HABITATS REGULATIONS APPRAISAL
of
Matters Arising Changes Schedule

The City of Cardiff Council
October 2015

South East Wales
Strategic Planning Group (SEWSPG)
The format of this report is based upon a toolkit which was developed to provide information and analysis to support the South East Wales Strategic Planning Group (SEWSPG) authorities with the process of Habitats Regulations Appraisal as required by the Habitats Directive. The approach outlined reflects official Welsh Assembly Government (WG) guidance and Countryside Council for Wales (NRW) advice, but does not have official status. Enfusion Ltd does not accept liability for use of the toolkit or decisions that are made based upon it.
(December 2010, Update)
Habitats Regulations Appraisal Report

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SUMMARY

0.1 A Habitats Regulations Appraisal (HRA) of spatial development plans is a requirement of the Habitats Directive (92/43/EEC) as set out in the Conservation of Habitats and Species Regulations 2010 (as amended).

0.2 This report details the HRA process for the new Matters Arising Changes Schedule (MAC) arising from hearings XXXX, the methods and findings, and the conclusions of the assessment.

0.3 An assessment was made of the likelihood of significant impact of the MAC on eight international sites in and around Cardiff, namely Cardiff Beech Woods SAC, Severn Estuary SAC, SPA, Ramsar Site, River Usk SAC, River Wye SAC, Blackmill Woodlands SAC and Aberbargoed Grasslands SAC.

0.4 None of the new MACs were judged to have the potential to affect any of these sites, above or beyond those potential impacts already considered in the HRA of the Deposit LDP.

0.5 Therefore, none of these new MACs are likely to have a significant effect on any of the international sites either alone or in combination with other plans, projects or programmes.

0.6 The Habitats Regulations Appraisals of the LDPs of neighbouring Local Authorities have indicated that in the absence of direct effects, in-combination effects with other plans are not likely to be significant at the sites considered in the light of the evidence available.

0.7 The LDP can proceed without further reference to this section of the Habitats Regulations.
1.0 INTRODUCTION

1.1 Cardiff Council is currently progressing a Local Development Plan (LDP), and has undertaken Habitats Regulations Appraisal (HRA) of that plan in line with the requirements set by the Conservation of Habitats and Species Regulations 2010\(^1\) (as amended) [referred to subsequently as The Habitats Regulations].

1.2 The HRA of the Deposit LDP concluded that the Deposit LDP was not likely to have a significant effect upon any of the European Sites considered, either alone, or in combination with other plans, projects or programmes in the region.

1.3 The present HRA report considers the effect of the Matters Arising Changes Schedule upon the policies and proposals of the Deposit LDP, and whether those changes would give rise to potential effects upon European Sites above or beyond those already assessed.

Requirement for Habitats Regulations Appraisal

1.4 The European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna (‘The Habitats Directive’) protects habitats and species of European nature conservation importance. The Habitats Directive establishes a network of internationally important sites designated for their ecological status. These are referred to as Natura 2000 (N2K) sites or European Sites, and comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) [which are classified under the Council Directive 79/409/EEC on the conservation of wild birds, the ‘Birds Directive’].

1.5 Articles 6 (3) and 6 (4) of the Habitats Directive require HRA to be undertaken on proposed plans or projects which are not necessary for the management of the site but which are likely to have a significant effect on one or more European sites either individually, or in combination with other plans and projects.\(^2\) This requirement is set out in Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (as amended) which require the application of HRA to all land use plans. Welsh Government (WG) guidance also requires that Ramsar sites (which support internationally important wetland habitats) and are listed under the Convention on Wetlands of International Importance (Ramsar Convention 1971) are included within HRA/AA and that candidate SACs and proposed SPAs are treated as ‘designated’ sites in the context of HRA. In this report the term ‘European sites’ will be used when referring to SACs, cSACs, SPAs, pSPAs and Ramsar sites.

1.6 The purpose of HRA is to assess the impacts of a land-use plan, in combination with the effects of other plans and projects, against the conservation objectives of a European Site and to ascertain whether it would

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\(^1\) The Conservation of Habitats and Species Regulations 2010 (as amended) consolidate all the various amendments made to the 1994 Regulations in respect of England and Wales.

\(^2\) Determining whether an effect is ‘significant’ is undertaken in relation to the designated interest features and conservation objectives of the Natura 2000 sites. If an impact on any conservation objective is assessed as being adverse then it should be treated as significant. Where information is limited the precautionary principle applies and significant effects should be assumed until evidence exists to the contrary.
adversely affect the integrity\(^3\) of that site. Where significant negative effects are identified, alternative options or mitigation measures should be examined to avoid any potential damaging effects. The scope of the HRA is dependent on the location, size and significance of the proposed plan or project and the sensitivities and nature of the interest features of the European Sites under consideration.

**Guidance for Habitats Regulations Appraisal/Appropriate Assessment**

1.7 Guidance for HRA is contained in WG’s Technical Advice Note 5: Nature Conservation and Planning, Annex 6 ‘The Appraisal of Development Plans in Wales under the Provisions of the Habitats Regulations’ (Sept 2009). NRW (as CCW) has also produced draft guidance\(^4\) to assist plan-making authorities to comply with the requirements of the Habitats Directive.

**Consultation**

1.8 The Habitats Regulations require the plan making/competent authority to consult the appropriate nature conservation statutory body [Natural Resources Wales (NRW)] if undertaking an Appropriate Assessment. Consultation on the approach to this HRA screening, including advice on which European sites should be considered within the area of search, was undertaken with NRW following the HRA of the Preferred Strategy and Deposit LDP, and their consultation responses were taken into account, where appropriate. The Habitats Regulations leave consultation with other bodies and the public to the discretion of the plan-making authority.

**2.0 METHOD**

2.1 Fuller details of the HRA methodology are set out in the HRA to the Deposit LDP

2.2 This report considers only the new Matters Arising Changes (MACs) as set out in the ‘City of Cardiff Council Draft Matters Arising Changes Schedule’ October 2015. The changes listed in that schedule are categorised according to the criteria set out below. Where further consideration is indicated, that change would be subject to the Policy Screening Template as set out in Appendix 2 of the original HRA of the deposit LDP.

2.3 The HRA of the Deposit LDP concluded that the deposit plan was not likely to have a significant effect upon any European Sites, subject to implementation of policies within the plan which were designed in part to offset any potential impact.

2.4 New MACs are categorised according to one or more of the following criteria:-

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\(^3\) Integrity is described as the sites’ coherence, ecological structure and function across the whole area that enables it to sustain the habitat, complex of habitats and/or levels of populations of species for which it was classified, (ODPM, 2005).

• The change will benefit biodiversity and may have a positive effect upon European Sites

• The change does not relate to a specific policy, and therefore cannot affect any European Sites when the LDP is implemented.

• This change proposes the inclusion of factual details, which do not promote any new development.

• The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.

• The change relates to restructuring or reorganising the policy, which does not significantly alter the meaning of the policy.

• The change relates to the insertion of new text into the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP.

• The change relates to the insertion of new text into the policy which increases potential of that policy to impact upon a European Site, beyond that in the original HRA of the deposit LDP. Therefore this change requires further consideration.

• The change relates to the deletion of existing text from the policy which does not alter its potential to impact upon a European Site.

• The change relates to the deletion of existing text from the policy which increases its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. This arises because that wording, when implemented, would have counteracted or offset any impacts upon European Sites arising from other policies elsewhere in the plan. Therefore this change requires further consideration.

• The change relates to the creation of a new policy which does not have the potential to impact upon a European Site.

• The change relates to the creation of a new policy which has the potential to impact upon a European Site, and which therefore requires further more detailed consideration.

• The change relates to deletion of an existing policy which does not alter the potential of the LDP to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP.

• The change relates to deletion of an existing policy which increases the potential of the LDP to impact upon a European Site, beyond that in the original HRA of the deposit LDP. This arises because that policy contained wording which, when implemented, would have counteracted or offset any impacts upon European Sites arising from other policies elsewhere in the plan. Therefore this change requires further consideration.
3.0 SCREENING

Identification of European Sites & characterisation

3.1 Four designated European Sites lie within the Cardiff boundary, and these are set out in Table 1 below. Detailed site characterisation information for the sites, is provided in Appendix 1 of the HRA of the Deposit LDP.

<table>
<thead>
<tr>
<th>European Sites within Plan/ Proposal Boundary</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cardiff Beech Woods</td>
<td>SAC</td>
</tr>
<tr>
<td>Severn Estuary</td>
<td>SAC</td>
</tr>
<tr>
<td>Severn Estuary</td>
<td>SPA</td>
</tr>
<tr>
<td>Severn Estuary</td>
<td>Ramsar</td>
</tr>
</tbody>
</table>

3.2 Plans, programmes and projects can have spatial implications that extend beyond the intended plan boundaries. In particular, it is recognised that distance in itself is not a definitive guide to the likelihood or severity of an impact (inaccessibility/remoteness is typically more relevant) as factors such as the prevailing wind direction, river flow direction, and ground water flow direction will all have a bearing on the relative distance at which an impact can occur. This means that a plan directing development some distance away from a European Site could still have effects on the site and therefore, needs to be considered as part of the screening process.

3.3 Taking into account the potential for transboundary impacts, screening of the HRA of the Deposit LDP has identified four European Sites that lie within the influence of the Cardiff Council LDP. These sites are outlined in Table 2 below and detailed information for the European Sites is provided in Appendix 1 of the HRA of the Deposit LDP.

<table>
<thead>
<tr>
<th>European Sites Within Search Area of Plan Area</th>
<th>Designation</th>
<th>Distance from Plan/Proposal Boundary (approx Km)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberbargoed Grasslands</td>
<td>SAC</td>
<td>14</td>
</tr>
<tr>
<td>Blackmill Woodlands</td>
<td>SAC</td>
<td>14</td>
</tr>
<tr>
<td>River Usk</td>
<td>SAC</td>
<td>6</td>
</tr>
<tr>
<td>River Wye</td>
<td>SAC</td>
<td>30</td>
</tr>
</tbody>
</table>
Consideration of Other Plans, Projects and Programmes

3.4 It is a requirement of Article 6(3) of the Habitats Directive that HRA examines the potential for plans and projects to have a significant effect either individually or ‘in combination’ with other plans, programmes & projects (PPPs). Undertaking an assessment of other PPPs for the Cardiff Council LDP required a pragmatic approach given the extensive range of PPPs underway in the surrounding region. The approach taken was cognisant of the emphasis in the forthcoming WG guidance, that considering the potential for in-combination effects is core to delivering robust/ precautionary HRA.5

3.5 When considering other PPPs attention was focused on those aimed at delivering planned spatial growth with the most significant being those that seek to provide, housing, employment and infrastructure. The review considered the most relevant plans including:

- The Wales Spatial Plan (update) 2008
- Local Development Plans in South East Wales neighbouring authorities
- Waste and Mineral Strategies for South East Wales and neighbouring authorities
- Regional Transport Plans - where relevant and/or major development schemes
- Catchment Abstraction Management Plans - where relevant to the designated sites under consideration
- Water Resource Management Plans

3.6 The potential effects of these plans are reviewed in detail at Appendix 9 of the HRA of the Deposit LDP and the potential for these effects to act ‘in-combination’ with effects identified from Cardiff Council Deposit LDP are considered in the screening assessment (Appendix 10 of the HRA of the Deposit LDP).

Assessment of Potential impacts

3.7 Each policy or section of the Deposit LDP which is the subject of a MAC, is considered against each of the criteria in Section 2.4 above. The results of this analysis are set out in Appendix 1, below.

4.0 CONCLUSIONS

4.1 This report outlines the methods used and the findings arising from the screening stage of the Habitats Regulations Appraisal undertaken for the Matters Arising Changes Schedule

4.2 The HRA considered eight European Sites within the influence of the Deposit LDP

5 The review also draws on work being undertaken on behalf of the South East Wales Strategic Planning Group (SEWSPG) to build a resource kit of information and analysis to support HRA in the region.
4.3 Based on the information considered, the findings of the assessment indicate that the new Matters Arising Changes to the City of Cardiff Council Deposit LDP in implementation will not have a likely significant effect on the European sites considered as part of the HRA screening and will not require full Appropriate Assessment under the Habitats Regulations.

4.4 This conclusion is dependent in part upon the implementation of policies in the Deposit LDP which would serve to counteract adverse effects arising from policies screened-in to this HRA.
## Appendix 1: Consideration of MACs against HRA Screening Criteria

<table>
<thead>
<tr>
<th>MAC Number</th>
<th>Additional Hearing Session/Action Point</th>
<th>Proposed Change October 2015</th>
<th>HRA Screening Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspector</td>
<td>Policy KP3 (A): Green Belt</td>
<td>Delete Policy KP3 (A) and reasoned justification and replace with new KP3(A) Green Wedge. Numerous amendments throughout the LDP to delete reference to Green Belt and insert Green Wedge instead.</td>
<td>The change relates to the insertion of new text into the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. Over the lifetime of the plan, these changes will not alter the impact that this plan has upon any European designated sites.</td>
</tr>
<tr>
<td>MAC4</td>
<td>Hearing Session 24: Miscellaneous Matters Action Point 4</td>
<td>Minor amendment to point iii, to delete reference to a table elsewhere in the policy.</td>
<td>The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
</tr>
<tr>
<td>MAC5</td>
<td>Hearing Session 24: Miscellaneous Matters Action Point 5, Action Point 6, Action Point 7, Action Point 8</td>
<td>Minor amendment to paragraph 10 of proposed new PolicyKP2 (C) Minor amendment to 9 of proposed new Policy KP 2 (D&amp;E) Minor amendment to paragraph 2 of the reasoned justification of new Policy KP 2 (F), in relation to ownership of the site Delete reference to the disused railway line in KP2 (F), which was included in error in the original text</td>
<td>The changes are minor, and relate to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
</tr>
<tr>
<td>MAC Number</td>
<td>Additional Hearing Session/Action Point</td>
<td>Proposed Change October 2015</td>
<td>HRA Screening Criteria</td>
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<tr>
<td>MAC8</td>
<td>Hearing Session 25: Transport and Infrastructure Action Point 1, Amend paragraph 4.89 of Policy KP 6 New Infrastructure, adjusting the wording of the policy and clarifying the scope of potential infrastructure requirements</td>
<td>The change relates to the insertion of new text into the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
<td></td>
</tr>
<tr>
<td>MAC10</td>
<td>Hearing Session 25: Transport and Infrastructure Action Point 3, Amend proposed new paragraph after existing paragraph 4.105 of Policy KP8, with minor changes to wording</td>
<td>The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
<td></td>
</tr>
<tr>
<td>MAC11</td>
<td>Hearing Session 23: Minerals Action Point 6, Amend Policy KP11: Minerals And Aggregates to include clarifications to wording</td>
<td>The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
<td></td>
</tr>
<tr>
<td>MAC23</td>
<td>Hearing Session 24: Miscellaneous Matters Action Point 2, Amend paragraphs 5.52 and 5.53 of the reasoned justification to Policy H8 to reinsert references to WG guidance and requirement in PPW to allocate sites to meet identified need for Gypsy and Traveller accommodation. Amendments do not propose specific sites.</td>
<td>This change proposes the inclusion of factual details, which do not promote any new development.</td>
<td></td>
</tr>
<tr>
<td>MAC34</td>
<td>Hearing Session 26 Monitoring Framework, Insert new sentence regarding SPG at the end of paragraph 5.186 of the reasoned justification to Policy EN12 Renewable Energy and Low Carbon Technologies. This sentence explains that SPG guidance will be</td>
<td>The change relates to the insertion of new text into the policy which does not alter its potential to impact upon a European Site,</td>
<td></td>
</tr>
<tr>
<td>MAC Number</td>
<td>Additional Hearing Session/Action Point</td>
<td>Proposed Change October 2015</td>
<td>HRA Screening Criteria</td>
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<tr>
<td></td>
<td>Action Point 2</td>
<td>produce, and does not promote Renewable Energy and Low Carbon Technologies beyond that which has already been assessed in the HRA of the original policies.</td>
<td>beyond that assessed in the original HRA of the deposit LDP.</td>
</tr>
<tr>
<td>MAC39</td>
<td>Hearing Session 24: Miscellaneous Matters Action Point 9</td>
<td>Amend reasoned justification to proposed new Policy T9 Cardiff City Region ‘Metro’ network to update reference to national guidance. This amendment does not specify new infrastructure.</td>
<td>The change is minor, and relates to spelling, grammar, or accuracy or clarification of wording, which do not alter the meaning of the policy.</td>
</tr>
<tr>
<td>MAC40</td>
<td>Hearing Session 22: Retail Provision Within Strategic Sites</td>
<td>Amend Policy R1: Retail Hierarchy to reflect retail provision within Strategic Sites. This amendment does not specify locations for retail development.</td>
<td>This change proposes the inclusion of factual details, which do not promote any new development.</td>
</tr>
<tr>
<td>MAC41</td>
<td>Hearing Session 22: Retail Provision Within Strategic Sites</td>
<td>Amend Policy R7: Retail Provision within Strategic Sites to remove cross reference with out–of-centre retail tests.</td>
<td>The change relates to the deletion of existing text from the policy which does not alter its potential to impact upon a European Site.</td>
</tr>
<tr>
<td>MAC61</td>
<td>Hearing Session 23: Minerals Action Point 4</td>
<td>Amend Policy M2: Preferred Order Of Mineral Resource Release and reasoned justification. These changes amend the preferred order of release and do not set out new locations for specific mineral workings</td>
<td>The change relates to the deletion of existing text from the policy which does not alter its potential to impact upon a European Site.</td>
</tr>
<tr>
<td>MAC Number</td>
<td>Additional Hearing Session/Action Point</td>
<td>Proposed Change October 2015</td>
<td>HRA Screening Criteria</td>
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<tr>
<td>MAC67</td>
<td>Hearing Session 23: Minerals Action Point 5</td>
<td>Insert new paragraph at the end of the reasoned justification to new Policy M7 Safeguarding of Sand and Gravel, Coal and Limestone Resources</td>
<td>The change relates to the insertion of new text into the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP.</td>
</tr>
</tbody>
</table>
REFERENCES / BIBLIOGRAPHY

Legislation


The Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007.

Welsh Assembly Government (WG) Guidance


WG Habitats Directive Weblink.
http://wales.gov.uk/topics/environmentcountryside/consmanagement/conservationbiodiversity/habitatdirective/?lang=en

European Union Guidance


Other Relevant Reference & Guidance Sources

Hosking R & Tyldesley D (2006) How the scale of effects on internationally designated nature conservation sites in Britain has been considered in decision making: A review of authoritative decisions.


TraCC Regional Transport Plan 2009,

SEWTA Rail Strategy Study Jan 2006

South East Wales Transport Alliance: Regional Transport Plan 2009

Welsh Coastal Tourism Strategy 2008


European Site Specific Information

Joint Nature Conservation Committee (JNCC) - Protected Sites:
http://www.jncc.gov.uk/page-4

Browse SACs on map:
http://www.jncc.gov.uk/page-1515

Browse SPAs on map:
http://www.jncc.gov.uk/page-2598

Air Pollution Information System (APIS):
http://www.apis.ac.uk/

UK Water Company Boundaries:
http://www.water.org.uk/home/our-members/find-water-company

European Site Specific Information Wales

Countryside Council for Wales (NRW) - Site Management Plans:
http://www.ccw.gov.uk/landscape--wildlife/protecting-our-landscape/special-sites-project.aspx

NRW - Protected Sites Map:

NRW - Sites of Special Scientific Interest (SSSI):
Catchment Abstraction Management Strategies (CAMS) Wales: