

# FLINTSHIRE COUNTY COUNCIL LOCAL DEVELOPMENT PLAN PREFERRED STRATEGY

## Habitats Regulations Assessment Screening Report

OCTOBER 2017



Incorporating

CONTACTC643 1821 01 5/GS11 gs0G09ETBT/F 6.0 T635081 2405 2

# VERSION CONTROL

Version	Date	Author	Changes
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- 1.3.3 The requirements of the Habitats Directive are transposed into UK law by means of the Conservation of Habitats and Species Regulations 2010.
- 1.3.4 Regulation 61, Part 6 of the Habitats Regulations states that:
- A competent authority, before deciding to undertake, or give consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives*
- 1.3.5 Regulation 62, Part 6 of the Habitats Regulations states that:
- If the competent authority are satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), they may agree to the plan or project notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be).*
- 1.3.6 Regulation 66, Part 6 of the Habitats Regulations states that:
- Where, in accordance with regulation 62 (considerations of overriding public interest)— (a) a plan or project is agreed to, notwithstanding a negative assessment of the implications for a European site or a European offshore marine site, or (b) a decision, or a consent, permission or other authorisation, is affirmed on review, notwithstanding such an assessment,— the appropriate authority must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected*
- 1.3.7 The overarching aim of HRA is to determine, interests, whether a plan, either in isolation and/or in combination with other plans, would have a significant adverse effect on the European site. If the Screening (the first stage of the process, see Section 3 for details) concludes that significant effects are likely, then Appropriate Assessment must be undertaken to determine whether there will be adverse effects on site integrity.

## 1.4 Legislation and Guidance

- 1.4.1 This HRA Screening Report has drawn upon the following legislation and guidance:

The Conservation of Habitats and Species Regulations 2010, as amended. In 2012, these Regulations were amended to transpose more clearly certain aspects of the Habitats Directive. No fundamental changes to the Regulations were made.

European Commission, Managing Natura 2000 sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC.

European Commission, Guidance document on Article 6(4) of the Habitats Directive 92/43/EEC.

Department for Communities and Local Government (2006) Planning for the Protection of European Sites: Appropriate Assessment. Guidance for Regional Spatial Strategies and Local Development Documents.

Welsh Government Planning Policy Wales<sup>1</sup>

Welsh Government TAN 5 Wales<sup>2</sup>

EC guidance Managing Natura 2000 sites Article 6 guidance<sup>3</sup>

DTA Publications Limited for CCW (2012). Draft Guidance for Plan Making Authorities in Wales. The Appraisal of Plans Under the Habitats Directive<sup>4</sup>

<sup>1</sup> <http://gov.wales/topics/planning/policy/ppw/?lang=en>

<sup>2</sup> <http://wales.gov.uk/docs/desh/policy/100730tan5en.pdf>

<sup>3</sup> [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision\\_of\\_art6\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf) and 2007/2012 update on 6(4)

[http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new\\_guidance\\_art6\\_4\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new_guidance_art6_4_en.pdf)

<sup>4</sup> DTA for CCW (2012). Draft Guidance for Plan Making Authorities in Wales. The Appraisal of Plans Under the Habitats Directive.

## 2 The Local Development Plan

### 2.1 Background

2.1.1 The Flintshire LDP provides the sustainable framework for land use planning in the County up to the year 2030, and a platform for development thereafter. The Plan is currently at the Preferred Strategy ~~2.5~~ stage.

### 2.2 Consultation

2.2.1 Natural Resources Wales (NRW) will be consulted on the findings of this

9.	Support development that positions Flintshire as an economically competitive place and an economic driver for the sub-region.
10	Redefine the role leisure, culture, learning, business and transport.
11.	Ensuring that Flintshire has the right amount, size, and type of new housing to support economic development and to meet a range of housing needs.
12.	Ensure that housing development takes place in sustainable locations where sites are viable and deliverable and are supported by the necessary social, environmental and physical infrastructure.
13.	Promote and enhance a diverse and sustainable rural economy.
14.	Support the provision of sustainable tourism development.
<b>Safeguarding the Environment</b>	
15.	Minimise the causes and impacts of climate change and pollution.
16.	environmental assets including landscape, cultural heritage and natural and built environments.
17.	Maintain and enhance green infrastructure networks.
18.	Promote good design that is locally distinct, innovative and sensitive to location.
19.	Support the safeguarding and sustainable use of natural resources such as water and promote the development of brownfield land.

## 2.4 Local Development Plan Policies and Strategic Sites

### 2.4.1 The LDP



**Meeting Housing Needs**

Policy STR11: Provision of Sustainable Housing Sites

Policy STR12: Provision for Gypsies and Travellers

**Valuing the Environment**

Policy STR13: Natural and Built Environment, Green Networks and Infrastructure

Policy STR14: Climate Change and Environmental Protection

Policy STR15: Waste Management

Policy STR16:

### 3 The Habitats Regulations Assessment Process

3.1.1 This section provides an outline of the stages involved in HRA and the specific methods that have been used in preparing this report.

#### 3.1 Stages in HRA

3.1.1 The requirements of the Habitats Directive comprise four distinct stages:

- i. **Stage 1: Screening** is the process which initially identifies the likely impacts upon a European site of a project or plan, either alone or in combination with other projects or plans, and considers

habitats and/or species. It is important to note that the burden of evidence is to show, on the basis of objective information, that there will be no significant effect; if the effect may be significant, or is not known, that would trigger the need for an Appropriate Assessment. There is European Court of Justice case law to the effect that unless the likelihood of a significant effect can be ruled out on the basis of objective information, and adopting the precautionary principle, then an Appropriate Assessment must be made.

- ii. **Stage 2: Appropriate Assessment** is the detailed consideration of the impact on the integrity of the European site of the project or plan, either alone or in combination with other projects or s structure and function. This is to

### **3.3 In combination Effects**

- 3.3.1 As outlined in Section 3.1, it is necessary for HRA to consider in combination effects with other plans and projects.
- 3.3.2 Where an aspect of a plan could have some effect on the qualifying feature(s) of a Designated site, but the effects of that aspect of the plan alone would not be significant, the effects of that aspect

- 3.3.4 If the prospect of cumulative effects cannot be eliminated in steps 2 and 3 in the figure above, it is necessary to consider how the addition of effects from other plans or projects may produce a combined adverse effect on a Designated site that would be significant. Taking the effects which would not be likely to be significant alone, it is necessary to make a judgement as to whether these effects would be made more likely or more significant if the effects of other plans or projects are added to them. Most cumulative effects can be identified by way of the following characteristics. Could additional effects be cumulative because they would:
- Increase the effects on the qualifying features affected by the subject plan in an additive, or synergistic way
  - Increase the sensitivity or vulnerability of the qualifying features of the site affected by the subject plan?
  - Be felt more intensely by the same qualifying features over the same area (a layering effect), or by the same qualifying feature over a greater (larger) area (a spreading effect), or by affecting new areas of the same qualifying feature (a scattering effect)?
- 3.3.5 It will be necessary to look for plans or projects at the following stages:
- Applications lodged but not yet determined.
  - Projects subject to periodic review e.g. annual licences, during the time that their renewal is under consideration.
  - Refusals subject to appeal procedures and not yet determined.
  - Projects authorised but not yet started.
  - Projects started but not yet completed.
  - Known projects that do not require external authorisation.
  - Proposals in adopted plans.
  - Proposals in finalised draft plans formally published or submitted for final consultation, examination or adoption.
- 3.3.6 sector-specific strategic plans on such topics as flood risk.

## 3.4 Consideration of Effects

### Definition of Significant Effects

- 3.4.1 A critical part of the HRA screening process is determining whether or not the proposals are likely to have a significant effect on European sites and, therefore, if they will require an Appropriate Assessment. Judgements regarding significance should be made in relation to the qualifying interests for which the site is of European importance and also its conservation objectives. A useful definition of

*...likely means readily foreseeable not merely a fanciful possibility; significant means not trivial or inconsequential but an effect that is potentially relevant to the site's conservation objectives<sup>7</sup>*

- 3.4.2 In considering whether the plan is likely to have a significant effect on a European site, a precautionary approach must be adopted:

(on the basis of objective information) to exclude the possibility that the plan could have significant effects on any European site, either alone or in combination with other plans or projects.

The assessment of that risk must be made in the light of factors such as the characteristics and

### **Categorising Effects**

- 3.4.3 All elements of the Local Plan have been screened for likely significant effects on European sites and categorised in accordance with DTA Publications Limited, *The Habitats Regulations Assessment Handbook*.
- 3.4.4 The effects associated with the Local Plan can be allocated into one of 12 categories according to the ways in which the option, policy or proposal could affect the

Category	Description
Category H:	Policies or proposals the (actual or theoretical) effects of which cannot undermine the conservation objectives (either alone or in combination with other aspects of this or other plans or projects). Policies or proposals which make provision for change but which could have no significant effect on a Designated site, either alone or in combination with other aspects of the same plan, or in combination with other plans or projects, can be screened out. These may include cases where there are some potential effects which (and theoretically even in combination) would plainly be insignificant and could not undermine the conservation objectives.
Category I:	Policies or proposals with a likely significant effect on a site alone. Policies or proposals which are likely to have a significant effect on a Designated site alone, should be screened in.
Category J:	Policies or proposals not likely to have a significant effect alone. These aspects of the plan would have some effect on a site, but the effect would not be likely to be a significant effect; so they must be checked for in combination (cumulative) effects. They will then be re-categorised as either Category K (no significant effect in combination) or Category L (likely to have a significant effect in combination), as explained below.
Categories K and L:	<p>Policies or proposals not likely to have a significant effect either alone or in combination (K) or likely to have a significant effect in combination (L) after the in combination test. Where an aspect of a plan could have some effect on the qualifying feature(s) or a Designated site, but the effects of that aspect of the plan alone would not be significant, the effects of that aspect of the plan will need to be checked in combination firstly, with other effects of the same plan, and then with the effects of other plans and projects.</p> <p>i.e. policies or proposals which will have no likely significant effect alone or in combination are classified as Category K. Policies or proposals which are likely to have a significant effect in combination are classified as Category L. Category L policies or proposals will require further consideration in terms of potential in combination effects. Firstly, this will be with regard to other aspects of the Plan itself, and subsequently with other separate plans or projects, for example neighbouring Local Plans.</p>

### 3.5 Potential Impact Pathways

3.5.1 During the HRA screening stage, the likely nature, magnitude, frequency, timing, duration, location and spatial extent of changes resulting from implementation of the LDP will be assessed. As a part of this, mechanisms through which the LDP could impact upon European sites will be considered.

3.5.2 The main impact pathways could be:

Direct habitat and species loss associated with European sites.

Habitat degradation as a result of increased air pollution.

Changes in water quality where sites are hydrologically linked to European sites.

Loss of habitat functionally linked to a European site (i.e. used by overwintering or passage birds for foraging).

Disturbance/displacement to species as a result of construction activities/ operational stage.

Disturbance to habitats and species through increased recreational activity, during operational stage.

## 4 The European Sites

4.1.1 Twenty three European sites have been identified within 20km of Flintshire. A list of the sites together with their status and location is presented in Table 3 and Table 4. Figure 1 also shows the locations of the European sites.

Table 3: Summary of European Sites within Flintshire

Name of Site	Identification Number	Distance from district boundary (approximate km)
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Name of Site	Identification Number
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# 5 Screening

European site	Potential impacts	Further consideration required in the detailed screening assessment?
Dee Estuary / Aber Dyfrdwy SAC	screening stage in relation to the potential impacts set out within Section 3.5.	Yes
Liverpool Bay / Bae Lerpwl (England and Wales) SPA		Yes

European site	Potential impacts	Further consideration required in the detailed screening assessment?
Ribble & Alt Estuaries Ramsar Site	Given the distance of SPA/Ramsar site from the County boundary (20 km) potential impacts associated with: hydrological links, air quality, direct habitat loss, recreational pressure, loss of functionally linked land, disturbance/ displacement of birds using functionally linked land adjacent to development and disturbance/ displacement of birds during the construction phase of new development within Flintshire have been screened out of further assessment.	No
Ribble & Alt Estuaries SPA		No
Midland Meres & Mosses Phase 2 SAC		

European site	Potential impacts	Further consideration required in the detailed screening assessment?
	<p>displacement of birds using functionally linked land adjacent to development within the County boundary.</p> <p>Given the distance of SPA/Ramsar site from the County boundary (14 km) potential impacts associated with: hydrological links, air quality, direct habitat loss, recreational pressure and disturbance/ displacement of birds during the construction phase of new development within Flintshire have been screened out of further assessment.</p>	

## 5.4 Preliminary



Policy	Justification	Assessment category	Further consideration required in the detailed screening assessment?
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*Conserving and enhancing Flintshire's natural, built and cultural heritage*

Given that the aim of the policy is to support

Policy	Justification	Assessment category	Further consideration required in the detailed screening assessment?
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This policy sets out the principles of how the LDP will facilitate the sustainable management of waste in the future. However, there are no specific sites allocated under this policy.

Policy STR15: Waste Management

## **5.5 Preliminary Screening of Local Development Plan Strategic Sites**

5.5.1 Finally, a preliminary Screening exercise has been undertaken to determine if either of the two strategic allocation sites within the Local Plan can be screened out of the detailed assessment. The preliminary Screening is shown in Table 7.

*Table 7: Preliminary*





detail regarding the potential for effects upon European sites, and any other information regarding the proposals that enable a conclusion to be drawn as to whether likely significant effects upon European sites can be ruled out. If there is sufficient evidence to conclude no likely significant effect (which is likely to be the case for the two strategic allocation sites), then these allocation sites will be screened out at the detailed screening stage. In the event that the information available for any of the allocations is no

Figure 1: Location of European Designated Sites



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