

ROAD TO DELIVERY: PLANNING AND EIA REQUIREMENTS

Guidance on town planning and Environmental Impact Assessment (EIA) considerations that may be faced whilst developing Towns Fund Business Cases and progressing projects



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ROAD TO DELIVERY: PLANNING AND EIA REQUIREMENTS

INTRODUCTION TO THIS BRIEFING PACK

The purpose of this Briefing Pack is to set out some of the planning and Environmental Impact Assessment (EIA) considerations that you might face during development of your business case and whilst progressing your projects. Projects may interface with the planning system and EIA requirements in different ways, and it will be important to understand what might be required to deliver such projects.

The Briefing Pack is intended to provide an introduction to these issues to Town Deal Board members and local authority officers who do not have a background in planning and EIA. Please speak to your Town Coordinator if you believe you require further support, including bespoke advice on planning and EIA strategies. Advice can also be sought from your local planning authority.

An introduction to planning, EIA and Habitats Regulations Assessment is available [here](#). Further information on how to address planning and EIA needs in your Towns Fund Business Case will also be available shortly on the TFDP website.

PLANNING FOR THE FUTURE WHITE PAPER

In August 2020 the Government published its *Planning For the Future* White Paper, which included a number of significant reforms to the planning system. These reforms are not yet in place, and so this Briefing Pack relates to the planning system as it currently stands (rather than the reforms). We will provide you with updates and support should any change in approach be required in the future.

Further information on the White Paper is available [here](#).

STRUCTURE OF THIS BRIEFING PACK

This Briefing Pack is structured as follows:

- Part A covers plan making – establishing your projects in planning policy.
- Part B covers development management – gaining planning permission for your projects.
- Part C covers environmental impact assessment.
- Part D covers habitat regulation assessment.

PLANNING PRACTICE GUIDANCE

The Government's planning practice guidance provides further information on a range of planning topics – including some relevant to the contents of this briefing pack. The planning practice guidance can be found [here](#), and links to specific parts of the guidance are included throughout the briefing pack.

PART A: PLAN MAKING

Planning Policies and Plan Making

Planning policies are contained in a local area's 'development plan'. The development plan is at the heart of the planning system, setting out a vision and a framework for future development of the area. There is a requirement set in law that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Plans are put in place and kept 'up-to-date' through a process known as 'plan making'. It is the responsibility of local planning authorities (usually the lower-tier local authority or unitary authority) to prepare and review plans.

Development plans can be made up of a number of planning policy documents. The most central document is the local plan, but this may also be supported by other documents such as area action plans or supplementary planning documents.

Local planning authorities can also agree to prepare a joint local plan with one or more other authorities. This can be an effective way of planning for the wider area's strategic priorities, addressing cross-boundary issues through the duty to cooperate, and sharing resources. In some instances, individual planning authorities subsequently prepare non-strategic local plans or other planning documents which form part of their development plan alongside the joint local plan.

Development plans set out a vision and a framework for the future development of the area, addressing needs and opportunities. They typically will identify land where new homes and jobs should be located as well as the infrastructure required to support the proposed development. The specific proposals identified in local plans are therefore usually more strategic in nature, and will often leave masterplanning or more local projects such as public realm improvements to be identified in other documents or strategies. Development plans will also contain a suite of policies, sometimes called development management policies, which provide guidance on matters of detail, which are likely to be relevant for all scales of projects.

Depending on the nature of the project, there can be a number of benefits to your projects being reflected in the development plan, including:

- Increased certainty of securing planning permission (if required).
- Greater ability to secure more co-ordinated change.
- Ability to build on previous stakeholder engagement and consultation.
- Use of existing evidence base documents to make the case for change.

Your Towns Fund projects may be reflected in either existing or emerging planning policy. If they are not, engagement with the local planning authority may help to ensure projects are embedded. In some circumstances, it may be necessary to develop new planning policy documents to support the delivery of a project or projects. Further detail on some of the options available is set out below.

Types of Planning Policy Document

There are broadly two main categories of planning policy documents:

- **Development Plan Documents (DPD):** These are statutory plans which form part of the development plan. There are statutory requirements for consultation, publication, independent examination by the Planning Inspectorate, and adoption, which must be followed. DPDs include the local plan, but also other planning documents such as area action plans, site allocation documents etc.
- **Supplementary Planning Documents (SPD):** These are non-statutory plans that are capable of being a material planning consideration but are not part of the development plan and therefore do not need to be subject to independent examination. SPDs can only expand on policies within adopted DPDs and cannot set policy in their own right. An example of an SPD would be a supplementary guidance document on place making and design standards or a masterplan for a specific development or part of a town.

There are a number of pros and cons to each category, which can be summarised as: DPDs take longer and require more time, effort, and resource, but provide greater policy 'weight' once adopted. Conversely, SPDs can be quicker to produce (time, effort, and resource) but may not provide the level of certainty required to de-risk the projects.

Developing and adopting new planning policy takes a significant amount of time. A high-level overview of the process typically followed for developing these types of planning policy documents is set out in the tables below. The tables focus on the key stages required for each document; there will be additional steps and considerations that you will need to take into account should you decide to prepare new planning policy. The type and level of evidence required to support these documents will vary depending on the topic or area being covered.

It should be noted that – notwithstanding the benefits to a project of being reflected in planning policy – it may not always be necessary for a project to be referenced or included in the development plan. The decision as to whether new or additional planning policy is required rests on a number of factors, including weighing up the scale and complexity of the project, the increased certainty it might bring with the programme and resource implications.

DPD Process and Timescales

Stage	Description
Preparation of the emerging DPD	This will take a significant amount of time and will depend on the scope of the evidence required. This stage may include optional (non-statutory) engagement with the public and stakeholders.
Consultation and engagement on emerging DPD (Regulation 18)	The emerging DPD is consulted on, allowing interested parties and statutory consultees to consider the options for the plan before the final document is produced. Engagement on the emerging DPD must be undertaken in accordance with the regulations and the Statement of Community Involvement ¹ .
Developing the submission version of the DPD (Regulation 19)	At this stage the submission version of the DPD is developed, taking into account representations made during Regulation 18 consultation. The submission version of the DPD is then published for a minimum six-week period, when formal representation on its soundness and legal compliance can be made. (Note, this is not a consultation stage and the local planning authority should have confidence that this is the version they intend to submit to the Secretary of State.)
Submitting the DPD	The local planning authority submits the DPD to the Secretary of State with the representations received and authority's summary of those representations.
Independent Examination	The Planning Inspector appointed by the Secretary of State hears evidence from invited parties to inform his or her consideration of the soundness of the DPD. If required, the Planning Inspector will recommend 'main modifications' to the plan to enable it to be found sound. The main modifications are consulted on as part of the examination process.
Adoption	The local planning authority can formally adopt the DPD and use it in determining planning applications.
Total indicative timescale: 24+ months for an area action plan-type DPD	

Further information on DPDs is provided in planning practice guidance '[Plan making](#)'². Further information on the stages above can be found in the Planning Advisory Service's [Local Plan Route Mapper](#) (although it should be noted the Route Mapper specifically covers local plans and local plan reviews, and may be less relevant to other forms of DPD).

¹ A Statement of Community Involvement is a document produced by the local planning authority which sets out how they intend to engage with local communities, businesses and other interested parties when developing and reviewing planning documents and determining planning applications.

² Planning practice guidance 'Plan making', Paragraph: 001 Reference ID: 61-001-20190315 onwards.

SPD Process and Timescales

Stage	Description
Preparation of draft SPD	The time needed will depend on the scope of the evidence required. This stage may include optional (non-statutory) engagement with the public and stakeholders.
Publish draft SPD for consultation (Regulation 12)	The draft SPD is consulted on, allowing interested parties and statutory consultees to consider the options for the plan. Engagement must be undertaken in accordance with the regulations and the Statement of Community Involvement.
Adoption	The local planning authority makes necessary amendments to the SPD to take account of comments made at the consultation stage and adopts the SPD for use as a material consideration when determining planning applications.
Total indicative timescale: 12+ months	

Further *information on different types of planning application is provided in planning practice guidance 'Plan making'*³.

Neighbourhood Planning

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. Local communities can choose to: set planning policies through a neighbourhood plan that forms part of the development plan (and are therefore used in determining planning applications); and/or grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order. Neighbourhood planning is not a legal requirement, but a right which communities in England can choose to use.

If any of your projects falls within the boundary of an emerging neighbourhood development plan (known as the neighbourhood area), it will be necessary to engage with the town/parish council or neighbourhood forum. Where the neighbourhood plan has already been 'made' (in other words, adopted), you will need to understand whether it contains any policies which relate to your projects.

If neighbourhood planning is likely to have an impact on the delivery of your project or projects, please speak to your Town Co-ordinator.

Further *information on neighbourhood planning is provided in planning practice guidance 'Neighbourhood planning'*⁴.

³ Planning practice guidance 'Plan making', Paragraph: 008 Reference ID: 61-008-20190315.

⁴ Planning practice guidance 'Neighbourhood planning', Paragraph: 001 Reference ID: 41-001-20190509 onwards.

PART B: DEVELOPMENT MANAGEMENT

Introduction to Planning Permission

In simple terms, planning permission is the legal process of determining whether proposed development should be permitted. Planning applications will be granted (possibly subject to certain conditions and/or legal agreements) or refused. The responsibility for determining planning applications lies with the local planning authority.

Not all projects will require planning permission. Planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in section 55 of the Town and Country Planning Act 1990. Even where the work does constitute development, 'permitted development rights' may apply. Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. These rights are subject to conditions and limitations to control impacts and to protect local amenity⁵.

You are likely to require planning permission if the project involves: building something new; making a major change to an existing building or structure (such as building an extension); engineering operations (such as groundworks); and/or changing the use of a building or land. Your local planning authority can provide advice on whether a project requires planning permission. Further guidance is also available in the [*Introduction to Planning, Environmental Impact Assessment and Habitats Regulations Assessment Briefing Pack*](#).

There are a number of different types of planning permission / planning consent. It is expected that the majority of the Towns Fund projects (where they require planning permission) will fall under planning permission granted in accordance with the Town and Country Planning Act 1990. Further information on other pieces of legislation is provided in the [*Introduction to Planning, Environmental Impact Assessment and Habitats Regulations Assessment Briefing Pack*](#).

Further *information on understanding when planning permission is required is provided in planning practice guidance* [*'When is permission required'*](#)⁶.

If your project(s) require planning permission, you (or one of your partners) may need to **seek planning permission**.

Alternatively, you may be reliant on other organisations (including the private sector) bringing forward development, and therefore seeking planning permission for this development. In this case, you may look for opportunities to **facilitate planning permission** by streamlining the process.

Further detail on these two scenarios is set out below in the two sub-sections.

⁵ More information on the new permitted development rights introduced in September 2020 is set out in our blog on Updates to Permitted Development. Government is also currently consulting on further changes to permitted development rights, which ends on 28 January 2021.

⁶ Planning practice guidance 'When is permission required?', Paragraph: 001 Reference ID: 13-001-20140306 onwards.

Seeking Planning Permission

Types of Planning Application

There are different forms of planning application and planning permission under the Town and Country Planning Act 1990. This includes:

- **Full planning application**, which results in a decision on the detailed proposals of how a site can be developed. If full planning permission is granted – and subject to compliance with any planning conditions – no further engagement with the local planning authority is required to proceed with the development (although other consents may be required).
- **Outline planning application**, which results in a decision on the general principles of how a site can be developed. Where outline planning permission is granted it requires the subsequent approval of one or more 'reserved matters' (in other words, they are reserved for later consideration). Planning conditions may also be attached to an outline planning permission.
- **Reserved matters application**, which those aspects of a proposed development which an applicant can choose not to submit details of with an outline planning application.

Other types of planning application include those that seek to discharge planning conditions, amend existing planning permissions or planning conditions or obligations, or 'prior approval' for some permitted development rights.

There are also a number of types of non-planning consents that may have to be obtained alongside or after, and separate from, planning permission in order to complete and operate a development lawfully⁷. There is also a separate heritage consenting regime which applies to listed buildings. Listed building consent is separate from planning permission; for some proposed works both planning permission and listed building consent will be needed.

Further information on different types of planning application is provided in planning practice guidance '[Making an application – Types of application](#)'⁸. Further information on listed building consent is provided in planning practice guidance '[Conserving and enhancing the historic environment – Heritage consent process](#)'⁹.

The Planning Application and Planning Permission Process

The flow diagram sets out the process for preparing a planning application. The first stage is to define the project and to scope the application requirements. Further information on this is provided in the [Introduction to Planning, Environmental Impact Assessment and Habitats Regulations Assessment Briefing Pack](#). Pre-application engagement with the local planning authority may be helpful in defining local requirements for the planning application.

The time and resources required to develop a planning application is largely dependent on the type and scale of development and the type of application. Specialist support may be required to develop all or parts of the application.

⁷ Examples of non-planning consent include advertisement consent, consent required under a Tree Preservation Order, and hazardous substances consent.

⁸ Planning practice guidance 'Making an application', Paragraph: 001 Reference ID: 14-001-20140306 onwards.

⁹ Planning practice guidance 'Conserving and enhancing the historic environment', Paragraph: 042 Reference ID: 18a-042-20190723 onwards.

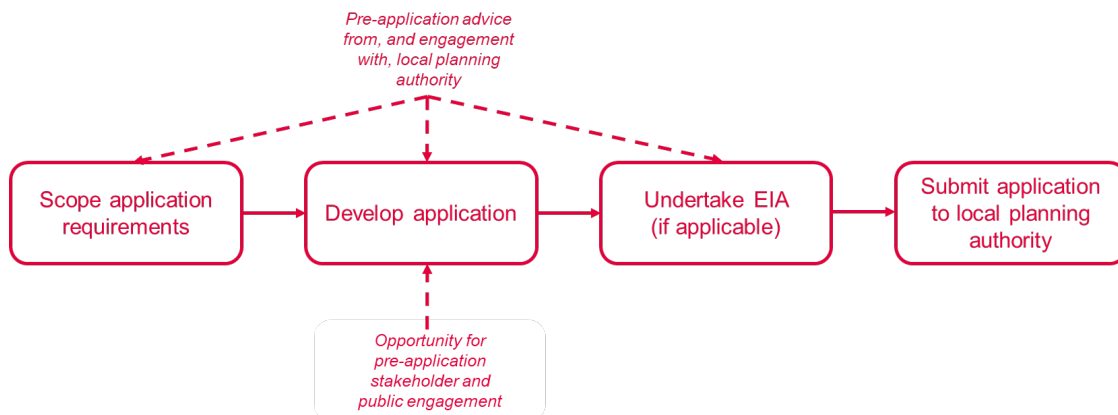


Figure 1 - Preparing a planning application

Once submitted, the flow chart below shows the process a planning application will go through before permission is granted or refused. Some planning decisions will be made by elected members forming a planning committee; others will be made by planning officers under delegated authority. The rules around delegated authority (and any call-in procedures for contentious applications) vary from authority to authority.

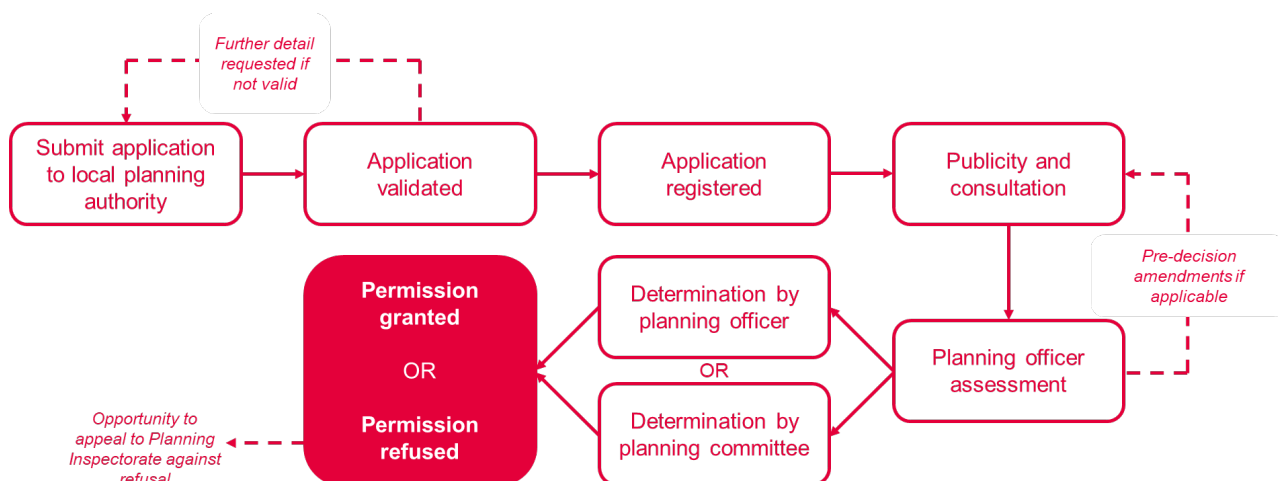


Figure 2 Planning application process

Further information on how planning applications are processed is provided in planning practice guidance [‘Making an application – Receipt of an application’](#)¹⁰. Further information on how planning decisions are made is provided in planning practice guidance [‘Determining an application’](#)¹¹.

¹⁰ Planning practice guidance ‘Making an application’, Paragraph: 045 Reference ID: 14-046-20140306 onwards.

¹¹ Planning practice guidance ‘Determining an application’, Paragraph: 001 Reference ID: 21b-001-20140306.

Facilitating Planning Permission

There are a number of options available to the local planning authority to facilitate others gaining planning permission for certain types of development in particular locations, by making the process less onerous.

Permission in Principle

Permission in principle is an alternative way of obtaining planning permission for housing-led development¹² which separates the consideration of 'matters of principle' for the proposed development from the technical detail of the development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle, and the second ('technical details consent') stage is when the detailed development proposals are assessed.

Local planning authorities can grant permission in principle to a site following receipt of a valid application, or by entering a site in Part 2 of its brownfield land register which triggers a grant of permission in principle for that land (providing the statutory requirements set out in the relevant legislation are met). Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development.

There are types of sites, land uses and scales of development for which permission in principle cannot be applied. This includes development which require EIA or HRA.

Further information on permission in principle is provided in planning practice guidance ['Permission in principle'](#)¹³.

Local Development Orders

Local Development Orders (LDOs) are locally focused planning tools that local planning authorities can use to grant planning permission for specific types of development within a defined geographical area. LDOs remove the need for applicants to seek planning permission themselves for specific types of development within this defined area, although conditions may be attached to the Order. The purpose of the LDO is to help streamline the process and improve certainty and cost efficiency for those involved. As a planning tool, LDOs are flexible, and can be both permanent and time-limited, depending on what is appropriate for local circumstances.

In a number of ways, LDOs are similar to outline planning permissions (see above), because they help to define uses and parameters of development before more detailed design and assessment work is undertaken. They can therefore be an effective way of the public sector facilitating larger scale development, particularly where they are reliant on other bodies (such as the private sector or other organisations) to bring forward the development or to minimise the administrative burden where numerous similar, small scale proposals may come forward within a defined area (for example shop front improvements). LDOs might also be a preferable alternative to planning permission where towns have a cluster of projects in a defined spatial area (for example a quarter or high street).

Local planning authorities can effectively increase permitted development rights in a defined area through the use of an LDO. The LDO would grant planning permission for specific types of development, removing the need for applicants to seek planning permission for that type of development themselves.

Guidance on preparing an LDO is provided within the Planning Practice Guidance (see below) as well as by the Planning Advisory Service¹⁴. The process includes preparation (including defining the geographic scope, preparing a Statement of Reasons, screening against EIA Regulations and undertaking an EIA if

¹² Non-residential development may also be given permission in principle providing housing occupies the majority of the floorspace of the overall scheme. Non-housing development must be compatible with the proposed residential development – for example, a small proportion of retail, office space or community uses.

¹³ Planning practice guidance 'Permission in principle', Paragraph: 001 Reference ID: 58-001-20180615 onwards.

¹⁴ Local Development Orders: Guidance for councils on preparing local development orders (2019)

required, and specifying any conditions attached to the order), consultation and publicity, consideration of any representations, and adoption. Guidance does not provide information on how long an LDO might take to prepare and implement. However, given the amount of work required to prepare the LDO plus the requirement for consultation and publicity they should be expected to take a significant amount of time¹⁵.

The local planning authority would be responsible for preparing and adopting the LDO, and so if it is of interest for delivery for your projects there is a need to speak to the authority about the approach taken.

Further information on LDOs is provided in planning practice guidance [‘When is permission required? – What types of area-wide local planning permission are there?’](#)¹⁶.

Other Forms of Area-Wide Local Planning Permissions

Other examples of area-wide local planning permissions, similar to LDOs, are Neighbourhood Development Orders and Community Right to Build Orders. These are created by neighbourhood forums or local community organisations rather than the local planning authority.

Further information on Neighbourhood Development Orders and Community Right to Build Orders is provided in planning practice guidance [‘When is permission required? – What types of area-wide local planning permission are there?’](#)¹⁷.

¹⁵ As a point of reference, the Butlins LDO in Bognor Regis took Arun District Council around two and a half years to progress from the draft consultation document to final adoption.

¹⁶ Planning practice guidance ‘When is permission required?’, Paragraph: 075 Reference ID: 13-075-20140306 onwards.

¹⁷ Planning practice guidance ‘When is permission required?’, Paragraph: 075 Reference ID: 13-075-20140306 onwards.

PART C: EIA

Introduction to EIA

Environmental Impact Assessment (EIA) is a process that must be applied to proposed development projects that are likely to generate significant environmental effects. Its application involves a systematic evaluation of a broader range of environmental issues than would otherwise be required when a proposed development seeks consent (e.g. planning permission, marine licence, development consent order, etc). It ensures that the environmental impacts of decisions on certain types of proposed developments are considered before the decisions are made.

EIA has been legally required in the UK since 1988 when the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 implemented the European Commission's (EC) EIA Directive (85/337/EC). Since then, the EIA Directive was then amended three times and consolidated as 2011/92/EU. EIA Directive 2011/92/EU was amended by EIA Directive 2014/52/EU¹⁸.

The process of EIA in the context of town and country planning in England is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the '2017 Regulations') that implement EIA Directive 2014/52/EU. These regulations apply to development which is given planning permission under Part III of the Town and Country Planning Act 1990.

Reference to the 2017 Regulations in the following is to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

When is EIA required?

Statutory EIA

The 2017 Regulations only apply to certain types of development. They can even apply to 'permitted development' which is development for which you do not need to get planning permission. They do not apply to development given consent under other regimes; these are subject to separate EIA regulations.

Developments falling within a description in Schedule 1 to the 2017 Regulations always require EIA. These tend to be larger developments or those with potentially the most significant environmental effects, such as airports, power stations, oil refineries, or motorways. It is unlikely that proposed schemes brought forward under the Towns Fund would fall within Schedule 1, but this should be checked as proposals are developed.

Development of a type listed in Schedule 2 to the 2017 Regulations may require EIA. This depends on whether it is likely to have a significant effect on the environment, by virtue of factors such as its size, nature, or location. Schedule 2 development can include things such as wind turbines, certain industrial developments, golf courses, highways, larger housing proposals, and a wide range of other types of development. Please refer to the [Towns Fund EIA Screening Guidance Short Note](#) for further details.

Environmental and social assessment and the project development cycle

The statutory EIA process laid out in the EIA Regulations involving screening, scoping, assessment of significant effects and the preparation of an Environmental Statement is typically undertaken to support a planning application. Therefore, it is applied at the later stages of project development. However, environmental assessments should be undertaken at the earliest stages of the development of a proposed project in a Town Intervention Plan (TIP) and continue throughout the development cycle. The

¹⁸ Whilst the UK left the EU, the EIA Directive is transposed into UK law by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and will therefore remain relevant until the Government undertakes a legislative review.

following table provides an overview of when environmental and social assessment should be undertaken at different stages of the development of a project.

Typical Business Case Development Stages and Environmental and Social Assessment

Business Case Stage	High level overview of the stage	Environmental and social assessment
Strategic	Determining the strategic context. Making the case for change. Exploring the preferred was forward. Strategic outline case preparation.	Undertake strategic environmental assessment Involves very high-level initial analysis and appraisal to assess the strategic solutions to the problem. Development of the economic case includes consideration of the wider social and environmental effects.
Outline	Planning for successful delivery of the scheme, involving options identification and preferred option. Outline business case preparation.	Undertake environmental and social appraisal of options Involves a series of environmental and social studies that are required to help understand the key issues and constraints and help to inform future design, maximise sustainable outcomes and targets, and decision making. There are various documents that guide the appraisal process depending on the nature of the intervention proposed. Determine requirements for consents and licenses At this stage the requirement for consents and licenses should be considered to allow sufficient planning of the programme and budget for the intervention. This will include consideration of whether EIA may be required and any other consents and licenses.
Full	Preparing the full business case. Obtain Consents and Licences required (incl planning permission) Procuring the solution.	Undertake statutory EIA or environmental and social appraisal of the single option At this stage it should be understood what form of detailed environmental and social assessment is required, and whether a statutory EIA is undertaken or an environmental appraisal.
Implementation	Construction	Environmental management of the construction to ensure environmental and social requirements are planned and delivered.
Evaluation and feedback	Operation and monitoring	Implementation of any monitoring, corrective actions, and feedback.

EIA Process

Figure 3 below provides an overview of the EIA process.

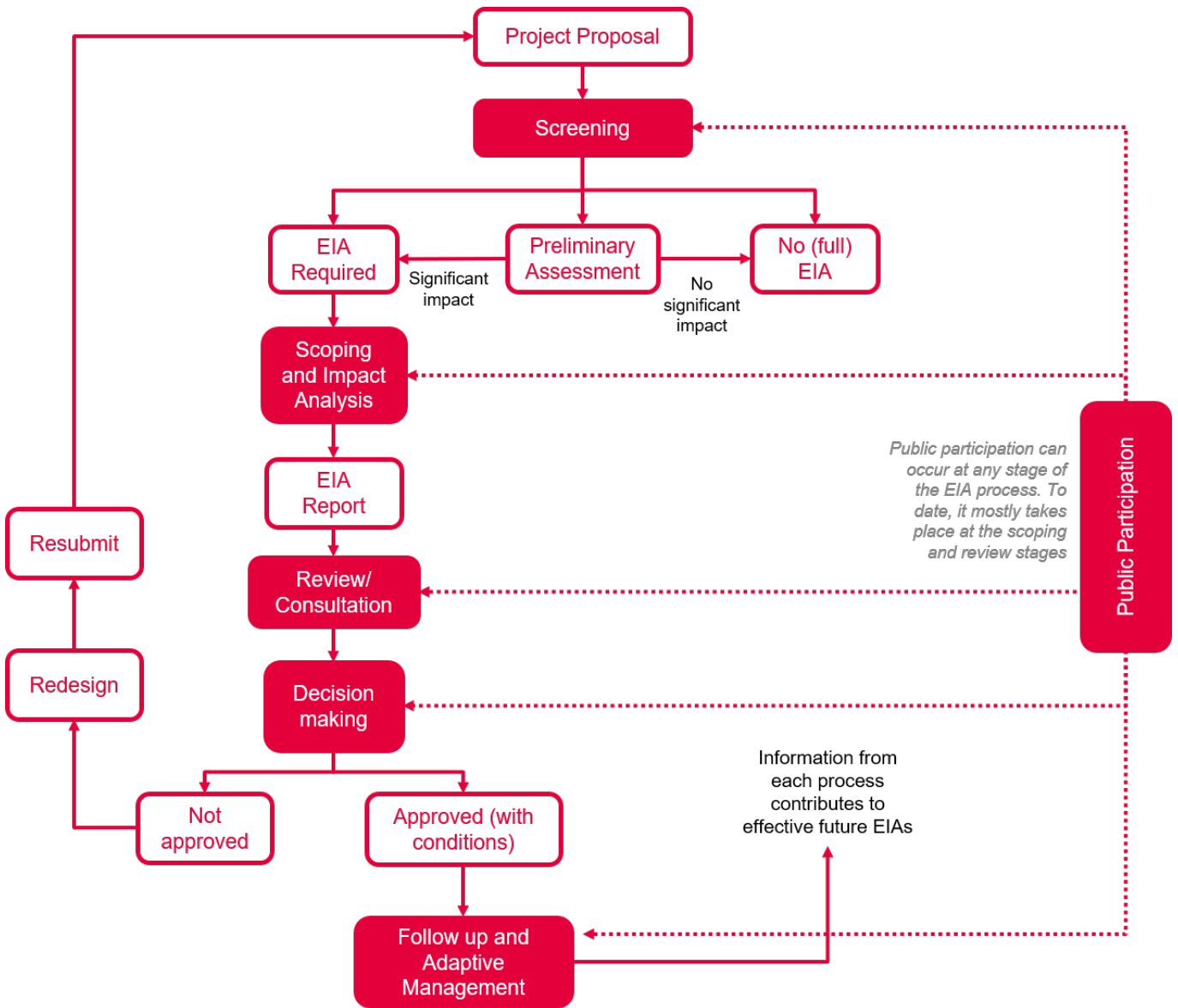


Figure 3 Overview of the EIA process.

Screening

The EIA process begins from the very start of a project. Once the Town has identified a need and assessed all the possible alternatives of project design and sites to select a preferred alternative, two important questions must be asked: 'What will be the effects of this development on the environment? Are those effects significant?' If the answer to the second question is 'yes', an EIA may be required. Answering this question is a process known as screening and can be an essential first step into a formal EIA. Please refer to the [Towns Fund EIA Screening Guidance Short Note](#) for further details.

Scoping

Where it is decided that a formal EIA is required, the next stage is to define the potential significant environmental aspects that need to be addressed, and to provide an outline of the approach and methods to be followed in the EIA. This is known as scoping and is essential in achieving a proportionate EIA.

Impact assessment

EIA typically is more successful at reducing effects on the environment when it is undertaken in an iterative manner. This means that as a project is taken through each stage of the assessment process, the key environmental impacts are identified and the project may be redesigned to avoid, reduce, or remedy the effects. However, such changes may result in new or different effects on other aspects of the environment which will require further consideration. The aim is to avoid significant effects where possible. This is demonstrated at this early stage of screening where the requirement for a formal EIA and its associated cost implications can lead the developer to reassess the project design with a view to reducing the significant impacts to a level where an EIA is not legally required.

Environmental Statement

The outcome of an EIA is usually a formal document, known as an Environmental Statement (ES), which sets out factual information relating to the development, and all the information gathered relating to screening, scoping, environmental baseline, assessment of the impacts and effects, mitigation, residual impacts and effects and any necessary monitoring measures. It is also necessary to produce a non-technical summary which is a summary of the information contained within the ES, presented in a concise non-technical format, for those who do not wish to read the detailed documents. It should be noted that the duration for producing an Environmental Statement can vary significantly and is often driven by the need for seasonal surveys.

Information required for EIA

The 2017 Regulations in 4 (2) refers to the following factors (environmental topics) that should be considered in the assessment of the effects:

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC(a) and Directive 2009/147/EC(b);
- (c) land, soil, water, air, and climate;
- (d) material assets, cultural heritage, and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

If a project in a TIP is identified as potentially falling within the scope of the EIA regulations, then it is essential for early consideration of the potential programme and budget implications to fulfil the requirements. The following table provides an overview of the key environmental and social topics, key desk based and survey information, and key considerations in planning an EIA, including budget implications and programme considerations such as seasonal constraints.

Key considerations in planning for an EIA

Environmental or social topic	Key baseline information	Key considerations	Key budget considerations	Key programme considerations
Agricultural land and soils	Agricultural Land Classification data Agricultural Land Classification survey Farm holdings survey	Avoiding or minimising the best and most versatile land in option development. Minimising severance of agricultural land and access in option development. Obtaining the agreement of landowners for access for surveys or for information on their operations may be challenging.	Requires agricultural specialist and/or land agent. The cost of negotiating land access should be considered. The cost of surveys should be considered. The cost of mitigation for land purchase and compensation.	Surveys may need to be undertaken at different times of the year when crops are not growing in fields.
Community	Desk based information on community facilities. Surveys may be required to obtain data on the frequency of use of community land and assets within the study area.	Avoiding or minimising the loss of community facilities, especially those used by vulnerable groups and which are hard to replace and/or are scarce is an important part of option development. The relationship with the Equalities and Diversity Impact Assessment is important.	The cost of surveys. The cost of mitigation for land purchase and compensation.	Surveys will need to be designed to record representative data to understand how well used the facility is. This may require intensive survey effort.
Health	Desk based data to develop a community health profile (socio-economic status and indication of levels of health and wellbeing).	Health Impact Assessment (HIA) is a tool that can help to ensure that health and wellbeing are being properly considered in the development of a project.		Health impact assessment relies on the outputs of other assessments (land quality, noise and vibration, air quality and landscape and visual). This requires important consideration in developing the EIA programme.
Noise and vibration	Noise baseline monitoring data	The measurement of baseline noise levels will be required at times of the day, night, week, season, or year when the project is likely to have an impact. Potential for noise insulation and temporary re-housing are important considerations at option development stages.	The cost of surveys and modelling.	The baseline determination should reflect the day(s) of the week and time of day when the proposed development is operating, and when the sensitive receptors are being used: i.e. schools, churches, etc. Surveys must be outside of the school holidays.
Ecology and nature conservation	Desk based data (for example from Biological Records Centres and form national and local sources including consultees).	Avoiding internationally and nationally important habitats is a very important consideration at strategic and options development stages. The NPPF includes guidance that planning policies &	Depending on the nature of the project and its location the cost of ecology surveys and the development of associated	Seasonality is a very important consideration as it restricts certain surveys to times of the year, which requires careful consideration in developing an EIA programme if programme

	<p>Preliminary Ecological Appraisal¹⁹ (PEA). Habitat surveys. Protected species surveys.</p>	<p>decisions should “minimise impacts on and provide net gains for biodiversity”. The upcoming Environment Bill is also anticipated to make provision for a mandatory requirement for net gain in biodiversity in all developments. Even though this is not yet law, its likely timing requires careful consideration at the earliest stages of project development.</p> <p>The implications of the Habitats Regulations are an important consideration at the option development stage due to the risk to obtaining consent (see PART D: HABITAT REGULATIONS).</p>	<p>mitigation can be a major part of the EIA cost.</p> <p>Meeting biodiversity net gain requirements may have significant implications for land requirements and associated project cost.</p> <p>Survey, assessment, and mitigation to meet requirements of HRA.</p>	<p>is to be optimised (see Ecology Survey Calendar following the table below).</p>
Land Quality	<p>Desk based data. A site walkover. Intrusive site investigation(s).</p>	<p>It is important to consider historical land use and contaminated ground into account at the option developments stages.</p>	<p>The cost of intrusive site investigations, including negotiating land access.</p> <p>The cost of mitigation associated with addressing risks from contaminated land.</p>	<p>Typically, no seasonal constraints. Access issues may present a risk to programme.</p>
Water	<p>Desk based data on flood risk and water resources (quality and flow). Specialist Water Framework Directive (WFD) surveys may be required.</p>	<p>Flood plains and the culverting or diversion of larger watercourses and source protection zones should be avoided at the options development stage where possible.</p> <p>It is important that WFD surveys and investigations are undertaken in collaboration with ecology specialists.</p> <p>The consideration of ‘Blue Green Infrastructure’ provision (such as Sustainable Urban Drainage Systems) should be explored at options development stage to unlock opportunities for environmental, societal and economic prosperity, while tackling a number of pressing</p>	<p>The cost of surveys and hydraulic modelling or calculations.</p> <p>The cost of mitigation associated with addressing flood risk and managing drainage.</p>	<p>Seasonality is an important consideration as it restricts WFD surveys to times of the year.</p>

¹⁹ Guidelines for Preliminary Ecological Appraisal: Second edition (2017), Available online at: <https://www.cieem.net/guidance-on-preliminary-ecological-appraisal-gpea>

Air Quality	<p>Desk based data collection including the location of Air Quality Management Areas (AQMA) and potential Clean Air Zones (CAZ). Air quality monitoring may be required supplement existing information and for model verification. Traffic data is needed to inform the air quality assessment.</p>	<p>global challenges such for example climate resilience.</p> <p>A project should be designed to avoid impacts on AQMA. This is likely to require the consideration of traffic induced air quality effects.</p> <p>It is important that traffic data requirements for air quality assessment are agreed between the traffic and air quality specialists.</p> <p>The 2020 Environment Bill will bring into UK law a new particulate matter target. Even though this is not yet law, this will require careful consideration at the earliest stages of project development.</p>	<p>The cost of surveys and air quality modelling or calculations.</p>	<p>If additional monitoring is required, this may need to be collected over a long period of time which requires consideration in an EIA programme.</p>
Climate	<p>Current climate data and climate change projection data. Estimations of carbon intensity of the development.</p>	<p>Minimising the carbon footprint of a project's life cycle is a critical consideration at the early stages of a project's development to ensure opportunities are locked into the design decision making process.</p> <p>Climate resilience of projects is also a key consideration.</p>	<p>The cost of carbon and resilience assessments, calculations, and associated data collection.</p>	<p>None.</p>
Heritage	<p>Desk based data (for example, the National Record of the Historic Environment, and local Historic Environment Record) to determine locations of designated and non-designated assets. Non-intrusive walkover survey, geophysical survey and building surveys. Intrusive surveys (such as trial trenching) may be required.</p>	<p>Avoiding the most significant heritage assets is a very important consideration at strategic and options development stages. Need to consider setting impact as well as direct impact.</p> <p>Data in respect of the zone of theoretical visibility (ZTV) as identified by the landscape and visual assessment, where this is available.</p>	<p>The cost of intrusive investigations.</p> <p>The cost of negotiating land access should be considered.</p>	<p>Surveys involving agricultural land may be restricted to certain times of the year when crops are not growing, and animals are not grazing.</p> <p>Access issues may present a risk to programme.</p>
Landscape and Visual	<p>Desk based study to identify protected landscapes. The landscape character of the study area and the nature of existing views should be established through desk-based research and field survey.</p>	<p>It is important to avoid inappropriate development in the most important landscapes. In addition, considering views from sensitive viewpoints at the early stages of option development (for example at a concept masterplan stage) may be effective at avoiding effects.</p>	<p>The numbers of viewpoints and cumulative viewpoints requiring assessment.</p> <p>The assessment and design may require the creation a 3D model of the</p>	<p>Survey work should be carried out in both winter and summer, for seasonal change to be considered in the assessment.</p> <p>The field study should include a comprehensive photographic record carried out in both the</p>

	<p>Ground level information may be required. Night-time surveys may be required to allow and assessment of lighting effects.</p>	<p>It is important that surveys and investigations are undertaken in collaboration with heritage specialists so that heritage aspects can be considered.</p>	<p>existing site and proposed site levels.</p>	<p>summer and winter, to illustrate the landscape character and viewpoints.</p> <p>All viewpoints should be agreed wherever possible with local planning authorities and in consultation with other relevant stakeholders as appropriate. Sufficient time should be allowed for this.</p>
Traffic and Transport	<p>Traffic data, traffic surveys and, where appropriate, modelling should be undertaken to inform the transport assessment of a proposed development.</p>	<p>It is important that the traffic data requirements of all other topics' assessments are understood and allowed for (for example, noise and vibration, air quality, and community). For example, the greatest impact of severance on a school may occur in morning and mid-afternoon periods.</p>	<p>It is very important to consider the cost of modelling and the timing and numbers of iterations of modelling that will be required.</p>	<p>It is important to programme traffic surveys outside of the school holidays.</p>
Waste and Materials	<p>Desk based data on waste generation and infrastructure. Surveys of buildings and/or structures may be required where demolition is required. Data on materials use and waste generated during construction and operation of the project.</p>	<p>Consideration of the principles of the circular economy is an important consideration in the development of options. Therefore, the use of sustainable materials and consideration of the waste hierarchy is important.</p> <p>Data on materials use and waste generated for the project is important and should be agreed with the construction and design team.</p> <p>Materials use and waste minimisation workshops should be considered during options development stages.</p>	<p>The cost of waste and materials assessment and advice at option development stages.</p> <p>The cost of undertaking associated assessments requiring multi-disciplinary inputs.</p>	<p>None.</p>
Socio-economic	<p>Desk based data on the economy, business, and employment. Business surveys.</p>	<p>It is necessary to adopt an integrated approach to data collection and assessment with Community and Health topics.</p>	<p>The cost of undertaking business surveys and obtaining data on businesses should be considered.</p>	<p>None.</p>

		January	February	March	April	May	June	July	August	September	October	November	December	
European Protected Species	Bats	Inspection of hibernation roosts		Limited activity survey	Summer roosts, emergence, and activity surveys						Limited activity survey	Inspection of hibernation roosts		
	Otters	Activity Surveys												
	Great crested newts	Habitat assessment only		Surveys to determine presence/absence of breeding GCNs. Two of four surveys must be undertaken between mid-April and mid-May				Habitat assessment only						
	Dormouse	Hibernation period – habitat assessment only, no activity surveys			Activity survey							Hibernation period – habitat assessment only, no activity surveys		
Nationally Protected Species	Nesting birds	Wintering species		Migrant species and breeding birds		Breeding birds		Limited breeding survey		Migrant species		Wintering species		
	Badgers	Sett survey and bait marking				Limited sett survey and bait marking						Sett survey and bait marking		
	Reptiles	Habitat assessment only – no activity surveys		Activity surveys				Reduced basking activity. Activity surveys dependent on temperature		Activity surveys	Limited activity	Habitat assessment only – no activity surveys		
	Water voles	Habitat assessment only – no activity surveys		Limited survey (depending on weather)	Activity surveys			Limited survey due to vegetations cover		Activity surveys		Habitat assessment only – no activity surveys		

Figure 4 - Survey season overview

EIA Reporting

Schedule 4 of the 2017 Regulations provides the legal requirements for information for inclusion in the ES. In summary, this requires a description of:

1. The development.
2. The reasonable alternatives studied and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. The environmental baseline and an outline of the likely evolution thereof without implementation of the development.
4. The likely significant effects of the development on the environment, including cumulative effects.
5. The methods used, difficulties and the main uncertainties involved.
6. The mitigation to avoid, reduce or remedy significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements and the residual effects.
7. A reference list.

In addition, a non-technical summary of the above information is required.

Stakeholder Engagement

Minimum legal requirements

The Aarhus Convention

The Aarhus Convention which emphasises the importance of public participation within environmental decision-making was fully implemented in the UK in February 2005. The three pillars of the Aarhus Convention are access to information, public participation and decision-making, and access to justice in environmental matters. Whilst the 2017 Regulations do not refer to the convention, the three pillars appear to have been covered to a limited extent in the regulations, as described below.

Consultation bodies

The 2017 Regulations provide a definition of consultation bodies that are referred to in the regulations as follows:

- Marine Management Organisation (where relevant as defined in the regulations).
- Any principal council for the area where the land is situated, if not the relevant planning authority²⁰.
- Natural England.
- The Environment Agency.
- Other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Secretary of State considers are likely to have an interest in the application.

Typically, other bodies would include Historic England, Utilities companies, Highways England, Network Rail, the Police and Fire Services, the Health and Safety Executive, Civil Aviation Authority, and the National Health Service.

The 2017 Regulations provide the minimum legal requirements for engagement with consultation bodies at each stage of the EIA process, as explained below.

Screening

The EIA legislation does not require public participation within screening or when requesting a screening opinion from a local planning authority.

Scoping

The 2017 Regulations require the relevant planning authority to consult with consultation bodies before adopting a scoping opinion. In addition, the local planning authority must notify the consultation bodies in writing of the name and address of the person who intends to submit an ES and of the duty imposed on the consultation bodies to make information available to that person. It is regarded as good practice for the developer to consult with consultation bodies at the scoping stage to obtain environmental information, views on the likely significant environmental effects and information on the methods to be used in the EIA, even though it is not a legal requirement within the 2017 Regulations.

Impact assessment

There is no legal requirement within the 2017 Regulations for the developer to consult consultation bodies or the public in the undertaking of the impact assessment. However, ongoing consultation is regarded as best practice and should be undertaken (see further below).

Environmental Statement

The planning application and the ES should be publicised in accordance with the procedures set out in article 15 and article 16 of, and Schedule 3 to the Town and Country Planning (Development Management Procedure) (England) Order 2015. Schedule 3 to the Order contains the appropriate form for the notices to be published in the local press and posted on site.

The notices allow for public engagement insofar as they must:

- State that a copy of the ES is included in the documents which will be open to inspection by the public and give the address where the documents can be inspected free of charge.
- Give an address in the locality where copies of the ES may be obtained.
- State that a copy may be obtained at that address while stocks last and the amount of any charge to be made for supplying a copy.
- Give details of a website maintained by or on behalf of the authority on which the ES and the other documents have been made available.
- State the latest date by which any written representations about the application should be made to the local planning authority (being a date not less than 30 days later than the date on which the notice is published).

²⁰ Including the various departments in the local planning authority, such as development control departments and environmental management departments (for example, landscape/tree officer, biodiversity officer or ecologist, environmental health officers, highways, and waste authority etc.).

In addition, the relevant planning authority must send copies of the ES and the application must be sent to those consultation bodies that have not received one directly from the applicant.

Any particular persons or bodies (including non-governmental organisations promoting environmental protection) whom the local planning authority is aware are likely to be affected by, or have an interest in, the application, but are unlikely to become aware of it through a site notice or local advertisement, should be sent equivalent information to that publicised in the newspaper notice by the local planning authority, so that they may obtain a copy of the ES and comment or make representations if they wish.

During the Covid-19 pandemic there are temporary publicity requirements. Further details are provided at <https://www.gov.uk/guidance/consultation-and-pre-decision-matters#eia> (Paragraph: 049 Reference ID: 15-049-20200513).

Decision-making

Decision-making on a proposal or development is up to the relevant competent authority while considering the public's comments along with the statutory consultation bodies.

Best practice stakeholder engagement

Stakeholder involvement is an integral part of EIA and if done well can help inform the process and improve the outcome and chance of obtaining consent. Stakeholders can include anyone with an interest, from Government Ministers and Statutory Bodies, through to the public and local communities.

Ideally, stakeholder involvement should begin at the preparatory design stage of a plan, programme or project, and continue throughout. In terms of the EIA process it is recommended that consultation is undertaken at the scoping stage of an EIA and continues throughout the impact assessment stage when draft assessment results and mitigation plans are available. The engagement of the public is particularly important for major proposals that can affect people's lives. However, there can be constraints to allowing public involvement throughout, and it can be more beneficial to just use public participation in key stages of the development of a project. Therefore, it is important to develop and implement a bespoke and proportionate stakeholder engagement strategy at project inception using stakeholder engagement experts.

The following provides a list of other stakeholders (not exhaustive) that may be consulted as relevant:

1. Local elected officials (e.g. parish/local councilors, members of parliament, local crime officers).
2. Local interest groups.
3. Affected community groups (e.g. residents/neighborhood associations, schools, places of worship, community centres).
4. Representatives of national and local recreational societies/traveller groups such as ramblers associations and equestrian groups.
5. Local wildlife trusts.
6. Fisheries associations.
7. National Farmers Union.
8. RSPB.
9. British Waterways.
10. Canal and Rivers Trusts.

Stakeholder information events are an effective way of engaging with the community during the development of a proposed development.

It is best practice to report the results of the stakeholder engagement undertaken during the development of a project subject to EIA. Such reports are commonly referred to as a statement of community involvement or consultation report and can be submitted as part of the planning application alongside the ES.

Finally, it is important to remember that project-specific stakeholder engagement takes place within a wider context, and that other Town Deal projects could be progressing in parallel or be at different stages of development to that which is subject to EIA.

It is likely that several stakeholders will have an interest in more than one Town Deal project, so it is important to clearly communicate with stakeholders where projects are linked and how they contribute towards the vision set out in your TIP. For more information on stakeholder engagement in stage 2 please refer to the guide available for download [here](#).

PART D: HABITAT REGULATIONS

Introduction to HRA

Habitats Regulations Assessment (HRA) is the process used to determine whether a proposed plan or project will have potential implications for any internationally important sites, designated for their nature conservation interest (hereafter referred to as 'European sites'). These European sites include Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar Wetlands of International Importance²¹. It is government policy in England and Wales to also include potential SPAs, possible SACs and proposed Ramsar sites in the assessment of European sites²².

The HRA process is undertaken by a competent authority, which could include a public body (e.g. Natural England, the Environment Agency, or the relevant local authority), a non-governmental organisation or in limited cases, a commercial company. In relation to planning applications, local authorities are the competent authority. Information to support this assessment is usually provided by environmental specialists with the relevant expertise to assess the potential implications of a plan or project on European sites.

The requirements of the Habitats Regulations can pose significant constraints on projects where there is potential to give rise to a 'likely significant effect' on a European site as set out below. It is therefore important that consideration is given at the earliest stages of project planning to determine whether HRA could be a requirement for any projects within the TIP.

When does HRA apply?

The Habitats Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna provides legal protection for habitats and species of European importance. This Directive is transposed into UK law by the Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the '2017 Habitats Regulations')²³.

To ensure continued protection of these habitats and species, the Conservation of Habitats and Species Amendment (EU Exit) Regulations 2019²⁴ came into force on 1 January 2021. The EU Exit Regulations amend the 2017 Habitats Regulations, primarily to enable the transfer of functions from the European Commission to the appropriate authorities in England and Wales, and to ensure the 2017 Habitats Regulations continue to be operable. The Government's Explanatory Memorandum to these regulations states:

"This instrument provides changes to those parts of the 2017 and 2001 Regulations which would no longer work when the UK leaves the EU. The intention is to ensure habitats and species protection and standards as set out under the Nature Directives are implemented in the same way or an equivalent way when the UK exits the EU. There is no change to policy."

The EU Exit Regulations therefore ensure that habitat and species protections and standards as derived from EU law will continue to apply now that the UK has left the EU. As a result, the obligations of a competent authority in relation to the protection of European sites or species have not changed. Within

²¹ These designations were previously referred to as Natura 2000 sites. Following the UK's departure from the EU, UK sites which were part of the EU's Natura 2000 network, have become part of the "National Site Network".

²² HRA process applied based on paragraph 176 of the National Planning Policy Framework (February 2019).

²³ The Conservation of Habitats and Species Regulations 2017. Available at: <http://www.legislation.gov.uk/uksi/2017/1012/contents/made>. Accessed 28/01/21.

²⁴ The Conservation of Habitats and Species Amendment (EU Exit) Regulations 2019. Available at: <https://www.legislation.gov.uk/ukdsi/2019/9780111176573>. Accessed 28/01/21.

this report, reference to the 'Habitats Regulations' should be taken to mean the 2017 Habitats Regulations as amended by the EU Exit Regulations.

HRA Process

Figure 5 provides an overview of the HRA process for plans or projects with the potential to affect European sites.

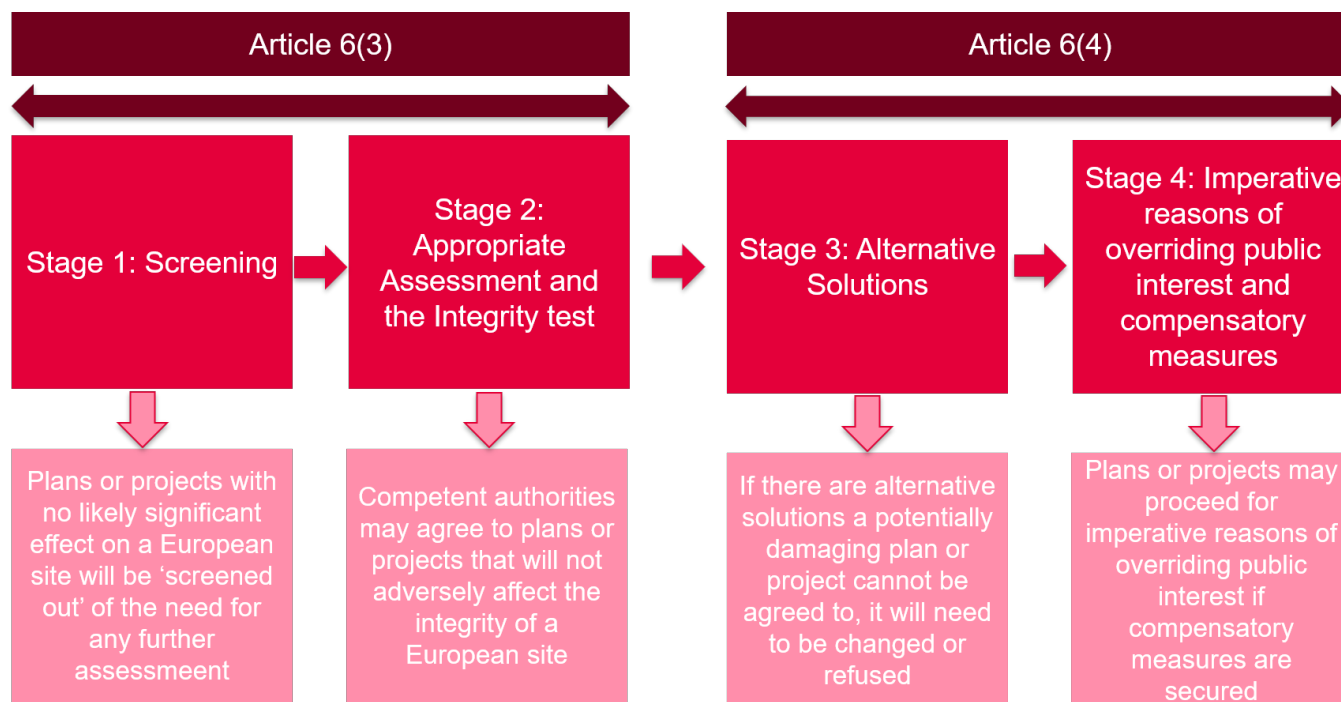


Figure 5: The Habitats Regulations Assessment Process

The assessment of a plan or project under the Habitats Regulations is split into four stages comprising:

- Stage 1: Screening.
- Stage 2: Appropriate Assessment (and the Integrity Test).
- Stage 3: Consideration of Alternatives.
- Stage 4: Imperative Reasons of Overriding Public Interest (IROPI) and Compensatory Measures.

Stage 1 Screening

Any potential effects on a European site should be identified early in the formation of a plan or project to prevent project delays and to optimise opportunities for avoidance or mitigation measures. The screening stage supports this process by assessing the likelihood of a plan or project having a significant effect on a European site. This assessment requires an understanding of the potential effects of a project or plan on the qualifying features of a European site, and the changes it may bring about.

The distance over which a project or plan could influence a European site depends on a number of factors, including the size/scale of the proposed project, the type of work or development proposed, and the qualifying features for which nearby European sites have been designated. As a rule, Stage 1 of the HRA process should include a search for all European sites within 20km of the proposed plan or project. However, it may be appropriate to reduce this area under certain circumstances.

Where a project or plan could have impacts on a nearby watercourse, it is recommended that any European sites hydrologically connected to, or dependant on, that watercourse are included in the HRA process.

Figure 6 provides a summary of the HRA Screening process.

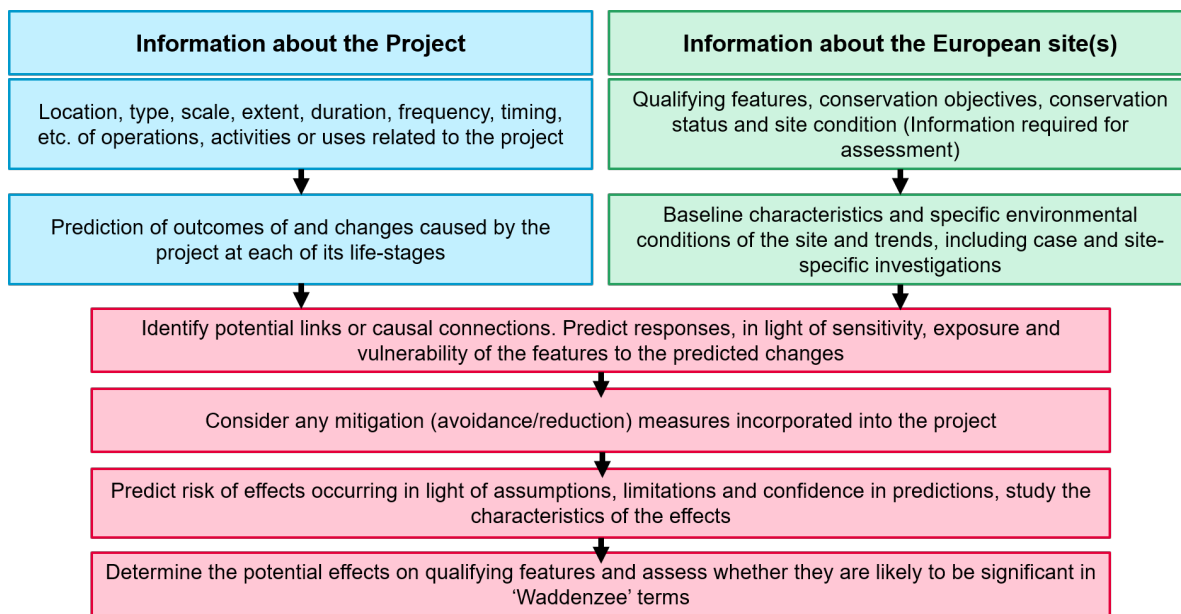


Figure 6: Summary of the Screening Process

At the screening stage, measures intended to avoid or reduce the harmful effects of a project on a European site, i.e. mitigation measures, must not be taken into consideration by the competent authority. It is therefore advised that an iterative design process is adopted for any plan or project to avoid potential effects on European sites as far as possible, prior to commencing the HRA process.

Where the screening stage of the HRA identifies a likely significant effect on a European site, the requirement for an 'Appropriate Assessment' is triggered.

Stage 2 Appropriate Assessment

Under Regulation 63 of the Habitats Regulations, a competent authority is required to make an 'appropriate assessment' of the implications of any plan or project which: (a) is likely to have a significant effect on an European site; and (b) is not directly connected with or necessary to the management of that site. The assessment must be carried out before deciding to undertake or give consent for that plan or project.

The HRA process employs the precautionary principle and Regulation 63 ensures that where a project is "likely to have a significant effect," it can only be consented if the competent authority can ascertain that it "will not adversely affect the integrity of the European site." Appropriate assessment is therefore the detailed consideration of the potential effects of the plan or project in relation to the conservation objectives for the European site/s being affected. The purpose of the appropriate assessment is to determine if there is likely to be an adverse effect on the integrity of the site i.e. an effect that would compromise the site meeting its conservation objectives.

The integrity of a European site is described in the Government Circular (06/2005) on biodiversity and geological conservation as: "the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified."

The work undertaken at the screening stage of the HRA will be valuable in the appropriate assessment. At this stage, mitigation measures to avoid or reduce the effects of a plan or project on a European site can be taken into account, however, compensatory measures cannot be considered at appropriate assessment.

An in-combination assessment is required where an impact is identified which would have an insignificant effect on its own (a residual effect) but where likely significant effects arise cumulatively with

other plans or projects. This could include consented or proposed developments near to the project site, or proposed plans or projects further afield that may have indirect effects on the European sites under consideration. Providing it can be demonstrated that with appropriate mitigation measures, the plan or project would not give rise to an adverse effect on the integrity of a European site, the plan or project can proceed.

Stage 3 Consideration of Alternatives

Where it is demonstrated that the proposed plan or project could give rise to an adverse effect on the integrity of a European site, or where there is uncertainty, the competent authority may agree to proceed to Stages 3 and 4 of the process, i.e. derogation. Reaching this stage of the HRA process is uncommon and it should be noted that a competent authority is not required of its own volition to proceed to derogation.

Stage 3 of the assessment would need to consider if there were any other alternatives to the plan or project, that would give rise to lesser or no adverse effects on the integrity of the European site(s).

There are four principal steps in establishing whether alternative solutions exist:

- 1) Understanding the project and the problem it is causing that needs to be solved.
- 2) Understanding the need for the project.
- 3) Identifying whether there are financially, legally, and technically feasible alternative solutions.
- 4) Identifying whether there are alternative solutions with a lesser effect on the integrity of the European site/s.

If an alternative solution exists that would have no, or a lesser, effect on the European site(s), the scheme cannot be recommended for consent. Only if there are no alternative solutions, would the scheme go to assessment of IROPI (Stage 4).

Where it is identified that the proposed scheme will affect the integrity of a European site(s) and no feasible alternatives exist, the competent authority must be provided with sufficient information to determine whether IROPI exist, which could be of a social or economic nature, sufficient to override the harm to the site .

Stage 4 Reasons of Overriding Public Interest

If there are no alternatives, Stage 4 would then consider IROPI, and whether there were any compensatory measures that might be required. If stage 2 of the HRA also identifies that a priority habitat or species on the site could be adversely affected by the proposed scheme, the scope of the test is more limited, making it stricter. Under these circumstances the IROPI should relate to human health, public safety, or benefits of primary importance to the environment.

If minded to authorise the proposed scheme following the application of the IROPI test, the competent authority must notify government and wait 21 days. The government may issue a Direction prohibiting authorisation of the proposed scheme, or alternatively they may seek to secure any necessary compensatory measures to ensure the overall cohesion of the European site is protected.

For compensatory measures to be considered they must be:

- a) agreed with the statutory nature conservation body i.e. Natural England;
- b) targeted at the number and status of the habitats and species for which the site is designated that would be adversely affected by the proposed scheme;
- c) objectively proposed and based on sound science;
- d) well planned with clear objectives;
- e) sufficiently diverse in appropriate types of measures to compensate for all relevant adverse effects;
- f) enduring and implemented over the short, medium, or long-term as may be required;
- g) well managed over the necessary timescales, which may need to be in perpetuity;
- h) adequate in extent and sufficient in quantity;
- i) appropriately phased and implemented meeting ecological objectives in a timely manner;
- j) affordable and deliverable;

- k) guaranteed to be implemented;
- l) capable of being effectively monitored;
- m) legally compliant and enforceable; and
- n) sustainable, or reasonably so given natural changes, so they maintain the integrity of the network in the long term.

With regards to the scale of compensation and ratio of compensatory habitat, the competent authority and Natural England should ensure the requirements are flexible enough to provide adequate compensation without going further than necessary.

Information required for HRA

The Screening Stage (stage 1) of the HRA should determine which European sites will need to be considered throughout the HRA process. The information required to complete a HRA can vary widely depending on the nature of the plan or project that is proposed, the habitats that will be affected, and the qualifying features of the European sites under consideration.

The information required to inform the HRA process is likely to include (but is not limited to):

- Information on the location of European designated sites that have the potential to be affected by the proposed plan or project. European site information is available through Natural England Open Data.²⁵
- Information on the reasons for designation of these sites, detailed on citations/site data sheets available from the Joint Nature Conservation Committee (JNCC).²⁶
- The conservation objectives of European designated sites.²⁷
- Ecological survey information for the proposed project/plan site and an appropriate buffer. Survey information should be sufficient to demonstrate whether the site supports the function of the European designation. The scope of ecological surveys required will be dependent on the features for which the sites are designated. These may include: Annex 1 species or habitats, European Protected Species (EPS) including otter, bat species or great crested newt; internationally important assemblages of breeding or over-wintering birds; and rare or vulnerable habitats.
- Information on other projects and plans which may have an in-combination effect on the European site. This information can be collated from the local authority planning website/portal and through a review of relevant local plans and policies.
- Detailed information on the proposed plan or project including: the timing and nature of works to be undertaken; detailed design drawings; landscape proposals; construction methods and processes; access information (where relevant); data on air quality and water quality impacts; and proposed future management/maintenance practices.

Consultation will be required with the statutory nature conservation body (i.e. Natural England) regarding the assessment of impacts and any proposed mitigation measures. Consultation with other statutory and non-statutory bodies can be beneficial in gathering additional information to support the assessment.

Site of Special Scientific Interest (SSSI) Assent

European designated sites in the UK are also designated as Sites of Special Scientific Interest (SSSI). Any operations which may affect a SSSI require Natural England's agreement (assent).²⁸ This is a separate process to the HRA, however the findings of a HRA may be useful in supporting an application for SSSI Assent.

²⁵ Natural England Open Data. Available at: <https://naturalengland-defra.opendata.arcgis.com/>. Accessed 28/01/21.

²⁶ Available at: <https://jncc.gov.uk/>. Accessed 28/01/21.

²⁷ Natural England Conservation Objectives for European Sites. Available at: <http://publications.naturalengland.org.uk/category/6490068894089216>. Accessed 28/01/21.

²⁸ Sites of special scientific interest: public body responsibilities. Available at: <https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>. Accessed 28/01/21.

Next Steps

If you require further assistance on meeting your planning, EIA or HRA requirements, please talk to your Town Coordinator about what support you may need.

You can also book an [Expert Drop-in Hour](#) with our Planning or Environmental experts.
