SITES OF INTERNATIONAL IMPORTANCE IN NORTHERN IRELAND



Can SAC: Candidate Special Area of Conservation (i.e., submitted to the European Commission)

Prop SAC: Site yet to be submitted to European Commission for consideration as a Candidate SAC

SPA: Special Protection Area classified under the Birds Directive

Prop SPA: Proposed SPA

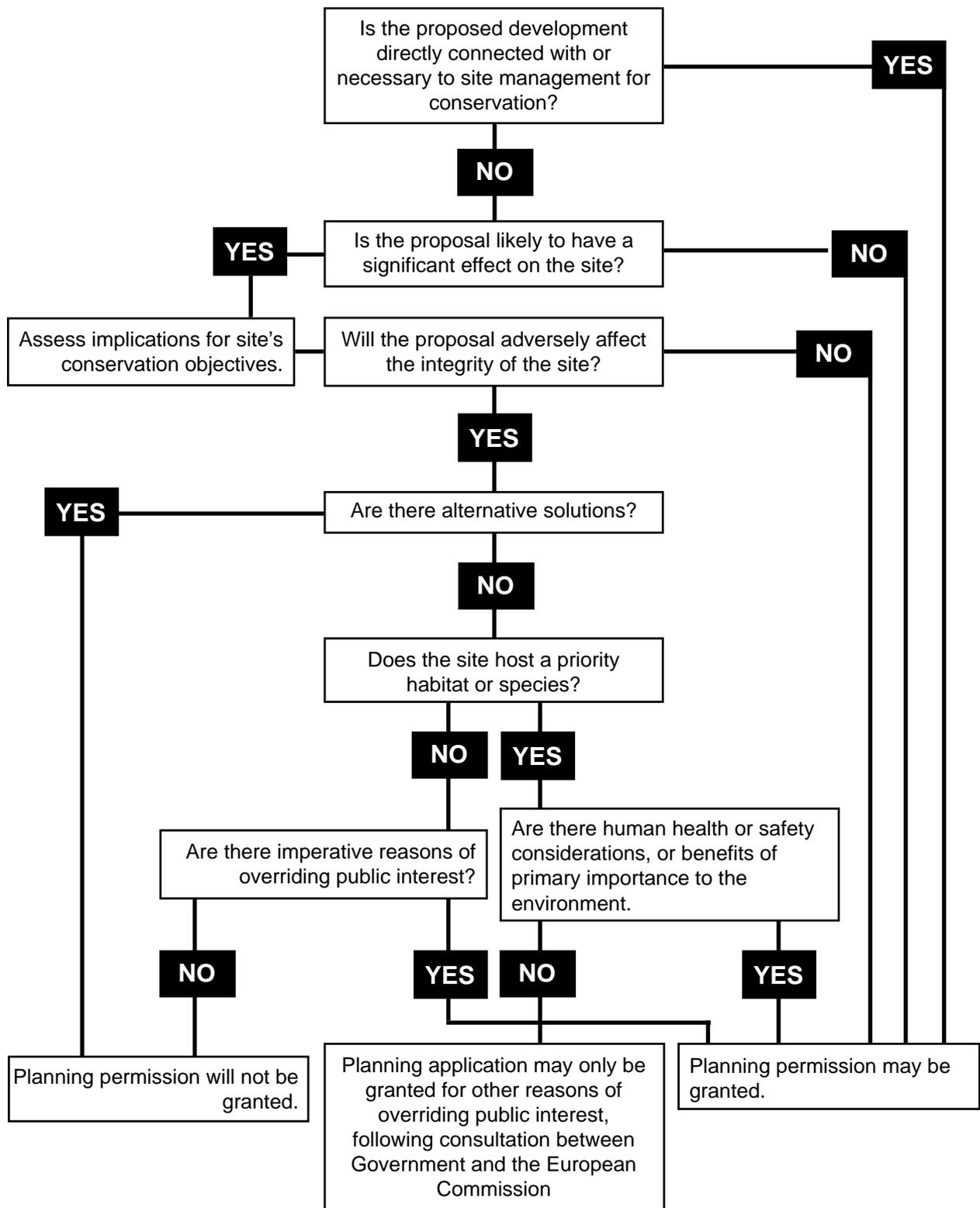
Ramsar: Site listed under the Ramsar Convention

Prop Ramsar: Site proposed for listing under the Ramsar Convention

* indicates a priority habitat within the terms of the Habitats Directive

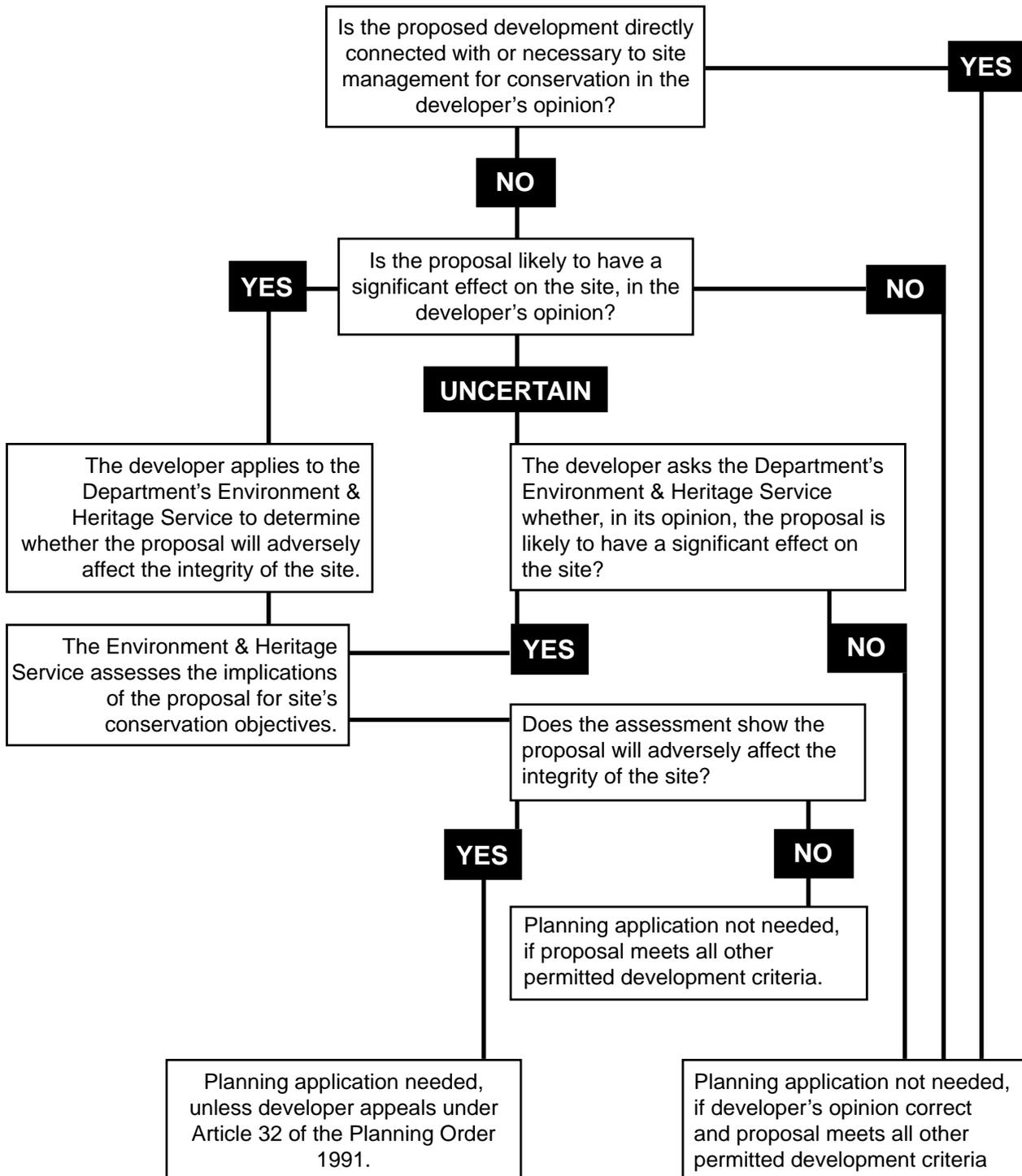
Swan Island lies within the Larne Lough Ramsar site

SITE NAME	Can SAC	Prop SAC	SPA	Prop SPA	Ramsar	Prop Ramsar
1 Ballynahone Bog	u*					
2 Black Bog	u*					
3 Cuilcagh Mountain	u*					
4 Fairy Water Bogs	u*					
5 Garron Plateau	u*					
6 Garry Bog	u*					
7 Pettigoe Plateau	u*		u		u	
8 Slieve Beagh	u*					
9 Teal Lough	u*					
10 Magilligan	u*					
11 Murlough	u*					
12 Derryleckagh	u					
13 Eastern Mourne	u					
14 Magheraveely Marl Loughs	u					
15 Monawilkin	u					
16 Strangford Lough	u			u		
17 Upper Lough Erne	u		u		u	
18 Largalunny		u				
19 Rathlin Island		u				
20 Lough Melvin		u				
21 Sheep Island			u			
22 Swan Island			u			
23 Lough Neagh and Lough Beg			u		u	
24 Rathlin Island Cliffs			u			
25 Larne Lough			u		u	
26 Belfast Lough				u		u
27 Carlingford Lough				u		u
28 Lough Foyle				u		u
29 Outer Ards Peninsula				u		



ANNEX 5

PERMITTED DEVELOPMENT RIGHTS IN EUROPEAN SITES



ANNEX 6

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This Common Inheritance: Britain's Environmental Strategy - Cm 1200, HMSO 1990.

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Conserving Peatland in Northern Ireland: A Statement of Policy - DOE 1993

ANNEX 7

LIST OF USEFUL ADDRESSES

Department of the Environment : The Planning Service

Headquarters: Clarence Court
10-18 Adelaide Street, BELFAST, BT2 8GB
Tel No Belfast 540540;
Fax 540665 (Planning Service) or 540027 (DOE)

District Council

Antrim; Ballymena; Carrickfergus; Larne;
Magherafelt

Divisional Planning Office

The Divisional Planning Officer
County Hall
182 Galgorm Road
BALLYMENA
Co Antrim, BT42 1QF
Tel No: Ballymena 653333; Fax: 662127

Armagh, Banbridge; Craigavon; Newry & Mourne

The Divisional Planning Office
Marlborough House
Central Way
CRAIGAVON
Co Armagh, BT64 1AD
Tel No: Craigavon 341114; Fax: 341065

Derry City; Limavady

The Divisional Planning Office
Orchard House
Foyle Street
LONDONDERRY
Co Londonderry
Tel No: Londonderry 319900; Fax: 319777

Belfast; Castlereagh; Newtownabbey

The Divisional Planning Office
Bedford House
16-22 Bedford Street
BELFAST, BT2 7FD
Tel No: Belfast 242486; Fax: 247749

Ards; Down; Lisburn; North Down

The Divisional Planning Office
Rathkeltair House
Market Street
DOWNPATRICK
Co Down, BT30 6EJ
Tel No: D patrick 612211; Fax: 612211 Ext 3293

Cookstown; Dungannon; Omagh; Strabane

The Divisional Planning Office
Tyrone & Fermanagh Building
1 Donaghane Road
OMAGH
Co Tyrone, BT79 0NR
Tel No: Omagh 250122; Fax: 244253

District Council

Sub-Divisional Planning Sub-Offices

Ballymoney; Coleraine; Moyle

County Hall
Castlerock Road
COLERAINE
Co Londonderry, BT51 3HS
Tel No: Coleraine 44111; Fax 44642

Fermanagh

County Buildings
15 East Bridge Street
ENNISKILLEN
Co Fermanagh, BT74 7BW
Tel No: Enniskillen 327270; Fax 328016

Department of the Environment: Environment and Heritage Service

Natural Heritage
Commonwealth House
35 Castle Street
BELFAST
BT1 1GU
Tel No: Belfast 251477; Fax 546660