Consultation Paper

Supplementary Planning Guidance to
Draft
Planning Policy Statement 2
Natural Heritage
(Revised)

March 2011
Public Consultation: give us your views

You are invited to send your views on this draft Supplementary Planning Guidance to Draft Planning Policy Statement 2, PPS 2 “Natural Heritage” (Revised).

Comments should reflect the structure of the document as much as possible with references to paragraph numbers where relevant.

All responses should be made in writing and emailed to:

planning.policy@doeni.gov.uk or by post to:

Valerie Hamilton (Mrs)
PPS 2 Natural Heritage (Revised) - Public Consultation
Planning Policy Division
Department of the Environment
Level 3
Millennium House
17-25 Great Victoria Street
Belfast BT2 7BN

The consultation period will end on 8 July 2011.

This document is available on the Planning Service website at: www.planningni.gov.uk or can be obtained by telephoning (028) 90416 941, textphone at (028) 9054 0642 or by writing to the above address.

This document is available in alternative formats, please contact us to discuss your requirements.

In keeping with our policy on openness, the Department may make responses to this consultation document publicly available upon request.

At the end of the consultation period the Department will consider all comments received, following which the draft documents will be amended if necessary and, subject to Executive approval, published in final form.
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Preamble

This Supplementary Planning Guidance provides background information and guidance on relevant natural heritage legislation. Information on the consideration of developments within the development management process is also included. The SPG will be taken into account in assessing development proposals.

The advice and guidance contained within this guide should be read in conjunction with draft Planning Policy Statement 2 (PPS 2) (Revised), ‘Natural Heritage’. Draft PPS 2 sets out the Department’s planning policies for protection and conservation of our natural heritage. It entails policies on the conservation interest of international, national and locally designated sites; species protected by law; other types of species, habitats or features of natural heritage importance and Areas of Outstanding Natural Beauty.
Summary of Supplementary Planning Guidance

INTRODUCTION

This section sets out the importance of our natural heritage and states that the Northern Ireland Environment Agency is primarily responsible for the designation of natural heritage sites. It also outlines a helpful approach when considering development which will help to contribute to biodiversity.

DEVELOPMENT MANAGEMENT GENERAL GUIDANCE

The importance of identifying natural heritage issues and fully addressing these issues at the earliest stage of the development management process is highlighted. It provides guidance on what information may be required and how planning applications will be considered in the process.

INTERNATIONALLY DESIGNATED NATURE CONSERVATION SITES

This indicates what sites are categorised as being of international status. It outlines the legal process for considering development proposals affecting them. Additional statutory obligations for reviewing extant planning permissions, restrictions on permitted development and simplified planning zones, enterprise zones and special development orders are also outlined.

SPECIES PROTECTED BY LAW

This indicates that there are particular species of flora and fauna within Northern Ireland and Europe that are subject to special legal protection. How these species are considered within the development management process is also described.

NATIONALLY DESIGNATED NATURE CONSERVATION SITES

The areas that fall within this category are identified with a brief description of any legal duties, along with the background on why they are important and their purpose. The consideration of development proposals that affect these areas is also outlined.

LOCALLY DESIGNATED NATURE CONSERVATION SITES

Local sites designated by statute that fall within this category are listed. The section also outlines how development proposals that affect these sites will be considered.
OTHER SPECIES, HABITATS OR FEATURES

The section states that most of our wildlife, habitats and features are not confined to designated sites. It provides some background information on those deemed to be of particular importance to Northern Ireland and how these will be considered in the development management process.

AREAS OF OUTSTANDING NATURAL BEAUTY

The statutory requirements for Areas of Outstanding Natural Beauty are broadly outlined, together with the reasons for selection and objectives of designation. The section also describes how development proposals that affect these sites will be considered.

OTHER DUTIES AND USE OF STATUTORY POWERS

This section outlines in broad terms the legal requirements for Strategic Environmental Assessment and Environmental Impact Assessment.
Introduction

The primary responsibility for the designation of natural heritage sites rests with the Department’s Northern Ireland Environment Agency (NIEA). Some designations are particularly important because what they exemplify is rare and irreplaceable. Such features of scientific, educational or research interest, once destroyed cannot be recreated.

Other sites are important as representative examples of their type on an international, national or local scale. The statutory designation of sites of international or national nature conservation importance will be kept under review by NIEA. There is an ongoing programme of designations.

To facilitate the processing of planning applications developers should ensure that all relevant information and material considerations are addressed as part of their submission. In the first instance the avoidance of any adverse effect on the natural heritage should be sought. This should be followed by the consideration of minimising effects through the use of mitigation measures. Where, despite mitigation, there will be adverse effects, the scope for compensatory measures should only then be considered.

Where there is no significant harm to natural heritage interests, opportunities to enhance biodiversity may be sought and guaranteed by condition or planning agreement. Where mitigation and/or compensation are not achievable without loss to biodiversity or geodiversity, the proposal may be refused.

Reference, should also be made to the statutory steps required where international sites and protected species are involved.
1. Development Management General Guidance

PRE-APPLICATION

1.1.1 It is essential that natural heritage issues are identified and fully addressed at the earliest stages of preparing a planning application. Consequently, pre-application advice with the planning authority and/or the Northern Ireland Environment Agency is recommended to identify natural heritage considerations. The benefit of obtaining information on the identification of natural heritage issues is not confined to designated sites. It also applies to all potential development sites where wildlife corridors, landscape character, habitats, species, earth science features or other natural heritage interests may be affected.

INFORMATION REQUIREMENTS

1.2.1 Failure to supply adequate environmental information to accompany planning applications is a key cause of delay in their determination.

1.2.2 To facilitate the processing of planning applications, developers should ensure that all relevant information and material considerations are addressed when applications are made. This includes any measures to avoid, mitigate and/or compensate for potential adverse impact on natural heritage interests. Opportunities for building biodiversity into development proposals should also be considered. Details of proposals for enhancement, restoration or creation of natural heritage features should be included.

1.2.3 The information submitted with a planning application should be proportional to the likelihood of effects on natural heritage interests and to their potential significance. Specific information can be requested under Article 7(4) of the Planning (General Development) Order (Northern Ireland) 1993 to determine any planning application. Examples of assessments, surveys and other information can be found in Annex C.

1.2.4 Where information is necessary to adequately assess the potential harm to natural heritage issues, but is not provided (because the applicant cannot or will not provide it), planning permission is likely to be refused in line with the application of the precautionary principle.
THE PRECAUTIONARY PRINCIPLE

1.3.1 The Precautionary Principle\(^1\) is listed in the Rio Declaration as ‘In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as reasons for postponing cost effective measures to prevent environmental degradation.’

CONSIDERATION

1.4.1 In the determination of any planning application with natural heritage implications, the following range of issues may need to be considered.

Integrity

1.4.2 The integrity of the site is defined as:

“the coherence of the site’s ecological structure and function, across its whole area or the habitats, complex of habitats and / or populations of species for which the site is or will be classified”\(^2\)

1.4.3 When looking at the ‘integrity of the site’, it is important to take into account a range of factors, including the possibility of effects, both direct and indirect, which could manifest in the short, medium and long-term.

Likely Effects

1.4.4 Development proposals do not have to be located within a designated site or adjacent to a feature of natural heritage interest to lead to the loss or damage of that interest or to adversely affect the integrity of the designated site. It is therefore important to consider both the direct and indirect impacts of development. These effects may be temporary or permanent. They may also be beneficial or harmful to the natural heritage interest.

Benefits

1.4.5 Benefits of the proposal which outweigh the value of the site need to be of a long-term interest, sufficient to override the ecological or landscape importance of the site or the harm to the natural heritage interest. Short-term economic interests or other interests which would yield only short-term benefits would not appear to be sufficient to outweigh either the long-term conservation value of the site or the harm to the natural heritage interest. The weight given to reasons for the proposal will generally depend on the level of protection that applies to the site where development is proposed.

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\(^1\) The Precautionary Principle was explicitly recognised during the UN Conference on Environment and Development in Rio de Janeiro 1992 and included in the Rio Declaration.

Decision Making

1.4.6 The Department’s guiding principle in determining planning applications is that development should be permitted\(^3\), having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance, such as natural heritage. In such cases the Department has the power to refuse planning permission.

1.4.7 Where development does occur it is important to ensure that all reasonable steps are taken to safeguard and where possible enhance the quality of the environment. NIEA will advise whether planning conditions or other restrictions would help to ensure that designated sites, species, habitats, features of natural heritage interest or landscape importance are not harmed. This advice will be considered by the planning authority in the context of other consultee replies, the precautionary principle\(^4\) and other material considerations.

1.4.8 Where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest. This is in line with the precautionary principle.

1.4.9 This approach recognises the incomplete understanding of the effects of human activity on ecosystems and that preventative action can be justified even where scientific evidence is less than conclusive. The application of the precautionary principle will depend on factors such as the degree of uncertainty, the plausibility of a causal link and the potential severity of the impact.

1.4.10 Where it appears that the precautionary approach is justified, careful consideration should be given to whether the proposal might be modified to eliminate the risk of significant adverse impact before a decision is reached.

1.4.11 It is important to note that whilst planning control does not extend beyond the low water mark, appropriate consideration will also be given to the impacts of development on the marine environment and the coastal landscape.

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\(^3\) Except where International sites and European Protected Species are involved [Waddenzee Principle]

\(^4\) Waddenzee judgement [ECJ case C-127/02] introduces a higher test for International sites and European Priority Species and Habitats [see Section 2 of SPG]
Mitigation Measures

1.4.12 The purpose of these is to cancel, or at least minimise, the negative impact of development during or after its completion.

Compensatory Measures

1.4.13 These measures, which must be paid for by the applicant. They compensate for the negative effects of development on a designated site, habitat, landscape, earth science feature, or on a protected species.

1.4.14 Compensation measures should be in place before the damage is done. If this is not possible, restorative measures\(^5\) will be needed to repair damage done. Compensatory measures may, for example, involve:-

- creating a habitat on a new or bigger site which is linked with other sites in a network;
- enhancing an existing site to make sure that its value is retained or, if it is designated, that its conservation objectives continue to be met; or
- improving remaining habitat on a site in proportion to the loss due to the development where the damage is temporary.

1.4.15 Overall, there should be no reduction in either the quality or area of interest. Within an agreed timescale, newly created or recreated habitats should be of sufficient quality to ensure the coherence of any network of sites of which they are part. If the damage is permanent, newly created sites need to be managed in perpetuity. They will be monitored and steps taken to ensure the requirements of compensation. Special measures will be required for European sites and Ramsar Sites – information on this is set out in Section 2 of this guidance document.

OTHER ISSUES

Invasive Species

1.5.1 Where invasive species have been identified on site, the applicant may be required to provide information on how they will be treated. Invasive species are known to significantly impact upon biodiversity and some can be very damaging to the built development on a site.

\(^5\) See Glossary
2. Internationally Designated Nature Conservation Sites

INTRODUCTION

2.1.1 Our Internationally designated sites are Ramsar sites and European sites (also known as Natura 2000 sites). This includes those located in the offshore marine area (up to 200 miles from the baseline from the breadth of the territorial sea of Northern Ireland is measured) and which consist of:

- **Ramsar Sites.** These sites are listed under the Ramsar Convention on Wetlands\(^6\). They are designated as wetlands of international importance due to their rarity, or for their importance in supporting biodiversity. Most are underpinned with designated Areas of Special Scientific Interest.

- **Special Protection Areas (SPAs).** These are classified under the Birds Directive\(^7\) and are selected for their importance as areas for breeding, over-wintering and migrating birds. 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 normally but not always, have first been declared as Areas of Special Scientific Interest (ASSIs) and a number include coastal and marine areas (land identified for their special scientific interest).

- **Proposed Special Protection Areas.** These areas have been identified for their importance as areas for breeding, overwintering and migratory birds. They are awaiting EU approval.

- **Special Areas of Conservation (SACs).** These are designated under the Habitats Regulations. They are selected for their importance as natural habitat types and as habitats of certain species. The Habitats Directive\(^8\) lists those habitats and species which the European 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 usually been made from

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\(^6\) Convention on Wetlands of international importance especially as waterfowl habitat Ramsar, Iran 2/2/71 as amended by the Paris Protocol 3/12/92 and the Regina amendments adopted at the extraordinary conference of contracting parties at Regina, Saskatchewan, Canada between 28/5 and 3/6/87.

\(^7\) EC Directive on the Conservation of Wild Birds.

\(^8\) EC Directive on the Conservation and Natural Habitats for Wild Fauna and Flora.
existing or proposed ASSIs. However, sites not associated with ASSIs and European marine or offshore marine sites (SPAs and SACs) must also be taken into consideration when considering the likely effects of plans or projects carried out on land. For example, coastal ASSIs do not extend beyond low water mark, and so provision for marine SPAs and SACs will be implemented through other means.

On the basis of the site selection criteria developed at a UK level (which includes sites in a 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 SACs.

It is likely that some sites will merit designation as both a SPA and a SAC. Although sites will be designated under the provisions of one or both Directives, the same planning policies and practice will apply, whether the site is a SPA or a SAC. The site will be tested for each designation. Information about these areas is available from NIEA.

- **Candidate Special Areas of Conservation.** These are identified for their importance as natural habitat types and as habitats of certain species. They are awaiting for EU approval.

- **Sites of Community Importance (SCIs).** These are identified for their importance as natural habitat types and as habitats of certain species. The sites have been approved by EU and are awaiting formal designation.

2.1.2 The network of SACs and SPAs is known as Natura 2000. The purpose of the network is:

i. In relation to Habitats Directive Annex I habitats and the habitats of Annex II species: to enable the habitats to be maintained or, where appropriate, restored at a favourable conservation status over their natural range; and

ii. In relation to Birds Directive Annex I bird species: to conserve the habitat of the species in order to ensure their survival and reproduction in their area of distribution. In relation to Annex II migratory bird species, to secure their need for breeding, feeding, wintering areas and their needs for staging posts along their migratory routes.

2.1.3 Specific legal protection to European sites is given under the Conservation (Natural Habitats, etc) Regulations (Northern Ireland)
1995\textsuperscript{9} (as amended). All European sites are afforded the same level of protection.

**PROCESS FOR CONSIDERING DEVELOPMENT PROPOSALS AFFECTING SITES OF INTERNATIONAL NATURE CONSERVATION IMPORTANCE**

2.2.1 The approach to be taken in considering a development proposal that might affect a European or Ramsar site is set out below. The process is represented in the flow chart in Figure 1(see page 59).

2.2.2 In assessing proposals the planning authority will first establish if a proposed development is directly connected with or necessary to the conservation management of the site\textsuperscript{10}. There will be few cases where a development is directly connected with, or the whole of the development is necessary to the management of the International Site.

2.2.3 Where a development is directly connected with, or necessary to the conservation management of the site it will not be subject to the further requirements below.

**Habitat Regulations Assessment**

2.2.4 A Habitat Regulations Assessment\textsuperscript{11} comprises a ‘Test of Likely Significance’ and in some cases an ‘Appropriate Assessment’\textsuperscript{12}. Further information on Habitat Regulations Assessment is contained in the publication: Managing Natura 2000 Sites: The provision of Article 6 of the Habitats Directive 92/43/EEC (European Commission 2000).

**Test of Likely Significance**

2.2.5 If the proposal is not directly connected with or necessary to site management, the planning authority will determine whether the proposal is likely to have a significant effect on a European or Ramsar site.

2.2.6 Zones of influence, where identified by NIEA, can aid the assessment of plans and projects.

2.2.7 Developers must provide sufficient information for carrying out the ‘test of likely significance’. This information may be requested by the planning authority.

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10 Article 6 (3) Habitats Directive as transposed by Regulation 43 (1) (b) of the 1995 Habitats Regulations
11 See Figure 1 on page 59
12 Article 6 as transposed by Regulation 43 and 44 of the 1995 Habitats Regulations
2.2.8 The likely significance of effects will be determined in relation to the specific features and environmental conditions of the site concerned, taking particular account of the site’s conservation objectives. Examples of types of effects that are likely to be significant include:

- causing damage to the coherence of the site or to the Natura 2000 network;
- reducing the area of habitat or the site;
- causing direct / indirect change to the physical quality of the environment or habitat within the site;
- causing disturbance or altering the vulnerability of species or habitats; and
- damage to the size, characteristics or reproductive ability of populations of species.

2.2.9 These examples may prevent the achievement or maintenance of favourable conservation status. It is not an exhaustive list of damaging effects and the planning authority will use the Waddenzee Principle (see para. 2.2.23) to determine likely significance.

2.2.10 When determining likely significant effects, the combination of other plans or projects should also be considered to take account of cumulative impacts. In considering cumulative impacts the planning authority will take into account those plans and projects that are:

- complete;
- approved but uncompleted; and
- those actually proposed.

2.2.11 The assessment also includes other plans and projects which may have previously been considered not to have likely effects on a designated site or features of natural heritage interest. Completed plans or projects are included as they may have continuing effects that could lead towards the progressive loss of site integrity. The intention is to take account of cumulative impacts which may only occur over time. The assessment is not confined to proposals that require planning permission, but includes all relevant plans and projects.

2.2.12 It is important that the likelihood of a significant effect is assessed in respect of each interest feature for which the site is classified and for each designation where a site is classified under more than one international designation.

2.2.13 In respect of Ramsar sites the assessment should take account of the full range of Ramsar interests for which the site has been listed. A Ramsar site’s vulnerability to any effects of the proposed development should also be considered.
2.2.14 The decision on whether an appropriate assessment is necessary should be made on a precautionary basis. An appropriate assessment is required where there is a probability of risk that the plan or project will have significant effects on the site. This is in line with the ruling of the European Court of Justice in Case C-127/02 (the Waddenzee Judgement) which said ‘any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site’s conservation objectives, if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects’.

2.2.15 The planning authority will give advice on the scope and content of information required for the appropriate assessment to be undertaken. This will depend on the nature, scale, duration, location, size and significance of the proposed project and interest features of the relevant site.

2.2.16 As part of the assessment process, consultation with the public or other bodies that have the relevant information or expertise may be necessary.

2.2.17 Where likely significant negative effects are identified, alternative solutions and mitigation measures must be examined by the planning authority to avoid any potential damaging effects.

2.2.18 Planning permission may only be granted where the planning authority has made certain that the plan or project will not adversely affect the integrity of the site. Planning authorities must be convinced that there will not be any adverse effect and where any doubts remain as to the absence of adverse effects, planning permission must not be granted.

2.2.19 The integrity of a site is:

‘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 species for which it is classified’.

2.2.20 In light of the conclusions of the assessment on the proposal’s effects on the site’s conservation objectives, the planning authority must

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13 This is in line with the ruling of the European Court of Justice in Case C-127/02 (the Waddenzee Judgment)
14 This is in line with the Waddenzee Principle which ensures that development will only be permitted where no reasonable scientific doubt remains as to the absence of adverse effects
determine whether it can ascertain that the proposal will not adversely affect the integrity of the site.

2.2.21 Development proposals do not have to be located within a designated site or adjacent to a feature of natural heritage interest to lead to the loss or damage of that interest or to adversely affect the integrity of the designated site. It is therefore important, to consider both the direct and indirect impacts of development. These effects may be temporary or permanent, beneficial or harmful to the site. Zones of influence where identified by NIEA can aid the assessment of projects.

2.2.22 It is not for the planning authority to show that the proposal would adversely effect the site, when determining an application. It is for the planning authority to consider the likely and reasonable foreseeable effects. It is also for the planning authority to ascertain that the proposed development will not have an adverse effect on the integrity of the site before planning permission is granted. If the proposal would adversely affect integrity, or the effects on integrity are uncertain but could be significant and these will not be removed by condition then the planning authority should not grant permission.15

The Waddenzee Principle

2.2.23 In the Waddenzee judgement16, the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made certain that the plan or project will not adversely affect the integrity of the site, “that is the case where no reasonable scientific doubt remains as to the absence of such effects.” Competent authorities must be “convinced” that there will not be an adverse effect on the integrity of the site. Where any reasonable doubt remains as to the absence of adverse effects, the plan or project must not be authorised, subject to the procedure outlined in Art 6 (4) of the EC Habitats Directive17 regarding imperative reasons of overriding public interest.

2.2.24 Applicants must therefore provide sufficient information to remove this scientific doubt of potential impacts. In essence there is no presumption for development.

2.2.25 If the planning authority is considering a planning application in relation to such a site the ECJ judgement in Waddenzee requires it to be certain that there will be no adverse effects on the integrity of the site linked to the development proposal. Where doubts remain the planning authority must refuse permission subject to consideration of Regulation 44 of the Habitats Regulations. The ECJ stated that the authorisation procedure

15 Unless the development is required for imperative reasons of public Interest
16 ECJ case C-127/02
17 Regulation 44 of the 1995 Habitats Directive
laid down in Article 6 of the Directive (transposed via the Conservation (Natural Habitats) Regulations (NI) 1995) “integrates the precautionary principle”. Where the planning authority applies the Waddenzee principle when determining planning proposals it will be applying the precautionary principle.

**Considering conditions or other restrictions**

2.2.26 As part of the judgment on integrity the planning authority must consider the way in which it is proposed to carry out the project. Conditions or other restrictions which would help to ensure that site integrity is not adversely affected should also be considered. This is an important requirement of the Habitats Regulations.

**Alternative solutions**

2.2.27 If the planning authority is unable to conclude that the proposed development will not adversely affect the integrity of the site, and this effect, or possible effect, will not be removed by conditions or other restrictions, it must not grant planning permission. The exceptions are outlined in the following closely defined circumstances.

2.2.28 Developers must demonstrate how they have fully considered all alternative solutions. The planning authority will make the final determination as to whether there are suitable alternative solutions. It will also consider whether there are, or are likely to be, suitable and available sites, which are reasonable ecological alternatives for the proposed development. The planning authority will also consider:

- whether there are different, practicable approaches in relation to the conservation and maintenance of the integrity of the site,
- its ecological functions, and
- where appropriate, its contribution to the overall coherence of the network of such sites.

2.2.29 This will enable habitats and species to be maintained at or, where appropriate, restored to a favourable conservation status in their natural range.

2.2.30 If the planning authority is satisfied there are alternative solutions that would have no (or a lesser) effect on the site’s integrity then permission cannot be granted in accordance with the Habitats Regulations.

2.2.31 Furthermore, given the importance of International sites and in line with European case law, in determining acceptability, only ecological criteria will be considered by the planning authority. Other assessment criteria,

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18 For International sites and European Species and Habitats
19 Regulation 44 of the 1995 Habitats Regulations (Article 6 (4) of the Habitats Directive).
such as economic criteria, cannot overrule the ecological criteria when assessing alternatives.

2.2.32 If there are no alternative solutions that would have no (or a lesser) effect, on the site, then the planning authority should proceed to consider whether there are imperative reasons of overriding public interest why the permission should be granted as described below.

**Imperative reasons of over-riding public interest**

2.2.33 Where there is no alternative solution the planning authority should consider whether there are imperative reasons of overriding public interest to justify the grant of planning permission despite the potentially negative effect on site integrity.

2.2.34 The public interest must be overriding. Not every kind of public interest of a social or economic nature is sufficient, in particular when seen against the particular weight of the interests protected by the Directive.

2.2.35 The public interest can only be overriding if it is a long-term interest. Short-term economic interest or other interests which would only yield short-term benefits for society would not appear to be sufficient to outweigh the long-term conservation interests protected by the Directive.

2.2.36 In considering imperative reasons of overriding public interest including those of a social and economic nature, refer to situations where proposals prove to be indispensible:

- Within the framework of actions or policies aiming to protect fundamental values for peoples' lives (health, safety, environment);
- Within the framework of fundamental policies for the State and society;
- Within the framework of carrying out activities of an economic or social nature, fulfilling specific obligations of public service.

2.2.37 There will be few cases where it is judged that imperative reasons of overriding public interest will allow a development to proceed, which may have a potentially negative effect on the integrity of an International site. This applies equally to new proposals and to developments with extant planning permissions granted prior to the Habitats Regulations coming into force. The decision will involve an assessment of the importance of the development and whether it is sufficient to override the harm to the nature conservation importance of that site. It may be possible to negotiate a sustainable solution that would remove or reduce an apparent conflict.
2.2.38 In all cases compensatory measures must be in place.

Compensatory measures

2.2.39 Where in the absence of alternatives the development is considered to be of such importance to allow planning permission notwithstanding a likely negative assessment of the implications for the International site, compensatory measures must be taken to ensure that the overall coherence of Natura 2000 is protected\(^{20}\). This may be costly and often technically difficult or ecologically untried. In certain cases the habitat affected may be irreplaceable. Failure to provide compensatory measures in such cases will be contrary to the requirements of the Directive.

2.2.40 In such cases, compensatory measures, intended to compensate for the effects on a habitat or species affected negatively by the proposed development are those measures taken in addition to those required for the normal practice regarding the implementation of the Habitats and Birds Directives. If re-creation or restoration is specified as a compensatory measure, the planning authority would expect the area concerned to become, within a clear time-scale, of sufficient quality to ensure that the coherence of the Natura 2000 network is protected.

2.2.41 The European Commission will be informed of all compensatory measures adopted before they are implemented and prior to development commencing.

2.2.42 Furthermore, in considering proposals which affect Ramsar sites, the full range of the interests for which the site has been listed and their vulnerability to any effects of the proposed development will be assessed. In particular the requirement of Article 3(1) of the Ramsar Convention which requires Contracting Parties to ‘formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible, the wise use of wetlands in their territory’\(^{21}\) will be relevant. In the case of Ramsar sites, compensatory measures will also be required.

Priority Species and/or Priority Habitats

2.2.43 If a site hosts a priority habitat (such as active peatland) or species, as defined in Annex I and II of the Habitats Directive, and there is no alternative solution, the only considerations which can justify the grant of planning permission are:

- Those which relate to human health, public safety, or beneficial consequences of primary importance to the environment\(^{22}\); or

\(^{20}\) Article 6 (4) of Habitats Directive as transposed by Regulation 48 of the 1995 Habitats Regulation

\(^{21}\) Article 3 (1) of the Ramsar Convention.

\(^{22}\) These constitute the most imperative reasons of overriding public interest.
• Other imperative reasons which are of overriding public interest agreed by the European Commission.

**Environmental Impact Assessment**

2.2.44 The Habitat Regulations Assessment\(^{23}\), required under the Habitats Directive, does not correspond to an environmental assessment as required by the Planning (Assessment Impact Assessment) Regulations (NI) 1999 (as amended) (the “EIA Regulations”), although for some projects an environmental impact assessment will also be necessary. In such cases, the environmental information submitted in respect of the Environmental Impact Assessment Regulations may not be sufficient for the Habitat Regulations Assessment required by the Habitats Directive.

**REVIEW OF EXTANT PLANNING PERMISSIONS AFFECTING INTERNATIONAL SITES**

2.3.1 The Habitats Regulations\(^{24}\) require the planning authority to review any extant planning permissions\(^{25}\) which are likely to have a significant effect on a European site, either individually or in combination with other plans or projects. As a matter of policy this requirement also applies to Listed Ramsar Sites.

2.3.2 Permissions, including outline permissions, which have not been completed or implemented at all and those which have not been fully implemented will be reviewed as soon as is reasonably practicable.

2.3.3 The review will assess whether implementation of any planning permission which is likely to have a significant effect on the site, and is not directly connected with or necessary to the conservation management on the site, may adversely affect its integrity. For the purposes of the review, a Habitat Regulations Assessment (see paragraph 2.2.4) on the implications of the implementation of the planning permission on the site, alone or in combination with other land use plans or development projects must be made. If the integrity of the site is likely to 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 planning authority will take appropriate action to remove the potential for harm. Unless, there is no likelihood of the development being carried out or continued.

2.3.4 Following the review the planning authority must affirm, modify or revoke such planning permissions or make an order to discontinue the use. It may also be possible to arrive at a planning agreement facilitating, regulating or restricting the development or use of the land.

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\(^{23}\) Regulation 43 of the 1995 Habitats Regulations

\(^{24}\) Regulations 50 – 54 of the 1995 Habitats Regulations

\(^{25}\) Those permissions which have not been implemented at all and those that have not been fully implemented.
so as to safeguard the integrity of the site. The planning authority will take appropriate action if a developer proceeds with damaging development while the planning authority endeavours to secure a planning agreement.

RESTRICTIONS ON PERMITTED DEVELOPMENT

2.4.1 Article 3 of the Planning (General Development) Order (Northern Ireland) 1993 (as amended) (the GDO) grants a general planning permission known as “permitted development”, subject to specified conditions and limitations for the types of development set out in Schedule 1 of the GDO. These “permitted development rights” largely apply to developments which are non-contentious, and which, if they required individual consideration, would place an unnecessary burden on households or other developers and on the planning authority. 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.

2.4.2 Regulations 55-56 of the Habitats Regulations as amended by Regulations 24 and 25 of the Conservation (Natural Habitats, Etc.) (Amendment) Regulations (Northern Ireland) 2007, impose a condition on permissions granted by the GDO to ensure that any permitted development is not in breach of the terms of Article 6 of the Habitats Directive. These regulations prevent any development, which is likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which is not directly connected with or necessary to the conservation management of the site, from benefiting from permitted development rights. Unless, the Department has determined that the proposed development is unlikely to adversely affect the integrity of the site.

2.4.3 Although permitted development rights are not automatically withdrawn for such developments the Department’s prior approval must be obtained.

2.4.4 Development which proceeds without written approval from the Department will be liable to enforcement proceedings. Where development which has begun with the benefit of a permitted development right, but has not been completed, work shall not be continued until the developer has received a written approval from the Department having ascertained that it is unlikely to adversely affect the integrity of the site.

2.4.5 If developers are uncertain if their proposal is directly connected or necessary to site management for conservation, they are advised to apply to the Department’s NIEA for an assessment. Details of the
procedures involved and of the information the developer should provide are given above. If the Department decides that the proposal is likely to adversely affect the integrity of the site, then the proposed development cannot benefit from a permitted development right. If the developer wishes to proceed, a planning application or certificate of lawful development will be required.

2.4.6 The consideration of permitted development rights in European Sites is shown in Figure 2 (see page 60).

**SIMPLIFIED PLANNING ZONES, ENTERPRISE ZONES AND SPECIAL DEVELOPMENT ORDERS**

2.5.1 The Habitat Regulations\(^{26}\) 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 and which is not directly connected with or necessary to the conservation management of the site. The Regulations also prevent new Simplified Planning Zone (SPZ) and EZ schemes, and Development Orders from granting planning permission for development which is likely to have an adverse effect on a European Site and which is not directly connected with or necessary to the conservation management of the site.

**FURTHER CONSIDERATION IN RESPECT OF RAMSAR SITES**

2.6.1 Article 3(1) of the Ramsar Convention requires Contracting Parties to:

> ‘formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and, as far as possible, the wise use of wetlands in their territory.’

\(^{26}\) Regulations 57 – 60 of the 1995 Habitats Regulations
3. **Species Protected by Law**

**INTRODUCTION**

3.1.1 Particular species of flora and fauna within Northern Ireland are subject to special protection, normally because of their vulnerable conservation status.

3.1.2 The two principle pieces of legislation protecting animals and plant species, including all wild birds, and certain fish are:

- the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and
- the Wildlife (Northern Ireland) Order 1985 (as amended).

3.1.3 All fish species are afforded general protection under the Fisheries Act (Northern Ireland) 1966 (as amended) and the Foyle Fisheries Act (Northern Ireland) 1952.

3.1.4 Under the above legislation it is a criminal offence to harm a statutorily protected species. Harm includes:

- the killing, injury, taking or disturbance of protected species or an egg of an animal, including fish;
- damage, destruction or obstruction of places used by such species for shelter, breeding or protection; and
- the deliberate picking, collecting, cutting, uprooting or destruction of any protected plant species growing in the wild.

**EUROPEAN PROTECTED SPECIES**

3.2.1 The Conservation (Nature Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended)\(^{27}\) implement the requirements of the Habitats Directives for species listed in Annex IV of the Directive (European Protected Species). Stricter provisions than those contained in the Wildlife Order (as amended) apply for these species and Regulation 3(4) of the Habitats Regulations places a duty on local planning authorities, in the exercise of their functions, to have regard to the requirements of the Directive insofar as they might be affected by those functions.

3.2.2 Under the Habitats Directive\(^{28}\) further strict provisions apply and planning authorities should advise developers that they must comply with any statutory species’ protection provisions affecting the site.

\(^{27}\) Known as ‘The Habitats Regulations’

\(^{28}\) Article 12 – 16 of the Habitats Directive as transposed by Regulation 33 - 41 of the 1995 Habitats Regulations
concerned. Otherwise all relevant material considerations may not have been addressed in making the decision. In addition the planning authority is required\textsuperscript{29} to fully assess the impact of proposals on European Protected Species before a decision can be made.

3.2.3 In considering European Protected Species, the impact of development proposals on breeding sites and resting places will be strictly assessed for deterioration or destruction. The continuing ecological functioning of the breeding site or resting place is required. This may be achievable through mitigation measures without recourse to permitted derogations. However, the planning authority must be confident that the measures are likely to be successful. Derogations must meet the strict tests set out in the legislation, be licensed, and may require compensatory measures.

3.2.4 Compensatory measures must ensure the breeding or resting place will still remain at least the same size, retain the same quality for the species and there will be no deterioration in the function, quality or integrity of the site. Compensatory measures cannot be considered unless the reason for destruction or deterioration relates to the derogations allowed by statute. These are:-

- there are no alternative solutions; and
- it is required for reasons of overriding public interest; and
- compensatory measures are agreed and fully secured.

3.2.5 Planning Permission must be refused if the planning authority is not satisfied that no satisfactory alternative exists and that there is no “imperative reason of overriding public interest” in accordance with the Regulation 3(4) duty.

3.2.6 The planning authority must also refuse if compensatory measures are not agreed or are not capable of implementation.

SPECIES PROTECTED UNDER THE WILDLIFE ORDER

3.3.1 The Wildlife (Northern Ireland) Order 1985 (as amended) sets out the protection that is afforded to all wild birds, and certain wild animal and plants. Protected species are a material consideration of any development proposal which if carried out would likely result in harm to the species or its habitat including places used for shelter or breeding.

3.3.2 Under the Wildlife Order (as amended) licences may be issued by NIEA, provided certain conditions are met, derogating from the

\textsuperscript{29} See guidance document on the strict protection of animal species of community interest under the Habitats Directive 92/43/EEC.
protection afforded to species for listed reasons, such as public health and safety.

3.3.3 The Wildlife Order (as amended) is due to be repealed by the Wildlife and Natural Environment Bill (Northern Ireland) in 2010. This Bill will introduce a number of new statutory provisions including:

- a biodiversity duty on government departments and public bodies;
- require the Department to take steps to further the conservation of priority species and habitats; and
- amended a number of existing offences where action has been carried out recklessly.

CONSIDERATION

3.4.1 The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would likely result in harm to the species or its habitat. The extent to which the protected species may be affected by a proposed development must be established before planning permission is granted.

3.4.2 Planning authorities should consult with NIEA before granting permission. Consideration should also be given to attaching appropriate planning conditions under which the developer would take steps to secure the long-term protection of the species.

3.4.3 Developers will be required to undertake surveys for protected species where there is reasonable likelihood of the species being present and affected by the proposed development. It is important to take account of any seasonal factors, as development activity can be particularly detrimental during a species’ breeding season. Activity may also affect migration and feeding routes. It is advisable to discuss the layout with NIEA after the survey.

3.4.4 Developers will be advised that they must conform to any statutory species protection measures affecting the site concerned. Planning permission will also be conditioned appropriately. For European protected species further strict provisions apply, to which planning authorities must have regard.

3.4.5 The granting of planning permission does not obviate the holder of ensuring legal compliance with other legislative requirements. Further information on licenses can be obtained from NIEA and DCAL and contact should be made during the planning application process.
4. Nationally Designated Nature Conservation Sites

INTRODUCTION

4.1.1 These comprise:

- Areas of Special Scientific Interest (ASSIs) designated under the Environment (Northern Ireland) Order 2002; and

Areas of Special Scientific Interest

4.1.2 The law places a general duty on the Department to take reasonable steps consistent with the proper exercise of the body’s function, to further the conservation and enhancement of the flora, fauna or geological, physiographical or other features by reason of which the ASSI is of special scientific interest.

4.1.3 The Department is required by that Order to declare land as ASSIs if it is satisfied that it is of special scientific interest by reason of any of the flora or fauna that is found on it, or because of geological or physiographical features.

4.1.4 ASSIs are areas of land that have been identified by scientific survey as being of the highest degree of conservation value. They have a well-defined boundary and by and large remain in private ownership. Each ASSI has a citation document detailing the features of special interest within the designated site and a list of conservation objectives to enable the favourable conservation status of the ASSI.

4.1.5 When an ASSI is declared, owners and occupiers receive a list of notifiable operations. These are activities which the Department considers might harm the nature conservation interest of the site. Should a landowner wish to carry out a notifiable operation and the Department judges it to be incompatible with the conservation interest, the Department may offer to enter into a management agreement.

4.1.6 There are also restrictions on permitted development within ASSIs. Landowners must seek consent for permitted development that is contrary to the notifiable operations. If in doubt, contact should be made to NIEA for a list of notifiable operations.
National Nature Reserve and Nature Reserves

4.1.7 Nature reserves are chosen from among the very best examples of our wildlife, habitats and geology. They contain a wide range of species, communities and geology and their designation is a public recognition by Government of their importance.

4.1.8 They are areas of importance for flora, fauna, or features of geological or other special interest, which are reserved and managed for conservation. They also provide special opportunities for study or research.

Marine Nature Reserve

4.1.9 Strangford Lough has been designated as Northern Ireland’s first Marine Nature Reserve (MNR). The purpose of a MNR is to conserve marine flora and fauna and geological features of special interest. It also provides opportunities for the study of marine systems.

4.1.10 They are the mechanism for the protection of nationally important marine and subtidal areas. Their designation requires the agreement of statutory and voluntary bodies and interest groups.

CONSIDERATION

4.2.1 Information on national designations can be found on the NIEA website at www.environment-ni.gov.uk.

4.2.2 Planning authorities may seek advice from NIEA, as appropriate, to determine the impact of development proposals affecting national sites in respect of:

- the integrity of each designation, including the value of the site to the habitat network; and
- the special interest, including each feature for which the site is designated.

4.2.3 The integrity of the site is defined as:

“the coherence of the site’s ecological structure and function, across its whole area or the habitats, complex of habitats and / or populations of species for which the site is or will be classified” 30

When looking at the ‘integrity of the site’, it is important to take into account a range of factors, including the possibility of effects, both direct and indirect, manifesting themselves in the short, medium and long-

30 Managing Natura 2000 sites 'The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC
term. NIEAs Conservation, Designations and Protection team can provide details of the special interest for these sites.

4.2.4 Benefits for the proposal which outweigh the value of the site need to be of national importance and of a long-term interest, sufficient to override the value of the site. Short-term economic interests or other interests that would only yield short-term benefits would not appear to be sufficient to outweigh the long-term conservation value of the site.

4.2.5 Where a development proposal is permitted, conditions will be required to provide appropriate mitigation and/or compensatory measures. Animals and plants may be relocated to other sites only in exceptional circumstances.

4.2.6 The consideration of development proposals affecting national designations is shown in Figure 3 (see page 61).
5. Locally Designated Nature Conservation Sites

INTRODUCTION

5.1.1 Local designations include:

- Local Nature Reserves established by District Councils under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985; and
- Wildlife Refuges designated under the Wildlife Order, where special protection measures for some or all species are implemented.

5.1.2 There are currently no wildlife refuges in Northern Ireland. Management of these sites is generally through regulation of activities and negotiation with landowners, or government ownership.

CONSIDERATION

5.2.1 Planning authorities may seek advice from NIEA, as appropriate, to determine the impact of development proposals affecting local sites in respect of:

- the integrity of the site, including the value of the site to the habitat network; and
- the interest, including each feature for which the site is designated.

5.2.2 The integrity of the site is defined as:

"the coherence of the site’s ecological structure and function, across its whole area or the habitats, complex of habitats and / or populations of species for which the site is or will be classified" 31

When looking at the ‘integrity of the site’, it is important to take into account a range of factors, including the possibility of effects, both direct and indirect, manifesting themselves in the short, medium and long-term.

5.2.3 Examples of types of effects that are likely to be significant include:

- causing damage to the coherence of the site;
- reducing the area of habitat or the site;

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31 Managing Natura 2000 sites 'The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC
• causing direct / indirect change to the physical quality of the environment or habitat within the site;
• causing disturbance or altering the vulnerability of species or habitats; and
• damage to the size, characteristics or reproductive ability of populations of species.

5.2.4 Details on the interest or features of Local Nature Reserves are held by District Councils and NIEA.

5.2.5 Benefits for the proposal which outweigh the value of the site need to be of local importance and of a long-term interest, sufficient to override the value of the site. Short-term economic interests or other interests that would only yield short-term benefits would not appear to be sufficient to outweigh the long-term conservation value of the site.

5.2.6 Where a development proposal is permitted, conditions may be required to provide appropriate mitigation and compensatory measures. Animals and plants may be relocated to other sites only in exceptional circumstances.

5.2.7 The consideration of development proposals affecting local designations is shown in Figure 4 (see page 62).
6. Other Species, Habitats or Features of Natural Heritage Importance

INTRODUCTION

6.1.1 Most of our wildlife habitats, species and other features are not confined to designated areas. Their survival depends on the protection and wise management of the total land resource. Targets have been set at a European level to halt the loss of biodiversity and the Northern Ireland Executive has agreed to meet this target by 2016.

6.1.2 The planning authority does not have, and cannot reasonably be expected to have, total knowledge of the potential natural heritage significance of every site. Therefore, in considering proposals, it will take account of information held by NIEA and of that received from environmental bodies, members of the public or other sources. Where the planning authority is aware of an actual or potential site of natural heritage importance NIEA will normally advise on the impact of the proposed development.

PRIORITY SPECIES AND PRIORITY HABITATS

European Habitats and Species

6.2.1 The European Union has determined which species and habitats are of most concern for nature conservation. These are listed in Annexes I and II to the Habitats Directives and Annex I of the Birds Directive. NIEA undertakes surveillance of the conservation status of habitats and species within the directive and reports to Europe on these regularly.

Northern Ireland Priority Habitats and Species

6.2.2 The Northern Ireland Biodiversity Strategy has identified Northern Ireland’s species and habitats requiring conservation action. Lists of Northern Ireland priority species and priority are updated regularly and can be viewed on the NIEA website at: www.ni-environment.gov.uk.

6.2.3 These priority habitats and species have been selected by use of criteria such their decline and their rarity or importance within the UK, Ireland or Europe. Most habitats and species listed in the Habitats Directive and the birds listed in the Birds Directive are included as Northern Ireland priority habitats or species.

6.2.4 Detailed information on Northern Ireland priority habitats and priority species and the conservation action each requires is contained in the relevant Northern Ireland Habitats Action Plan (HAP), Northern Ireland Species Action Plans (SAP) and/or priority species statement. Planning
authorities will have regard to these documents when considering development proposals that affect these species and habitats.

ACTIVE PEATLAND

6.3.1 Active peatland, comprising blanket and raised bog, is identified as a European Priority Habitat in the Habitats Directive. It is peatland on which peat is currently forming and accumulating, acting as a carbon sink.

6.3.2 The cutting and drainage associated with development has the potential to severely impact on the hydrology of active peatland, with the ensuing release of the carbon stored therein.

ANCIENT AND LONG-ESTABLISHED WOODLANDS

6.4.1 Ancient and long-established woodlands are one of the richest wildlife habitats in Northern Ireland, yet cover less than 1% of the land area. Just over a tenth of these can be shown with any certainty to be ancient.

6.4.2 These woodlands are a valuable ecological resource both for their diversity of species of flora and fauna and for their longevity. They are an irreplaceable historical asset that, once lost, cannot be recreated.

6.4.3 In considering development proposals likely to affect ancient and long-established woodlands regard will be paid to the Ancient Woodland Inventory for Northern Ireland found at www.backonthemap.org.uk. In assessing all proposals, consideration will also be paid to the UK Biodiversity Action Plan, the Northern Ireland Biodiversity Strategy and also to the relevant published Species Action Plan, Habitat Action Plans and Local Biodiversity Action Plans.

6.4.4 In providing appropriate protection to ancient and long-established woodlands regard will also be paid to the adopted standards (BS 5837) 2005, the ‘Quality Initiative’, ‘Trees & Development: A Guide to Best Practice’ and the relevant published Species Action Plan, Habitat Action Plans and Local Biodiversity Action Plans.

FEATURES OF EARTH SCIENCE CONSERVATION IMPORTANCE

6.5.1 Earth Science or geodiversity is of great importance in helping to understand the surrounding dynamic environment which has shaped and continues to shape the land. It is also important in providing an understanding of current and future environmental change. Earth
science also plays a key role in influencing natural processes, landforms, soil types, habitat distribution, land use and landscape character.

6.5.2 Statutory and Area Plan designations do not include all areas of Earth Science interest. Developers should be aware of the potential importance of earth science sites in the wider countryside.

6.5.3 Sites of earth science interest are detailed in the Earth Science Conservation Review. Further details can be found at www.ni-environment.gov.uk.

FEATURES OF THE LANDSCAPE WHICH ARE OF MAJOR IMPORTANCE FOR WILD FLORA AND FAUNA

6.6.1 Article 10 of the Habitats Directive, transposed by Regulation 32 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995, requires Member States to endeavour to encourage the management of features of the landscape that are of major importance for wild flora and fauna. These features are those that, because of their linear and continuous structure of their function as stepping-stones, are essential for migration, dispersal and genetic exchange. Examples given in the Directive are rivers with their banks, traditional field boundary systems (such as hedgerows), ponds and small woods. Article 3 of the Habitats Directive requires a coherent ecological network of Natura 2000 sites which can be improved by maintaining features of the landscape which are of major importance for wild fauna and flora referred to in Article 10.

6.6.2 Ecological networks are intended to maintain environmental processes and to help conserve and enhance biodiversity. They generally allocate specific functions to different areas depending on their ecological value and nature conservation potential:

- Core areas, where the conservation of biodiversity, including habitats, is the key function;
- Movement routes, which allow species to travel between core areas – these may take the form of ‘linear corridors’ (physical links), ‘stepping stones’ (in between islands of semi-natural habitat) or ‘permeable areas’ (with some semi-natural features and/or a sufficiently low intensity of land use); and
- Buffer zones, which are adjacent to and protect the network from damaging impacts arising from human activities.
6.6.3 The planning authority will have regard to features of the landscape of major importance to flora and fauna and their importance within the ecological networks when considering development proposals. The planning authority will seek to prevent further fragmentation or isolation of habitats and identify opportunities for habitat enhancement and restoration.

RARE OR THREATENED NATIVE SPECIES

6.7.1 Rare or threatened species can be very sensitive to development and other land-use changes. The potential loss of these species will detrimentally affect progress towards the overall Government target to halt biodiversity loss.

6.7.2 Information on species distribution, status and individual biological records in Northern Ireland is held at the Centre for Environmental Data and Recording (CEDaR) see http://www.habitats.org.uk/cedar/. Other relevant information on rare and threatened species in Ireland is published in Irish Red lists and Northern Ireland species inventories which are available through www.ni-environment.gov.uk.

6.7.3 Planning authorities will have regard to information from these sources when considering development proposals that affect these rare or threatened native species.

WETLANDS

6.8.1 Wetlands are areas where water is the primary factor controlling the environment and the associated plant and animal life. They are defined in the Ramsar Convention as being “an area of marsh, fen, peatland or water whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt”.

6.8.2 Wetlands cover a variety of natural heritage features including lakes, loughs, ponds, rivers and peatlands. They include all wetlands not just those designated for inclusion on the Ramsar List.

6.8.3 Many wetland fauna are migratory species and are protected under the Wildlife Order (as amended) or the Habitats Regulations. Some wetlands support rare and vulnerable species of animals and plants, and may be identified as priority habitats. The Ramsar Convention (Annex 1) requires the ‘wise use’ of wetlands.

6.8.4 Wetlands continue to be threatened by development within their catchments. They are particularly sensitive due to the role they play in the carbon and water cycles. It is therefore important that development is carried out in a sustainable manner that is compatible with the natural
properties of the wetland ecosystem, its hydro-morphological integrity, wildlife and landscapes.

6.8.5 The Water Framework Directive (WFD) and the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 which implemented it, require comprehensive River Basin Management Plans. Northern Ireland Departments and public bodies must adhere to these Plans when exercising their functions. Rivers Basin Management Plans will be taken into account when assessing development proposals.

6.8.6 Key aims of River Basin Management Plans in relation to natural heritage and the planning system are:

- The promotion of sustainable water use;
- The establishment of a framework for the protection of surface waters and ground waters to protect and improve to status of:
  - aquatic ecosystems; and
  - with regard to their water needs, terrestrial ecosystems and wetlands directly depend on the aquatic systems.

6.8.7 In assessing proposals, the principle is that development must not result in the deterioration of the status of a waterbody or impact on its ability to improve.

CONSIDERATION

6.9.1 Development proposals should be sited and designed to include provision for the retention or integration of the species, habitats or other features and to prevent their fragmentation and isolation. Where appropriate these interests should be strengthened within development sites and linked to enhance connectivity within development sites and the wider landscape. It is important to take account of any seasonal factors, as development activity can be particularly detrimental during a species’ breeding season. Activity may also affect migration and feeding routes.

6.9.2 In assessing a development, proposal consideration will be given to the impact of the proposal on the:

- Integrity;
- connectivity of the habitat;
- value to the habitat network;
- survival of the species locally;
- favourable conservation status or ability to reach this; and
- the effects on features of interest.
6.9.3 In the case of wetlands account will also be taken of the possible threats to their integrity, ecological good status and the commitment to the wise use of all wetlands.

6.9.4 In assessing all proposals, consideration will also be paid to the UK Biodiversity Action Plan, the Northern Ireland Biodiversity Strategy and also to the relevant published Species Action Plan, Habitat Action Plans and Local Biodiversity Action Plans.

6.9.5 Benefits for the proposal which outweigh the value of the site need to be of a long-term interest, sufficient to override the value of the site. Short-term economic interests or other interests that would only yield short-term benefits would not appear to be sufficient to outweigh the long-term heritage value of the site.

6.9.6 Where a development proposal is permitted, conditions may be required to provide appropriate mitigation and compensatory measures. Animals and plants may be relocated to other sites only in exceptional circumstances.

6.9.7 Opportunities will be taken to secure new planting or sowing within development proposals. This should incorporate plants of local provenance and locally sourced native species.

6.9.8 Permission may be refused where species, habitats, features or their biodiversity cannot be maintained or offset. This may be the case where species or habitats are especially vulnerable, sensitive or where features are irreplaceable.

**OTHER NATURAL HERITAGE FEATURES WORTHY OF PROTECTION**

6.10.1 There is potential for other nature conservation features worthy of protection to be on a site.

6.10.2 Local natural heritage sites currently designated through the development plan process may also be considered under the provision of policy NH 5 following the outcome of planning reform.

**Trees, Woods and Hedgerows**

6.10.3 Careful consideration will be given to the potential impact of proposed development upon trees, woods and hedgerows. Developers will be encouraged to retain existing trees, where practicable, by integrating them into the design and layout of development proposals and to plant additional trees. Existing trees, woodlands and important hedgerows may be protected by the imposition of conditions on the granting of planning permission. Opportunities will also be taken to secure new
tree planting in development schemes. Where development involves the loss of trees or hedgerows, permission will be conditional on a replanting scheme with appropriate species, number and size.

6.10.4 In providing protection to trees to be retained and new planting, planning authorities will always have regard to the adopted standards (BS 5837) 2005, the ‘Quality Initiative’, ‘Trees & Development: A Guide to Best Practice’ and the relevant published Species Action Plan, Habitat Action Plans and Local Biodiversity Action Plans.

CONSIDERATION

6.10.5 Proposals should be sited and designed to include provision for the retention or integration of the species, habitats or other features and to prevent their fragmentation and isolation. Where appropriate these interests should be linked to enhance connectivity within development sites and the wider landscape. It is important to take account of any seasonal factors, as development activity can be particularly detrimental during a species’ breeding season. Activity may also affect migration and feeding routes.

6.10.6 Examples of types of effects that are likely to be significant include:

- causing damage to the integrity of the feature worthy of importance;
- reducing the area of the feature worthy of importance;
- causing direct / indirect change to the physical quality of the feature worthy of importance; and
- causing disturbance or altering the vulnerability of the feature worthy of importance.

6.10.7 Where a development proposal is permitted, conditions may be required to provide appropriate mitigation and compensatory measures. Animals and plants may be relocated to other sites only in exceptional circumstances.

6.10.8 Opportunities will be taken to secure new planting or sowing within development proposals. This should incorporate plants of local provenance and locally sourced native species.
7. Areas of Outstanding Natural Beauty

INTRODUCTION

7.1.1 Areas of Outstanding Natural Beauty [ANOBs] are declared by the Department\(^\text{32}\) (or precursor bodies) under the Amenity Lands Act (Northern Ireland) 1965 or the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 and are of national importance.

7.1.2 AONBs designated throughout Northern Ireland were selected on the basis of the following criteria:

- scenic quality;
- unspoilt character;
- sense of place;
- rarity;
- cultural and recreational value; and
- conservation interest.

7.1.3 The legislation states that provision may be made to:

- Conserve or enhance the natural beauty or amenities of the area;
- Conserve wildlife, historic objects or natural phenomena within it;
- Promote its enjoyment by the public; and
- Provide or maintain public access to it.

7.1.4 The objective is to conserve the scenic beauty and quality of AONB’s landscape, their distinctive character and their nature conservation and built heritage interest. Also to provide enjoyment for visitors. Geology, topography, habitat, scale of land ownership, cultural and built heritage, traditional settlement patterns, land use and visitor pressure all can impact on scenic quality and the diversity of landscape character within AONBs. All changes in land use, land husbandry and associated policy can influence landscape quality, landscape value and sense of place or local identity.

CONSIDERATION

7.2.1 Development proposals are required to conserve the landscape quality, character and heritage of AONBs in order to protect these areas from harmful development.

\(^{32}\) Northern Ireland Environment Agency
7.2.2 The Northern Ireland Landscape Character Assessment 2000 provides a full and detailed record of all of Northern Ireland’s landscapes, identifying 130 landscape character areas (LCAs). It provides a description of the key characteristics of each LCA together with an analysis of landscape condition and sensitivity to change. It aims not only to provide detailed descriptions of regional landscape character but also to highlight the special qualities and features which make each area distinctive.

7.2.3 Where AONB management plans or design guides have been produced these may also be considered. Advice may also be sought from NIEA and the body managing the AONB. Further information on Countryside Assessments and design guides for the Antrim Coast and Glens AONB and for Causeway Coast AONB can be obtained at www.planningni.gov.uk. Information on Landscape Character Areas can be obtained at www.ni-environment.gov.uk.
8. Other Duties and Use of Statutory Powers

STRATEGIC ENVIRONMENTAL ASSESSMENT

8.1.1 Directive 2001/42/EC requires an ‘environmental assessment’ of certain plans and programmes, known as the Strategic Environmental Assessment (SEA). The objective of the SEA is:

- to provide for a high level of protection of the environment; and
- to contribute to the integration of environmental consideration into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out on certain plans and programmes, which are likely to have significant effects on the environment.

8.1.2 The Directive defines ‘environmental assessment’ as a procedure comprising:

- preparing an Environmental Report on the likely significant effects of the draft plan or programme;
- carrying out consultation on the draft plan or programme and the accompanying Environmental Report;
- taking into account the Environmental Report and the results of consultation in decision making; and
- providing information when the plan or programme is adopted and showing how the results of the environmental assessment have been taken into account.

8.1.3 The Directive does not prescribe who should carry out an SEA, but normally it is the responsibilities of the authority that prepares and/or adopts the plan or programme. This is confirmed in the transposing legislation (The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004).

8.1.4 Good practice in SEA emphasises the value of integrating the assessment with the plan or programme making process.

ENVIRONMENTAL IMPACT ASSESSMENT

8.2.1 Environmental Impact Assessment (EIA) is a method of ensuring that the likely effects of new development on the environment are fully understood and taken into account before planning permission is given for a proposed development to proceed. As such its purpose is to improve the quality of decision making by identifying potential environmental issues early in the project process.

8.2.2 EIA is mandatory for the types of projects listed in Schedule 1 to the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 (the EA Regulations). EIA is also required for the types of projects, listed and described, in Schedule 2 to the Regulations, which is either located wholly or in part in a “sensitive area”\(^{33}\) or meets or exceeds one of the relevant thresholds or criterion in schedule 3 and is likely to have significant environmental effects.

8.2.3 The potential effects on flora and fauna and on natural features and processes will also be carefully considered in the scoping of environmental statements to ensure compliance with the EIA Directive.

8.2.4 If an EIA 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 local planning authority to decide whether EIA is necessary. An applicant who is dissatisfied with the request for an EIA may seek a hearing before the Planning Appeals Commission.

\(^{33}\) Regulation 3 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 defines a sensitive area as: an Area of Special Scientific Interest (ASSI); an Area of Outstanding Natural Beauty (AONB); a National Park; a World Heritage Site; a Scheduled Monument; or European Sites as defined in Regulation 9 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.
Annex A – Statutory Framework

INTERNATIONAL TREATIES, CONVENTIONS AND DIRECTIVES

A1 The Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar 1.1.1971):- Provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. It requires Contracting Parties to (1) designate suitable wetlands, in accordance with criteria agreed by the parties, for inclusion in the Ramsar List and to ensure their effective management (2) to work towards the wise use of all their wetlands through national land-use planning, appropriate policies and legislation, management actions and public education (3) to cooperate internationally concerning transboundary wetlands, shared wetland systems, shared species and development projects that may affect wetlands.

A2 Freshwater Fish Directive (78/659/EEC):- The Directive requires member states to designate freshwaters needing protection or improvement in order to support fish life, and creates a duty to produce action plans to ensure compliance with these standards. In the UK these action plans will take the form of Pollution Reduction Programmes (PRPs).

A3 The Bonn Convention of 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.

A4 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 as well as the UK’s wildlife legislation.

A5 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 level, and requires Member States to take special measures to conserve the habitats of rare, breeding, over-wintering and migratory species, their
nests and eggs, through the classification of Special Protection Areas (SPAs).

A6 The Convention for the Conservation of Salmon in the North Atlantic Ocean (October 1983) saw the establishment of the North Atlantic Salmon Conservation Organisation (NASCO). The objective of the organisation is to contribute through consultation and cooperation to the conservation, restoration, enhancement and rational management of salmon stocks subject to the Convention taking into account the best scientific evidence available to it.

A7 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 an 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.

A8 EC Council Directive on the Conservation of Natural Habitats of Wild Fauna and Flora (92/43/EEC) (The Habitats Directive) is a major EC measure in the field of nature conservation. Its overall objective is to contribute towards ensuring the maintenance of biodiversity through the conservation of natural habitats and of wild fauna and flora in the EC. Measures taken to achieve this aim shall be designed to maintain or restore, at favourable conservation status, biodiversity whilst taking account of economic, social, cultural requirements and regional and local characteristics. It gives effect to site and species protection measures both through the establishment of the Natura 2000 (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 the equivalent of those for SACs. It also established a list of species (other than birds) whose habitats must be protected to secure their survival. These priority species and natural habitats are subject to a higher level of protection, as provided for in the 1995 Habitats Regulations, as amended, which transposes the Habitats Directive into national law.

A9 UN Biodiversity Convention (The Rio 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.

A10 The Convention on Biological Diversity (93/626/EEC) (CBD):- Requires contracting parties, in accordance with its particular conditions and capabilities develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes. It also requires contracting parties to integrate, as far as possible and as appropriate,
the conservation and sustainable use of biological diversity into relevant sectorial and cross sectorial plans, programmes and policies. The EU is actively promoting its effective implementation and in 2001 EU Heads of State or Government committed the EU to halting biodiversity loss by 2010.

A11 The EC Directive on establishing a framework for the Community action in the field of water policy (2000/60/EC) (The Water Framework Directive):- The main environmental objectives are to protect and improve the UK water environment. This requires all inland, transitional (estuarine) and coastal waters as well as groundwaters to reach “good status” by 2015. High status must be maintained where it exists, and deterioration in the status of water bodies will be prevented. It will do this by establishing a river basin district structure within which demanding environmental objectives to protect and enhance the status of aquatic ecosystems will be set, including ecological targets for surface waters.

A12 The EC Directive on the Assessment of the Effects of Certain Plans and Programmes on the Environment (2001/42/EC) (The Strategic Environmental Assessment):- Requires a strategic environmental assessment to be carried out during the preparation of certain plans or programmes and before their adoption, or in the case of statute before the proposal is submitted to the legislative procedure.

A13 Implementation of Integrated Coastal Zone Management (2002/413/EC):- This aims to provide a common vision on the part of Member States for the future of their coastal zones, based on sustainable economic choices involving employment opportunities, ecosystem integrity and sustainable management of all resources. The same recommendation also calls on the Member States to develop national strategies by February 2006, to promote integrated management of their coasts.

A14 The European Landscape Convention (2004):- Requires contracting parties to respect the principle of subsidiarity, undertake to protect, manage and/or plan their landscapes by adopting a range of general and special measures. This entails promoting participation of communities and public authorities in decisions affecting the landscape of the region or locality.

A15 Council Regulation (EC) No 1100/2007:- establishes measures for the recovery of the stock of European eel and requires all Member States to prepare eel management plans for the recovery of stocks which must be approved by the Commission by the end of 2008.

A16 Environmental Liability Directive – this imposes obligations on operators of economic activity to prevent. Limit or remediate environmental damage. As one of the grounds of appeal is damage
under instruction from a public authority, the planning authority should also consider this directive when assessing proposals.

NORTHERN IRELAND LEGISLATION

Nature Conservation Legislation

A17 The Amenity Lands Act (Northern Ireland) 1965 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.

A18 The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (as amended) which provides for the establishment of National Nature Reserves (NNRs), Nature Reserves (NRs) and Marine Nature Reserves (MNRs). It also provides for the designation and formulation of proposals for National Parks and Areas of Outstanding Natural Beauty.

A19 The Wildlife (Northern Ireland) Order 1985 (the “Wildlife Order”) (as amended) 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. The Order is currently under review.

A20 The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (the “Habitats Regulations”) (as amended) gives effect to requirements relating to the designation of protected sites under 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”). The Regulations provide for the protection and management of European Sites and place obligations on all competent authorities to have regard to the requirements of the Habitats Directive. The Habitats Regulations also provide for the protection of species of European importance.

A21 The Environment (Northern Ireland) Order 2002 Part IV provides for the designation, management and protection of Areas of Special Scientific Interest (formerly designated under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985). ASSIs may be designated for important geology and land forms as well as for wildlife.

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34 An amendment of the Regulations in 2004 provides for candidate Special Areas of Conservation to be considered as European Sites, thus giving them the same level of protection as fully designated sites.
and habitats. This legislation repeals Part VI of the Nature Conservation and Amenity (Northern Ireland) Order 1985.

A22 The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 provide for setting up a new strategic planning process in order to manage, protect and improve the quality of water resources and in particular river basins.

A23 Both the Fisheries Act (Northern Ireland) 1966 (as amended) and the Foyle Fisheries Act (Northern Ireland) 1952 provide for the conservation and protection of native fishes. Both Acts contain provisions whereby it is an offence to obstruct the passage of young and breeding fish, injure or disturb the spawn or fry of salmon, trout or eels or injure or disturb any spawning bed, bank or shallow where the spawn of fry or salmon, trout or eels may be. Allowing materials to enter a watercourse that are liable to render waters poisonous or injurious to fish, spawning grounds or the food of any fish, or that injure fish in their value as human food or that impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish is also an offence. It is also an offence to remove any material from the bed of any river.

A24 The Environmental Liability (Prevention and Remediation) (Amendment) Regulations (Northern Ireland) 2009 are aimed at the prevention and remedy of environmental damage. The Regulations impose obligations on operators of economic activities to prevent, limit or remediate environmental damage. The Regulations apply only to the more serious cases of environmental damage and are in addition to existing environmental legislation.

Planning Legislation

A25 The Planning (Northern Ireland) Order 1991 places a general duty on the Department to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development. It also provides for the duty of the Department in relation to trees, Tree Preservation Orders and enforcement of duties as to replacement trees. The Order also makes a provision that the Department may also make a development plan for any area.

A26 The Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1999 provides for the consideration of environmental effects for all those projects listed in Schedule 1 and for those types of projects, listed and described in Schedule 2, which either located wholly or in part in a “sensitive area” or meet or exceeds one of the relevant thresholds and is likely to have significant environmental effects.

A27 The Planning (General Development) Order (Northern Ireland) 1993 (as amended) provides for permitted development and directions
restricting permitted development for certain developments if carried out on land which is within or affects a National Park, a nature reserve, an area of outstanding natural beauty or an area of special scientific interest.

A28 The Conservation (Natural Habitats etc.) (Amendment) Regulations (Northern Ireland) 2007. Regulations 24 to 30 amend the rules governing permitted development, special development orders, simplified planning zones and enterprise zones where they are likely to impact European sites.

A29 The Planning (Trees) Regulations (Northern Ireland) 2003 provides for the form and procedure for Tree Preservation Orders and trees in Conservation Areas.

A30 The Planning (Amendment) (Northern Ireland) Order 2003 provides for Tree Preservation Orders, trees in Conservation Areas, the replacement of trees and the assessment of environmental effects.

A31 The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 provides for an environmental assessment to be carried out during the preparation of a plan or programme and before its adoption; and

A32 The Planning Reform (Northern Ireland) Order 2006 imposes a statutory duty on the Department and the Planning Appeals Commission (PAC), whereby in the exercise of functions in relation to development plans and planning the development of land, this must be undertaken in line with the objective of contributing to the achievement of sustainable development. They are also required to have regard to policies and guidance issued by the Department of the Environment and the Department for Regional Development.

A33 The Planning (Trees) (Amendment) Regulations 2007 amend the Planning (Trees) Regulations (Northern Ireland) 2003 by removing the requirement for a Tree Preservation Order to be sealed with the Department’s seal; and allowing a Tree Preservation Order to be signed by an officer of the Department.
Annex B – Other Government Policies and Strategies

B1 The Atlantic Salmon Management Strategy for Northern Ireland and the cross border Foyle and Carlingford catchments to meet the objectives of NASCO resolutions and agreements 2008-2012 has been developed from the Northern Ireland Salmon Management Plan (DCAL/Fisheries Conservancy Board 2000) which seeks to ensure that in most rivers in most years sufficient adult salmon are spawning to maximize output from freshwater;

B2 Shared Horizons (EHS 2003) which provides a statement of policy on protected landscapes in Northern Ireland;

B3 Northern Ireland Landscape Character Assessment 2000 (EHS 2001) which provides an appreciation, assessment of sensitivity to change, principles for landscape management and accommodating new development and a record of Northern Ireland’s landscapes.

B4 The EHS River Conservation Strategy (2001) which seeks to protect, conserve and enhance the natural heritage values of the regions rivers and facilitate their sustainable use;

B5 Draft Peatland Conservation in Northern Ireland (EHS 2005) which reviews the 1993 policy and provides proposals for a revised policy;

B6 Habitat and Species Action Plans (NIEA formerly EHS). These were initially development as part of the UK Biodiversity Action Plan process and include other habitats and species specific to Northern Ireland. They provide an important framework for delivering conservation action over a range of important habitats and for a number of important species over the next 15 years. Habitats and Species lists and relevant action plans are regularly reviewed. The updated plans are available on www.ni-environment.gov.uk/;

B7 An Integrated Coastal Zone Management Strategy for Northern Ireland 2006 – 2026. (Environmental Policy Division 2006) www.doeni.gov.uk/epd, forms a basis for a new approach to the management of coastal area and will provide a useful framework to balance competing resource demands with environmental need;

B8 The ongoing Earth Science Conservation Review (NIEA) whereby geological sites in Northern Ireland are assessed to determine their importance to science and hence to earth science conservation;

B9 Northern Ireland Forestry: A Strategy for Sustainability and Growth (Forest Service 2006) which outlines key tasks and measures including a programme of afforestation and sustainable management of their existing woods and forests; and
Preparing for Climate Change in Northern Ireland (2007) produced by SNIFER provides a comprehensive review of potential impacts.
Annex C – Surveys and Other Information

C1 Ecological Appraisal: a comprehensive appraisal of natural heritage issues including but not limited to survey, analysis avoidance, mitigation or compensation measures and any proposals for enhancement.

C2 Habitat Survey: carried out by a qualified ecologist, providing information on the types of habitat (particularly priority habitats) on the site, their distribution, interrelationships, an assessment of their biodiversity value and analysis of potential changes caused by the proposed development. Details of survey method (usually phase 1 or NVC), timing, results and limitations in the survey should be included. Account should be taken of seasonal factors and may restrict the timing of the survey.

C3 Protected Species Report: carried out by a qualified ecologist showing species present or likely to be present on the site, their distribution and analysis of potential changes caused by the proposed development. Details of survey method, timing, results, and limitations in the survey, analysis of potential harm to species and any protection, avoidance or mitigation measures proposed should be included. Account should be taken of migration or feeding routes and seasonal factors which may restrict the timing of the survey. If a protected species is found, contact should be made with the Wildlife Officer in NIEA as a licence may be required.

C4 Geological / Geomorphological / Hydrological / Hydro geological report: produced or signed off by an appropriate qualified geologist addressing relevant issues on the site or features directly or indirectly affected by the proposed development including geodiversity importance, survey, analysis, avoidance, mitigation, compensation measures and any proposals for enhancement.

C5 Enhancement proposals: showing how development will conserve natural heritage features on the site and provide net benefits for these interests.

C6 Management Plan: describing how the site will be managed to conserve and enhance natural heritage including biodiversity mitigation measures over a specified period of time and who will manage different parts or elements, how management will be funded, reviewed and adapted over time. The long term functional and aesthetic objectives of the landscape design should also be included.

C7 Monitoring Plan or Programme: describing in sufficient detail the proposals for monitoring to check the effects of the proposed development on natural heritage interests over a specified period of time.
A Health and Condition Tree Survey, carried out by a qualified arboriculturist, providing information on the species, age, height, girth measured 1.5m above the ground, crownspread and condition of the trees with recommendations for any remedial or felling works, together with an accurate survey drawing with trees clearly numbered, the crownspreads accurately plotted and the trees to be retained and the trees to be removed shown. Where development is proposed near to trees the recommendations of BS 5837: 2005 should be followed and an Arboricultural Method Statement and Tree Protection Plan including the line of the protective fencing should be submitted.

A Woodland Survey carried out by a competent person (qualified botanist or ecologist), providing information on ground flora, species composition of tree and shrub layers, age, average number of stems per hectare, general condition, existing and projected crownspreads when mature and number of stems within the woodland. Where new development abuts woodland, the edge species should be surveyed and protected and the same information submitted as for a Health and Condition Tree Survey described above.

Tree Protection measures: details of appropriate provision for the protection of trees to be retained. This should be in line with the requirements of BS 5837 (2005); including a Root Protection Plan (RPP), a Tree Constraints Plan (TCP) with the current and ultimate height of trees annotated on the plan, an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP).

A Landscape Survey, Analysis and Design Proposals including a survey and analysis of the built and natural features of the site, how the site relates to recommendations with the Landscape Character Assessment for the area and a detailed design showing information such as the proposed building structures, access roads and sight lines, footpaths, walls and fences, existing and proposed ground levels and service runs in relation to the site assets to be retained including trees. Also details of the hard and soft landscaping including the species, the height at time of planting, the root presentation, the locations, the planting density and the numbers as well as a long-term management plan for a minimum of 20 years including maintenance details and management responsibilities. Within protected areas the analysis must consider the landscape characteristics that are distinctive within the area, the scenic quality and value of the landscape, the impact of the proposal on these, visibility of the proposal and potential mitigation.

Invasive Alien Species Survey and Implementation Plan: showing high risk invasive alien species present on the site, such as Japanese Knotweed and Giant Hogweed, as identified through the ‘Invasive Species in Ireland’ risk assessment process (www.invasivespeciesireland.com). A management plan would detail any control / eradication actions required prior to any development commencing.
Annex D - Useful Information Sources / Contacts

Useful Information Sources

**D1** Business and Biodiversity: Assessing the Practical Benefits to Business (SNIFFER: Scotland and Northern Ireland Forum For Environmental Research) 2005 [www.sniffer.org.uk](http://www.sniffer.org.uk) presents case studies that illustrate the business benefits of implementing measures that support biodiversity. Outlines how and why business can become involved with supporting biodiversity.

**D2** PAS 2010: Planning to halt the loss of biodiversity August 2006 [www.bsi-global.com](http://www.bsi-global.com) This Publicly Available Standard, has been prepared by BSI in consultation with the Association of Local Government Ecologists, to help the planning system play its part in halting the decline of biodiversity. As such, PAS provides recommendation for the integration of biodiversity conservation into land use and spatial planning in the UK. In addition, it specifies a procedure by which a planning authority can implement biodiversity statute, policy and good practice.

**D3** Working with Wildlife (CIRIA) 2004/2005 [www.ciria.org](http://www.ciria.org). Three publications including a training and resource pack, accompanying pocket book for site workers and a hand book for site managers. These present information and guidance to enable a wide range of people working within, with or for the construction industry to stay within the law relating to wildlife, and to understand and implement good practice in relation to wildlife on development projects.

**D4** Trees and Development: A Guide to Best Practice (The Planning Service, The Forest of Belfast and The Construction Employers Federation of Northern Ireland) [www.planningni.gov.uk](http://www.planningni.gov.uk) Highlights the importance of trees and their value before taking the user through the design considerations, caring for trees during construction and the opportunities for new planting and future care. Provides recommendations and guidance on the principles to be applied to achieve a satisfactory juxtaposition of trees, including shrubs, hedges and hedgerows, with structures.

**D5** Choosing Your Garden Hedge (EHS) March 2004 [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk) guidance to help you choose the right hedge for your garden. This provides a list of native trees and shrub species.

**D6** Native Woodland Definitions & Guidance (Northern Ireland Native Woodland Group) 2008. [www.forestserviceni.gov.uk](http://www.forestserviceni.gov.uk) Provides information on native trees and native woodland in Northern Ireland, and guidance on various aspects of practice including establishment of new native woodland and selection of seed sources.
D7 Biodiversity by Design: A Guide for Sustainable Communities (Town and Country Planning Association) September 2004. www.tcpa.org.uk provides guidance on how to maximise the opportunities for biodiversity in planning and design of sustainable communities. The guide takes the user through the design process, presenting a toolkit of best practice that can be tailored according to the scale of the development opportunity.

D8 Planning for Biodiversity: Introducing an RTPI good practice guide (RTPI 2001). www.rtpi.org.uk provides awareness of biodiversity conservation and the vital role that land use planning has in achieving biodiversity in meaningful and practical ways. It provides a good practice checklist for planners including a five point approach to plan making and development control decisions by highlighting the resources available, relevant strategies and guidance, and pertinent aspects of the development control process.

D9 Geoconservation Commission - a website created to provide information about geoconservation both within the UK and internationally. This website has been created by the GeoConservation Commission, an organisation that oversees geoconservation initiatives in the UK. The site contains information about conserved sites and site designations, management techniques, international initiatives, organisations involved in geoconservation, and relevant publications, events and web-links. www.geoconservation.com.

D10 Managing Japanese knotweed on development sites – The knotweed code of practice’. This code of practice was developed by the Environment Agency of England and Wales to give advice to developers on how to manage Japanese knotweed and is equally applicable in Northern Ireland.

D11 www.invasivespeciesireland.com – this website includes ‘Best Practice Management Guidance’ for a range of invasive alien species, including Japanese Knotweed, Giant Hogweed and Himalayan Balsam.

D12 Badgers and Development EHS (2005) – www.ni-environment.gov.uk/ this booklet aims to provide developers and planners with an overview of the subject of badgers, the implications for development and the current associated protective legislation.


D15 **Back on the Map** Woodland Trust (2007) [www.backonthemap.org.uk](http://www.backonthemap.org.uk/)
this is an inventory of ancient and long established woodland for Northern Ireland.

D16 **Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC EU (2007).** This provides guidance on the protection of and assessments on European protected species.

**Useful Contacts**

D17 **Northern Ireland Environment Agency (NIEA) Head Office**
Natural Heritage
Klondyke Building
Cromac Avenue
Gasworks Business Park
BELFAST
BT7 2JA

Enquiry Service
Development Management Team – for all enquiries related to development management
Tel: 028 90 56 9615
E-mail: nieaplan@doeni.gov.uk

Licensing – for all enquiries related to protected species
Tel: 028 90 56 9605
E-mail: anne.murray@doeni.gov.uk

Conservation Designations and Protection – for all enquiries related to the conservation objectives of designated sites and permitted development rights
Tel: 028 90 56 9515
E-mail: cpd@doeni.gov.uk

Protected landscapes – all enquiries relating to protected landscapes
E-mail: protectinglandscapes@doeni.gov.uk

Web: [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk)
D18 Department of Culture, Arts and Leisure – Inland Fisheries
Causeway Exchange
1-7 Bedford Street
BELFAST
BT2 7EG

Tel: 028 90 25 8825
Fax: 028 90 52 7668
E-mail: dcal@dcalni.gov.uk

Web: www.dcalni.gov.uk

D19 Planning Service
District Council Area Divisional Planning Office
Antrim Ballymena Divisional Planning Office
Ballymena County Hall
Carrickfergus 182 Galgorm Road
Larne BALLYMENA, BT42 1QF
Magherafelt
Tel No: 101 (NI only) or (028) 9151 3101
Fax No: (028) 2566 2127
E-mail: divisional.planning.office.ballymena@nics.gov.uk

Armagh Craigavon Divisional Planning Office
Banbridge Marlborough House
Craigavon Central Way
Newry & Mourne CRAIGAVON, BT64 1AD
Tel No: 101 (NI only) or (028) 9151 3101
Fax No: (028) 3832 0004
E-mail: divisional.planning.office.craigavon@nics.gov.uk

Derry Londonderry Divisional Planning Office
Limavady Orchard House
40 Foyle Street
LONDONDERRY, BT48 6AT
Tel No: 101 (NI only) or (028) 9151 3101
Fax No: (028) 7131 9777
E-mail: divisional.planning.office.londonderry@nics.gov.uk
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<th>Location</th>
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<td>101 (NI only) or (028) 9151 3101</td>
<td>(028) 6634 6550</td>
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Annex E - Glossary of Terms

**Biodiversity** - (Biological Diversity) - is the total variety of all living things, both in the rural and urban environment, and is often taken to include the habitats and areas of which such living things are a part, (definitions of biodiversity often also include reference to the habitats of such species as these are so vital to the conservation of biodiversity)

**Compensatory Measures** – measures to offset or make up for losses caused as a result of development or other change, including residual adverse effects which cannot or may not be entirely mitigated. These measures, which must be paid for by the applicant, compensate for the negative effects of development.

**Conservation Management** – work directly connected with or necessary to the management of the site for nature conservation.

**Conservation Objectives** – a statement of measures, required to maintain at or restore to favourable conservation status, the natural habitats and / or the populations of species of wild fauna and flora for which the site has been selected.

**European Habitats** – habitats identified in Annex 1 of Habitats Directive which are in danger of disappearance, and for which the member state has a particular responsibility in view of the proportion of their natural range which falls within the territory. The extent of these habitats are regularly reported to Europe.

**European Protected Species** – species identified in Annex 4 of Habitats Directive which are subject to a strict order of protection and the breeding sites, resting places and habitats they depend on are also protected from disturbance and deterioration. They are legally protected under the Habitats Regulations 1995 (as amended).

**European Species** – species identified in Annex II of the Habitats Directive which are in danger of disappearance, and for which the member state has a particular responsibility in view of the proportion of their natural range which falls within the territory. The conservation status of these species is regularly reported to Europe.

**Features of the landscape which are of major importance for wild flora and fauna** - these are features that, due to their linear and continuous structure (such as rivers with their banks or hedgerows) or their function as stepping stones (such as ponds or small woods) are essential for the migration, dispersal and genetic exchange of wild species.
**Fragmentation** – breaking up a habitat, ecosystem or land use type into smaller parcels resulting in habitat or species isolation and reduced connectivity.

**Integrity** – this is defined as the coherence of its ecological structure and function across its whole area, or the habitats, complex of habitats and/or populations of the species for which the site is or will be classified.

**Invasive Species** – is an alien species whose introduction and/or spread threatens biological diversity. Where invasive species have been identified on site, the applicant may be required to provide information on how they will be treated. Invasive species are known to significantly impact biodiversity and some species can be very damaging to built development on a site.

**Mitigation** – measures undertaken to limit or reduce adverse effects resulting from development or other change taking place including modifications, deletions or additions to the design of development, adaptation of methods or timing or adjustments in the nature, scale or location of the proposal.

**Plan** - the term has a broad meaning and includes land-use plans and sectoral plans or programmes but leave out general policy statements.

**Precautionary Principle** – where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

**Project** – the terms should be given a broad interpretation to include the execution of construction works or of other installations or schemes and any other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources.

**NI Priority Habitats** - habitats which require conservation action because of their international importance, rarity and/or high rate of decline or importance for priority species. Most have Northern Ireland habitat action plans. A list of Northern Ireland priority habitats and action plans can be found at [http://www.ni-environment.gov.uk/biodiversity/hap_uk/hap_ni.htm](http://www.ni-environment.gov.uk/biodiversity/hap_uk/hap_ni.htm)

**NI Priority Species** - species which require conservation action because of their international importance, rarity and/or high rate of decline. Many are the subject of species action plans. A list of Northern Ireland priority species and action plans can be found at [http://www.ni-environment.gov.uk/biodiversity/sap_uk.htm](http://www.ni-environment.gov.uk/biodiversity/sap_uk.htm). Additional information on all Northern Ireland priority species can be found at: [http://www.habitas.org.uk/priority/intro.html](http://www.habitas.org.uk/priority/intro.html).

**Rare native species** - native species which occur in few locations or have small populations.

**Restorative Measures** – These measures, which must be paid for by the applicant and comprise of any action or combination of actions, to restore
rehabilitate or replace damaged natural resources and/or impaired services to provide an equivalent alternative to those resources or services, including:
• primary restoration, which is any action, including natural recovery, that returns damaged natural resources and/or impaired services to baseline condition;
• compensatory restoration, which is any restorative action taken in relation to natural resources and/or services in a different location from that in which the relevant natural resources and/or services have been damaged.

Wetland - an area 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.

Wise use – the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, with the context of sustainable development.

Zone of Influence – an area identified for a site within which any proposed development / zoning / policy etc. will require an assessment to comply with Article 6 of the Habitats Directive to establish whether there is likely to be any significant adverse impact (in the context of Natura 2000 sites).
Figure 1: Consideration of Development Proposals Affecting Sites of International Nature Conservation Importance 1 (Section 2 refers)

1 Habitat Regulations Assessment comprises of a Test of Likely Significance* and in some cases an ‘Appropriate Assessment’.

Does the site host a priority habitat or species?

Are there imperative reasons of overriding public interest?

Are there human health or safety considerations or benefits of primary importance to the environment?

Authorisation will not be granted

Authorisation may be granted. Compensation measures required. The Commission / Ramsar Bureau is informed.

Authorisation may be granted for other imperative reasons of overriding public interest, following consultation with the European Commission. Compensation measures required.
Figure 2: Consideration of Permitted Development Rights in European Sites (Section 2 refers)

Is the proposed permitted development directly connected with or necessary to site management for conservation?

- **UNCERTAIN**
  - Developer can consult NIEA who will advise whether proposed is directly connected with or necessary

- **NO**
  - In the Department's opinion is the proposal likely to have a significant effect on the European site either alone or on combination with other plans or projects?
    - **NO**
      - Planning application not needed provided proposal meets all other permitted development criteria.
    - **YES**
      - The process outlined in Section of the Supplementary Planning Guidance will be applied by the Department
Figure 3: Consideration of Development Proposals Affecting National Designations (Section 4 refers)

- **Is the proposal likely to adversely affect the integrity or special interest of the site?**
  - NO
  - **Could the likely adverse affect be removed by condition or other restriction?**
    - NO
    - **Is the development proposal of national importance and will the benefits of the proposed development outweigh the value of the site?**
      - NO
      - Planning Permission will not be granted.
      - YES
      - Planning Permission may be granted with appropriate mitigation and/or compensatory measures.
Figure 4: Consideration of Development Proposals Affecting Local Designations (Section 5 refers)

Is the proposal likely to significantly adversely affect the integrity of the site?

- YES
  - Could the likely significant adverse affect be removed by condition or other restriction?
    - NO
      - NO
    - YES
      - Is the development proposal of local importance and will the benefits of the proposed development outweigh the value of the site?
        - NO
          - Planning Permission will not be granted.
        - YES
          - Planning Permission may be granted with appropriate mitigation and compensatory measures.