Habitat Regulations Assessment

Regional Strategic Planning Policy
Renewable and Low Carbon Energy

November 2025

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List of Abbreviations

AA	Appropriate Assessment
AD	Anaerobic Digester
ASSI	Area of Special Scientific Interest
BESS	Battery Energy Storage Systems
CJEU	Court of Justice of the European Union
DAERA	The Department of Agriculture, Environment and Rural Affairs
DfI	Department for Infrastructure
EC	European Commission
EEC	European Economic Community
EU	European Union
FLL	Functionally Linked Land
HRA	Habitats Regulations Assessment
LDP	Local Development Plan
NI	Northern Ireland
NIEA	Northern Ireland Environment Agency
NPWS	National Parks and Wildlife Service
OREAP	Offshore Renewable Energy Action Plan
PPS	Planning Policy Statement
RDS	Regional Development Strategy
R&LC	Renewable and Low Carbon
RoI	Republic of Ireland
SAC	Special Area of Conservation
SES	Shared Environmental Service
SNCB	Statutory Nature Conservation Body
SPA	Special Protection Area
SPPS	Strategic Planning Policy Statement
UK	United Kingdom

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1. Introduction

Purpose of the Report

Shared Environmental Service (SES) on behalf of the Department for Infrastructure (DfI) has carried out a Habitats Regulations Assessment (HRA) on the revised Regional Strategic Planning Policy on Renewable and Low Carbon (R&LC) Energy (hereafter this will be referred to as 'the Policy'), which replaced the Subject Policy 'Renewable Energy' contained within the Strategic Planning Policy Statement (SPPS) for Northern Ireland (pages 90 – 93 refer).

The provisions of the SPPS apply to the whole of Northern Ireland (NI). The SPPS Subject Policies should not be read in isolation and relevant provisions of the SPPS apply to any proposal which may arise from the Policy. The HRA undertaken is proportionate to the assessment of one Policy within the SPPS and considers potential effects which may arise from development coming forward under the Policy. RLE 1 to RLE 28 set the context for the Policy and detail provisions which must be taken into account in the preparation of Local Development Plans (LDPs), and which are material (where relevant) to all decisions on individual planning applications and appeals. HRAs will be undertaken on lower-level plans and projects on site-specific case-by-case basis.

Revising such extant policy in the SPPS ensures it is up to date, fit for purpose and furthers sustainable development in the long-term public interest.

Requirement for HRA

The Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended), commonly referred to as the Habitats Regulations, implemented the requirements of the Habitats[1] and Birds Directives[2]. Regulation 43 (1) of the Habitats Regulations requires an Appropriate Assessment (AA) to be undertaken of plans and projects which are likely to have a significant effect on European sites in NI, either alone or in combination with other plans or projects. This is known as Habitats Regulations Assessment (HRA) and provides for assessment of the implications of a plan or project on European sites in view of their conservation objectives.

The overall aim of the Directives is to maintain or restore the favourable conservation status of habitats and species of community interest. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated to afford protection to habitats and species listed in the Habitats and Birds Directives. These designations form a suite of sites that, in Europe, form a network of ecologically important sites called 'Natura 2000 Sites'. Since the UK's exit from the European Union (EU) SACs and SPAs in NI no longer form part of the Natura 2000 network. They are still referred to as European sites however they are now collectively referred to as the National Site Network (Department for Agriculture, Environment and Rural Affairs (DAERA), 2020). For the purpose of this report European sites include: special areas of conservation (SACs), special protection areas (SPAs), sites of Community importance (SCIs), and candidate SACs. As a matter of policy, potential SPAs and RAMSAR sites are also treated as European sites.

The most recent amendment to the Habitats Regulations is the enactment of the Conservation (Natural Habitats, etc.) (Amendment) (NI) (EU Exit) Regulations 2019 following the UKs departure from the EU. These Regulations simply amended the existing Habitats Regulations to make them operable in a UK context at the end of the transition period. The requirement to undertake Habitat Regulations Assessments (HRAs) for assessing the impact of plans on European Sites remains the same.

[1] Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

[2] Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version)

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Approach to the HRA

The planning system in NI functions under a two-tier model of delivery which means that the level of detail will vary significantly between strategic plans, local plan-making and projects coming forward under development management. The hierarchy influences the nature and detail in respect of an AA and the extent to which relevant issues can be examined at any particular level. Site specific details will be required at local level where policies, objectives, development zonings and associated key site requirements are set, against which planning applications are determined and will be used to inform future project HRAs.

The overall approach for this HRA has been developed in accordance with the Habitats Regulations and is proportionate to the assessment of one policy within the wider provisions of the SPPS. The HRA follows the guidance set out in the Habitats Regulations Assessment Handbook[3] (the HRA Handbook). HRA is an iterative process and was carried out in parallel with amendments to the draft final revised Policy with the completed HRA published with the final revised Policy.

The European Commission (EC) Guidance does not specify the scope of a plan which should be subject to the Directive and related transposing legislation, but it does state that the key consideration is whether it is likely to have a significant effect. The HRA Handbook F.3. recommends reviewing proposals against a number of questions. These may lead to plans or projects being exempted, eliminated or excluded from the need for HRA. The Policy does not directly relate to the management of any international site therefore it cannot be exempted from the requirement of the Habitats Regulations.

Developments coming forward under the Policy could generate likely significant effects on European sites and this HRA has been prepared to ensure that DfI,in its role as the Competent Authority for preparing regional strategic planning policy, fulfils its duty under Regulation 43 of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended).

Consideration of Mitigation

A ruling of the Court of Justice of the EU (CJEU) in 2018 - '*People over Wind*' - established how mitigation should be treated in HRAs. Measures intended to avoid or reduce adverse effects on the integrity of European sites cannot be taken into account in at Stage 1 (screening) and must be assessed at Stage 2 (appropriate assessment).

Other regulatory controls

In addition to planning controls, other regulatory provisions may apply to Policy related developments and is enforced by relevant authorities.

Climate Change

The aim of the Policy is to maximise sustainable renewable and low carbon energy from a wide range of technologies, at various scales, in appropriate locations within the built and natural environment, without compromising other environmental assets of acknowledged importance.

The Policy recognises the Energy Strategy 'Path to Net Zero Energy' (published 20th January 2022) renewable electricity consumption target of 70% by 2030, which was increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022 (enacted 6 June 2022). The Act also places a duty on departments to ensure that the net emissions account for the year 2050 is at least 100% lower than the baseline and to ensure that the net emissions account for carbon dioxide for the year 2050 is at least 100% lower than the baseline for carbon dioxide.

[3] Tyldesley, D., and Chapman, C., (2013) *The Habitats Regulations Assessment Handbook*, October 2025 edition UK: DTA Publications Ltd'

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RLE 13 states:

'Climate change is adversely impacting nature and biodiversity. Development proposals should, therefore, protect and, where feasible, seek to enhance biodiversity which could contribute to strengthening existing nature networks and restoring degraded habitats'.

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2. Screening the Policy for Likely Significant Effects

Screening the Policy for likely significant effects

NI is relatively small, therefore due to the geographical area there is limited capacity to absorb certain types of development and careful consideration is required to avoid tensions between different policy aims and meeting strategic targets.

Potential impacts from R&LC energy development proposals depend on the nature of the development, scale and location and may arise during construction, operation and restoration. Effects are not limited to but may include habitat loss or destruction; habitat fragmentation or degradation; species mortality; disturbance to species; deterioration in water quality; deterioration in air quality; and increase in nutrient deposition.

The main sources of R&LC energy development identified in the Policy are:

- Wind;
- Sun (solar photovoltaic / thermal energy;
- Moving water (hydropower);
- Heat extracted from the air, ground, and water (including geothermal energy);
- Biomass (wood, biodegradable waste, Anaerobic Digester (AD)); and
- Emerging and advancing technologies (examples include synchronous compensators and battery energy storage systems (BESS)).

Many examples of these developments have already progressed through the planning regime and potential effects are assessed at LDP level and also at project level whereby detailed site-specific information is available to undertake a HRA with a full and precise analysis of proposed mitigation.

Location is critical to the overall success of energy development to ensure optimum outputs. For example, wind farm development in upland areas is favourable for the wind conditions, however, there are particular landscape and environmental considerations to be taken into account.

The conservation objectives for Antrim Hills SPA state:

> *'All upland areas are currently of interest to the windfarm industry. While this activity falls within the planning system, the pressure on the uplands is sufficient to merit specific comment. There is no presumption within the UK against such developments in SPAs supporting raptor or other bird populations. Such developments represent a potential threat through loss of foraging habitat, disturbance to nest and roosting sites, risk of collision and providing access to previously remote areas. Careful consideration is required at the planning stage with windfarm and turbine location having regard to Hen Harrier distribution'.*

But it is not only effects arising from development within or adjacent to European sites which require consideration. Many mobile species associated with European sites often range well beyond the site boundary and often utilise 'Functionally linked land' (FLL). FLL is a term often used to describe areas of land or sea occurring outside a designated site which is critical to, or necessary for, the ecological or behavioural functions in a relevant season of a qualifying feature for which a Special Areas of Conservation (SAC)/ Special Protection Area (SPA)/ Ramsar site has been designated. These habitats are frequently used by SPA species and supports the functionality and integrity of the designated sites for these features. There is a requirement for competent authorities to consider the importance of functionally linked habitats in HRAs when assessing new plans or projects to ensure the conservation objectives for the site can still be delivered.

There is also a need to take account of hydrological linkages even when remote from designated site boundaries. Impacts upon the aquatic or marine environment could occur from contamination of surface water, groundwater or changes in flow regime, hydrology or hydrogeology. Water pollution causes deterioration of (or failure to improve) water quality, due to direct runoff of pollutants

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including fuel, chemicals and sediments from development during construction or operation and can affect species directly or affect the habitat or prey on which they rely.

In respect of mobile marine mammals, DAERA Marine and Fisheries Division advise that plans or projects within 100km of sites designated for Grey seals and Harbour porpoise or 50km for Harbour seals should be assessed for potential impacts on the species. Grey seal and Harbour porpoise range along the coast far from the sites for which they are designated and are potentially subject to harmful effects from both onshore and offshore developments.

Airborne pollutants can be carried and deposited a considerable distance from source. It is NIEAs current position that ammonia emitting proposals are screened for effects where they are situated within 7.5kms of a European site. Anaerobic Digester plants often utilise livestock manures/slurries as feedstock. Together with the associated landspreading of digestate, such facilities can emit ammonia (and associated nitrogen deposition) at levels which are harmful to habitats and plant species, either through the direct toxic effects of ammonia or nitrogen enrichment resulting in the displacement or extinction of nutrient sensitive species. As such, the conservation objectives for SACs specifically require an 'action' to *'Seek to maintain or where necessary, restore concentrations and deposition of air pollutants to at or below the site-relevant critical load'.*

The *'Air Pollution Trends Report 2023: Critical load and critical level exceedances in the UK'* provides key information on UK ecosystems relating to air pollution targets and provides the means to develop targeted action for emission reduction policies. Key data from the Trends Report 2023 for designated sites in NI are:

• 100% of Special Areas of Conservation (SACs) and 100% of Special Protection Areas (SPAs) had nitrogen deposition rates exceeding their Critical Load. These are NI's most important habitats.

• 99.5% of Areas of Special Scientific Interest (ASSIs), which are nationally important sites, had nitrogen deposition rates exceeding their Critical Load for at least one feature.

• 100% of SACs, 100% of SPAs and 98.6% of ASSIs in NI had ammonia concentrations greater than 1 µg m^2 (the long term annual average Critical Level for lichens and mosses and for ecosystems in which they are important).

• 14.8% of SACs, 14.3% of SPAs and 12.8% of ASSIs in NI had ammonia concentrations greater than 3 µg m^2 (the long term annual average Critical Level for higher plants including heathland, semi-natural grassland, and forest ground flora).

Aerial emissions can affect European sites in the Republic of Ireland (RoI) whether due to proximate point source emissions from AD facilities in NI or associated landspreading of digestate. The export of digestate for landspreading in the RoI cannot be discounted. Planning authorities in NI have authorised export arrangements for pig slurry and poultry litter.

Nutrient pollution of the aquatic environment in NI (and RoI) is a significant issue - as exemplified by the situation at Lough Neagh. The Nutrient Action Programme Regulations (NI) 2019 set out specific measures regarding landspreading of digestate. Such measures are likely to be further strengthened with the imminent review of the Regulations.

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3. European sites potentially affected

Identification of European sites potentially affected

The approach to identifying potentially affected sites for a policy differs to that for a project. In the case of projects the precise location of development is known and more detailed information is generally available, or can be obtained about construction, operation and other stages of the development thus enabling full assessment.

By comparison, the Strategic Planning Policy Statement (SPPS) is high level in the delivery of planning functions with NI. The revised R&LC Energy Policy sets out a framework to maximise sustainable renewable and low carbon energy development, in appropriate locations within the built and natural environment which are unknown.

In screening European sites to determine if the Policy is likely to give rise to significant effects, several considerations were taken into account, including the spatial and strategic nature of the policy, the potential linkage to sites and also connectivity for functionally linked land relative to selection features, conservation objectives, and potential threats to site integrity from policy related development.

Given the broad definition of direct effects used in the habitats regulations, a zone of influence (ZoI) was not applied and all European sites within the geographic area relevant to the policy are considered potentially vulnerable to direct impacts which can lead to habitat degradation, loss of habitat or species mortality. Exception to a ZoI is DAERA marine mammal screening ranges which were applied and account for the Scottish and Wales sites which were identified and screened in.

Taking into account comments from the consultation body, the HRA approach for this particular policy change to the SPPS is erring on the side of caution and should in no way be judged as establishing a precedence for any future HRA to be undertaken in respect of any future policy changes to the SPPS Policies which may come forward.

A breakdown of the European sites is provided in Table 1 with further site details and a link to the conservation objectives provided separately as Annex A.

Table 1. European Sites Screened In

	Special Areas of Conservation (SAC)	Special Protected Area (SPA)	Ramsar sites
Northern Ireland (NI)	58	18 (inclusive of 2 proposed)	22 (inclusive of 2 proposed)
Republic of Ireland (RoI)	441	167 (inclusive of 1 Candidate)	45
Scotland	2	-	-
Wales	1	-	-

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Engagement and consultation with statutory bodies

The Statutory Nature Conservation Body (SNCB) for European sites in NI are represented by the Northern Ireland Environment Agency (NIEA) for terrestrial sites and the Department of Agriculture, Environment and Rural Affairs Department (DAERA) for marine sites who hold published conservation objectives for SACs and SPAs. NIEA was invited to comment on the draft HRA for the Policy and their representations have informed this assessment. The equivalent SNCB who holds the published conservation objective for SACs and SPAs in Ireland is represented by the National Parks and Wildlife Service (NPWS). Sites in RoI remain part of the Natura 2000 network and are protected and managed by RoI as an EU Member State in accordance with Article 6 of the Habitats Directive. The conservation objectives define the desired state for each of the species and habitat types for which the site was designated and have a role in:

- Conservation planning and management by guiding management to maintain habitats and species in, or restore them to, favourable condition;
- Assessing plans and projects in light of the site's conservation objectives; and
- Monitoring and reporting by providing the basis for assessing the condition of a feature, the factors that affect it and the actions required.

Details of the sites and a link to the conservation objectives that have been considered as part of this appropriate assessment are provided separately as Annex A.

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4. Screening Outcome

Outcome of Screening

Primarily the purpose of the modifications to the revised Policy are to ensure that regional strategic planning policy on renewable and low carbon energy development remains fit for purpose and up to date to inform decision making in relation to development proposals for this subject area. The modifications are also intended to inform the Local Development Plan (LDP) process and enable plan makers to bring forward appropriate local policy approaches, all within the framework of regional strategic planning policy and the wider contemporary context for energy and climate change, many of the changes in themselves are not drivers for effects. However, some policy provisions have been expanded on and new provisions introduced including on solar development, re-powering, co-location, advancing and emerging technology, micro-generation, AD development and BESS which are considered development enabling, additionally some provisions also include protective caveats which could be construed as mitigation.

Following screening, adopting a precautionary approach and considering that effects can manifest distant to proposals, and that different effects can be generated through the construction, operational and decommissioning phases, it is not possible to discount likely significant effects on the identified European sites and further assessment of the Policy is required.

In-combination effects are not considered at this stage as screening has concluded that the Policy 'alone' has the potential to generate likely significant effects.

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5. Appropriate Assessment

SPPS, mitigation and other regulatory controls

The provisions of the SPPS apply to the whole of NI. They must be taken into account in the preparation of Local Development Plans (LDP) and are material to all decisions on individual planning applications and appeals. This means that SPPS Subject Policies should not be read in isolation and relevant provisions of the SPPS apply to any proposal which may arise from the Policy.

Section 3.9 of the SPPS states:

> *'In formulating policies and plans and in determining planning applications planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.'*

With specific reference to European sites, paragraphs 6.175 - 6.178 of the SPPS' subject policy 'Natural Heritage - International Designations states:

> *'Development proposals are restricted where they are likely to impact upon the integrity of European or Ramsar sites as these are afforded the highest form of statutory protection. Such designations should be identified in the LDP.*
>
> *Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on:*
> - *a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance); or*
> - *a listed or proposed Ramsar site.*
>
> *Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the planning authority is required by law to carry out an appropriate assessment of the implications for the site in view of the site's conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the planning authority agree to the development and impose appropriate mitigation measures in the form of planning conditions.*
>
> *A development proposal which could adversely affect the integrity of a European or Ramsar site may only be permitted in exceptional circumstances as laid down in the relevant statutory provisions.'* [emphasis added].

The 'requirement in law' derives from Article 6(3) of the Habitats Directive as transposed in Regulation 43 of The Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended). The legal requirement is in turn reflected in the Policy as well as in policy NH1 of extant Planning Policy Statement 2: 'Natural Heritage', which is retained under the transitional arrangements of the SPPS and in policies contained in Local Development Plans:

> *"Any plan or project not directly connected with, or necessary to, the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of*

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the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only having ascertained that it will not adversely affect the integrity of the site concerned and if appropriate, after having obtained the opinion of the general public".

The fact that provisions as set out within the entirety of the SPPS are material to all decisions on individual planning applications and at local level, Policy NH1 (or equivalent) must also apply ensures that site selection features are a consideration at all levels when a proposal is being developed and reduces the risk for adverse effects on European sites to arise from the Policy.

Additionally, the Policy itself sets out protective caveats:

RLE 10 states:

'All renewable and low carbon energy development, any associated buildings, and supporting infrastructure will be permitted where the proposal will not result in an unacceptable adverse impact (alone or in combination with other developments) on the following planning considerations: ... biodiversity and geodiversity, nature conservation, archaeological or built heritage interests; local natural resources, such as air quality, water quality or quantity'.

RLE 24 States:

'For all development, applicants, operators, planning authorities and statutory consultees will be bound by environmental legislation requirements such as The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 as amended and The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.'

Caveats round particular types of development are also included where associated impacts are known. For example, relative to solar and wind farms:

RLE 17 States:

'*Significant weight will be given to the benefits of re-powering, expanding, and extending the life of existing solar and wind farms unless the impacts identified (including cumulative impacts) are unacceptable and cannot otherwise be made acceptable.'*

RLE 24 states:

'Active peatland, for example, is of particular importance for its biodiversity, water, and carbon capture storage qualities which will be important material considerations which should be given significant weight. Degraded peatlands can also have natural heritage and carbon capture and storage value and their protection and restoration potential can, therefore, also be a material consideration in the determination of planning applications on a case-by-case basis.'

Due to the geographical size of NI there is limited capacity in the upland areas for wind farm development and careful consideration of appropriate siting is required. The Policy Identifies the benefits of utilising the existing wind farms to maximise their potential and reduce the need for alternative sites which could have cumulative impacts. DAERA has developed a draft Northern Ireland Peatland Strategy 2021-2040 which will provide a framework for conserving intact semi-natural peatlands and restoring degraded semi-natural peatlands. In determining wind farm applications, the Planning Authority must consult with DAERA and Geological Survey of Northern Ireland (GSNI) who are best placed to provide expert advice and inform decision making relative to potential peatslide risks.

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In respect of battery energy storage systems (BESS):

RLE 23 states:

> *'In assessing any potential safety aspects of proposed developments, including energy storage proposals, it is important for decision-takers to consult with all relevant statutory and advisory bodies such as: the Northern Ireland Fire and Rescue Service; the Health and Safety Executive for Northern Ireland and the Northern Ireland Environment Agency (NIEA), or appropriate authorities.'*

At the same time, the Policy acknowledges there may be gaps in knowledge around emerging technologies:

RLE 22 advises that:

> *'There should be sufficient and robust evidence available on the emerging technology with any potential adverse impacts (above and/or below ground) understood and addressed in order for a proposal to be considered acceptable.'*

R&LC energy development is continually evolving, driven by advancing technologies and the need to transition to cleaner and more sustainable energy sources. Facilitating emerging technologies at appropriate locations is crucial in shaping the future of renewable and low carbon energy projects, to optimise the transition to a net zero carbon economy. The policy caveats ensure that potential adverse effects from emerging technology projects will be fully understood and addressed, supported by evidence to inform the planning authorities in decision-taking at local level when more information is available to undertake a detailed HRA.

In 'People over Wind' the court asserted that competent authorities should undertake '*a full and precise analysis of the measures capable of avoiding or reducing any significant effects'* at the appropriate assessment stage. This requirement will hold true in the assessment of new and emerging technologies, as the competent authority can only consent a proposal when it is certain, beyond reasonable scientific doubt, as to the absence of adverse effects on European sites.

In some circumstances, 'enabling' works either for the construction, operational or decommissioning phases may be understood to be 'permitted development' in accordance with the Planning (General Permitted Development) Order (NI) 2015 (GPDO).

However, it is a condition of any planning permission granted by a general development order, that development which is likely to have a significant effect on a European site (either alone or in combination with other plans/projects), shall not commence unless the developer has received a written determination from the council that it will not adversely affect the integrity of the site (Reg.3 GPDO, and Reg.55/56 Habitats Regulations). The condition is required to ensure that permitted development does not conflict with the requirements of the Habitats Directive.

Since 2015, the Shared Environmental Service (SES) has undertaken HRAs on behalf of all planning authorities in NI. SES is routinely consulted to advise whether a proposal can be eliminated, screened out or subject to appropriate assessment. SES prepares HRAs for adoption by the relevant planning authorities (councils).

Planning authorities can impose conditions to ensure that mitigation measures are implemented and adhered to, thus ensuring that consented developments operate in accordance with the assessment conclusions i.e. demonstrating absence of adverse effects.

At the same time there are other regulatory controls outside planning which apply to Policy developments. For example, AD Plants are subject to regulatory controls such as the Waste Management Licensing regime and landspread of digestate is subject to the requirements of the

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Nutrient Action Programme Regulations (NI) 2019. Furthermore, while some controls are industry specific, others such as, The Water (NI) Order 1999 apply at all times and at all stages of the development process including the construction, operation and decommissioning phases. In short, a person commits an offence if, whether knowingly or otherwise:

(a) he discharges or deposits any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata; or

(b) he discharges or deposits any matter so that it enters a waterway or water contained in any underground strata and tends either directly or in combination with similar acts (whether his own or those of another) to impede the proper flow of the water of the waterway or strata in a manner leading or likely to lead to pollution or a substantial aggravation of pollution due to other causes or of its consequences.

Any proposed potentially polluting discharge to the water environment requires a 'consent to discharge' under the relevant provisions of the order.

A planning authority in its capacity as the competent authority under the Regulations does not process or assess a planning application in a vacuum. It has statutory duty to consult expert consultees during the processing of the application where appropriate, not least NIEA in its capacity as the Statutory Nature Conservation Body (SNCB) for NI. Indeed, the requirement to consult the SNCB (DAERA/NIEA) when undertaking an appropriate assessment is explicitly set out in Regulation 43(3) and caselaw has established that its representation must be afforded significant weight.

Applying the Integrity test taking account of mitigation measures

Following assessment of the mitigation measures, no amendments to the Policy are required. In addition to other regulatory controls, the appropriate assessment takes account of regional, strategic, and local planning policy that will where relevant, apply to all R&LC energy development under the Policy. Furthermore, policy caveats as discussed above and the requirements for a detailed HRA at the appropriate level for individual projects at the development management stage will ensure no adverse effects on site integrity arising from the Policy which could undermine the conservation objectives of any European site.

Consideration of in combination effects

Article 6(3) of the Habitats Directive requires that in combination effects with other plans or projects are considered. The plans and projects identified in Table 2 were considered for effects that could combine or interact with the Policy.

It was found that policy caveats amplify the requirements for a robust HRA for projects at future stages of the planning system, including at development plan and development management stage, which will ensure that development causing an adverse effect on site integrity cannot be approved. Site specific details will be required at project level as this is the level that policies, objectives and land-use zonings are comprised, against which planning applications are determined. It will be a requirement that HRAs for individual developments also consider in combination effects before planning permission is granted. This ensures that any development which may arise from the Policy will have to demonstrate compliance with the 'in combination' provisions of the Habitats Regulations.

On the basis of the underlying reasoning supporting Principle 6 of Section C.8.1 of the HRA Handbook, implementation of the Policy provides the basis upon which adverse effects on the integrity of European sites, which might act in combination with other plans and projects - including those considered in Table 2, can be ruled out.

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Table 2. Plan or Project Identified for consideration of in combination effects

Plan or Project	Possible significant effects from plan or project	Assessment of Effects
Regional Development Strategy (RDS) 2035	This strategy aims to take account of the economic ambitions and needs of the Region, and put in place spatial planning, transport and housing priorities that will support and enable the aspirations of the Region to be met. It sets out measures on transport, energy and the location of jobs and houses to help address and adapt to climate change. Potential in-combination effects may arise where there is a requirement to provide for new infrastructure or where new development occurs, such effects may include: • Disturbance to habitats/species; • Species mortality; • Alterations to water quality and/or water movement; • Release of contaminated material (soils, runoff); and • Introduction or spread of invasive species.	There is no potential for significant in-combination effects with the Policy. The Policy will work alongside the RDS to facilitate R&LC energy development in the correct locations taking into account the needs of the Region. LDP spatial policies and land zonings should align with the RDS, which will ensure that development causing an adverse effect on site integrity cannot be approved.
Energy Strategy - Path to Net Zero Energy 2022	The Energy Strategy sets out a pathway for energy to 2030 that will mobilise the skills, technologies and behaviours needed to take us towards our vision of net zero carbon and affordable energy by 2050. It includes the promotion of energy efficiency, renewable electricity and renewable energy sources and replaced the Strategic Energy Framework which ran from 2010 to 2020. Potential in-combination effects may arise where there is a requirement to provide for new infrastructure or where new development occurs, such effects may include: • Disturbance to habitats/species; • Species mortality; • Alterations to water quality and/or water movement; • Release of contaminated material (soils, runoff); and • Introduction or spread of invasive species.	There is no potential for significant in combination effects with the Policy. The Policy references the Strategy directly and has been established in a way to support the targets within. The Policy will contribute to the objectives of this Strategy. The Policy will work alongside the Energy Strategy to facilitate R&LC energy development in the correct locations taking into account the needs of the Region. LDP spatial policies and land zonings should align with the Energy Strategy, which will ensure that development causing an adverse effect on site integrity cannot be approved.
Draft Offshore Renewable Energy Action Plan	To deliver on the Energy Strategy, the Department for the Economy (DfE) published its intention to develop an action plan to deliver 1GW of offshore wind in the Energy Strategy Action Plan 2022 (published 16 January 2022). Over the course of 2022, DfE led the development of the Draft Offshore Renewable Energy Action Plan (OREAP), taking the first steps towards delivering on the commitments established in the Energy Strategy. Potential in-combination effects may arise where there is a requirement to provide for new infrastructure or where new development occurs, such effects may include: • Disturbance to habitats/species; • Species mortality; • Alterations to water quality and/or water movement; • Release of contaminated material (soils, runoff); and • Introduction or spread of invasive species.	There is no potential for significant in combination effects with the Policy. The Policy will facilitate the siting of R&LC energy developments in appropriate locations located both onshore and the terrestrial elements of offshore developments. The Action Plan and the Policy will work alongside one another delivering on the commitments established in the Energy Strategy. LDP spatial policies and land zonings should align with the Action Plan, which will ensure that development causing an adverse effect on site integrity cannot be approved.
Draft NI Marine Plan (2018)	The Plans vision is "A healthy marine area which is managed sustainably for the economic, environmental and social prosperity of present and future generations".	There is no potential for significant in combination effects with the Policy. The Policy will facilitate R&LC energy developments in appropriate locations. However, an expansion in the R&LC

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	Potential in-combination effects may arise where there is a requirement to provide for new infrastructure or where new development occurs, such effects may include: • Disturbance to habitats/species; • Species mortality; • Alterations to water quality and/or water movement; • Release of contaminated material (soils, runoff); and • Introduction or spread of invasive species.	energy sector may adversely affect the marine environment. LDP spatial policies and land zonings should align with the Plan, which will ensure that development causing an adverse effect on site integrity cannot be approved.
Strategic Planning Policy Statement (SPPS) for NI 2015	The SPPS sets out the Departments regional planning policies for securing the orderly and consistent development of land in NI under the reformed two-tier planning system.	There is no potential for significant in combination effects with the Policy. The Policy sits within the SPPS.
Council Local Development Plans	Each council must prepare a development plan for their area which set out how an area should look in the future by deciding the type and scale of development and where buildings should be allowed. Potential in-combination effects may arise where there is a requirement to provide for new infrastructure or where new development occurs, such effects may include: • Disturbance to habitats/species; • Species mortality; • Alterations to water quality and/or water movement; • Release of contaminated material (soils, runoff); and • Introduction or spread of invasive species. In the absence of mitigation or appropriate consideration of potential adverse effects upon European Sites, adverse in-combination effects may occur and cannot be excluded.	There is no potential for significant in combination effects with the Policy. LDPs incorporate robust mitigation measures into the plan itself to avoid effects. Furthermore, measures required at project level prioritise the avoidance of effects and provide measures to minimise effects. In combination effects from projects which arise from the implementation of these plans will not be significant, especially when viewed in light of policy caveats in Plan Strategies which will require AA.

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5. Conclusion

The revised Policy has been subject to screening under the Habitats Regulations. It was considered that with the modifications to the Policy through the expansion of existing provisions and the introduction of new provisions a likely significant effect on European sites could not be ruled out and Appropriate Assessment was required.

Mitigation measures proportionate to the Policy as it sits within the entirety of the SPPS were considered and reviewed as part of an Appropriate Assessment. The Appropriate Assessment takes account of regional, strategic, and local planning policy that will where relevant, apply to all R&LC energy development under the Policy, including other regulatory controls. Furthermore, policy caveats and the requirements for a detailed HRA at the appropriate level for individual projects at the development management stage will ensure no adverse effects on site integrity arising from the Policy which could undermine the conservation objectives of any European site.

As individual proposals come forward under the Policy, they will be subject to the rigorous assessment requirements to establish whether they, either alone or in-combination with other plans or projects, are likely to have significant effects on any European site. Such proposals can only be permitted where the Planning Authority is certain as to the absence of adverse effects on any European site.

In conclusion, the Policy, taking account of mitigation measures will not undermine the conservation objectives of any European site. Rather the policy caveats amplify the requirements for a robust HRA for R&LC Energy Development coming forward at lower-level plan and project level to be assessed on site specific, case-by-case basis. In light of the mitigation, there is not likely to be an adverse effect on the site integrity of any European site arising from any aspect of the revised Policy.

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Glossary

Adverse effect on site integrity	An effect on the qualifying features of an international site which would undermine the achievement of the conservation objectives for that site and which would have a negative effect on the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitats, complex of habitats and / or the levels of populations of the species for which the site is or will be designated.
Competent Authority	For the purposes of the Habitats Regulations the expression 'competent authority' includes government departments, district councils and statutory undertakers, and any trustees, commissioners, board or other persons who, as a public body and not for their own profit, act under any statutory provision for the improvement of any place or the production or supply of any commodity or service.
Cumulative Impact	A number of developments in a locality or a continuous activity over time that together may have an increased impact on the environment.
European sites	Refers to SAC and SPA sites already designated at the time of EU exit as well as any new SAC and SPA sites brought forward under the appropriate regulations after the end of the transition period.
Habitats Regulations	The Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended).
In combination effect	Refers to effects that may be likely significant effects when considered in combination with effects from other plans or projects.
Likely significant effect	An effect that cannot be ruled out on the basis of objective information. Likely in this context means there is a risk or possibility that an effect will be significant. An effect is significant if it would undermine an international site's conservation objectives.
Mitigation measures	Measures to avoid, cancel or reduce the effects of a plan or project on an international site.
National Site Network	Sites designated to protect special habitats or species of international importance, as listed in The Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended), to ensure 'the conservation of a wide range of rare, threatened or endemic animal and plant species.'
Natura 2000 (N2K)	The European network of special areas of conservation and special protection areas under the Wild Birds Directive, provided for by Article 3(1) of the Habitats Directive. Sites in Ireland are part of the Natura 2000 network.
Ramsar site	Site listed under the Convention on Wetlands of International Importance adopted at Ramsar, Iran in 1971. As a matter of policy these sites are treated in the same way as European sites.
Special Areas of Conservation (SACs)	Refers to sites already designated at the time of EU exit and new sites designated under the amended Regulations.
Special Protection Area (SPA)	Refers to sites already classified at the time of EU exit and new sites classified under the amended Regulations.
The Directives	Refers to Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version) as applied to the UK prior to EU Exit. These Directives are referred to as the Habitats Directive and the Birds Directive respectively and together are called 'The Directives' for the purposes of this report.

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Appendix 1: References & Evidence Sources

In the absence of specific NI guidance on carrying out Habitats Regulations Assessment for plans and programmes reference has been made to other sources of guidance and relevant documents including those listed below.

Assessment of plans and projects significantly affecting Natura 2000 sites, Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (2001), European Commission Environment DG.

DAERA (Online) Conservation Objectives (Available at: *Special Areas of Conservation | Department of Agriculture, Environment and Rural Affairs* [Accessed October 2025]).

DAERA (Online) Conservation Objectives (Available at: *Special Protection Areas | Department of Agriculture, Environment and Rural Affairs* [Accessed October 2025]).

DAERA (Online) Conservation Objectives (Available at: Marine Conservation and Protection | Department of Agriculture, Environment and Rural Affairs [Accessed October 2025]).

DAERA (Online) Northern Ireland Marine Map Viewer (Available at: Marine Mapviewer | Department of Agriculture, Environment and Rural Affairs [Accessed October 2025]).

DAERA (Online) Natural Environment Map Viewer Available at: Natural Environment Map Viewer | Department of Agriculture, Environment and Rural Affairs [Accessed October 2025]).

DAERA (2020). Guidance explaining The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. December 2020 (version 1).

Joint Nature Conservation Committee (JNCC) (Online, Dates vary) Information Sheet on Ramsar Wetlands (RIS) (Available at Ramsar Sites | JNCC - Adviser to Government on Nature Conservation [Accessed October 2025]).

Spatial NI (2017) (Online) Data Layers for Local Government boundaries (Available at https://www.spatialni.gov.uk/ [Accessed October 2025]).

The Strategic Planning Policy Statement for Northern Ireland' - Planning for Sustainable Development (SPPS), September 2015.

Tyldesley, D., and Chapman, C., (2013) *The Habitats Regulations Assessment Handbook*, October 2025 edition UK: DTA Publications Ltd.

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