



London Legacy Development Corporation  
LLDC Local Plan Sustainability Appraisal and  
Habitats Regulations Assessment  
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DRAFT Scoping Report December 2012



**Hyder Consulting (UK) Limited**

2212959  
The Mill  
Brimscombe Port  
Stroud  
Glos GL5 2QG  
United Kingdom  
Tel: +44 (0)1453 423 100  
Fax: +44 (0)1453 887 979  
www.hyderconsulting.com



# London Legacy Development Corporation

## LLDC Local Plan Sustainability Appraisal and Habitats Regulations Assessment

### Habitats Regulations Assessment

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#### Scoping Report

<b>Author</b>	Marie Evans	
<b>Checker</b>	Samantha Walters	
<b>Approver</b>	Samantha Walters	
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# 1 INTRODUCTION

- 1.1.1 The London Legacy Development Corporation (LLDC) became a planning authority on 1<sup>st</sup> October 2012, with a full range of planning powers to continue the work of the Olympic Park Legacy Company; the development control functions previously undertaken by the Olympic Delivery Authority (ODA); and the planning functions of the London Thames Gateway Development Corporation (LTGDC). The LLDC is responsible for the Queen Elizabeth Olympic Park and areas beyond, including the four London boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest. As a planning authority, the LLDC is to prepare a Local Plan (hereafter referred to as the LLDC Local Plan).
- 1.1.2 Hyder Consulting have been appointed by the LLDC to undertake a Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) of the LLDC Local Plan.
- 1.1.3 The LLDC Local Plan will play an important role in delivering social inclusion and convergence in one of the most deprived areas of the UK, transforming the Queen Elizabeth Olympic Park and its environs into sustainable and thriving neighbourhoods.
- 1.1.4 This Scoping Report has been produced as part of the HRA process. This report establishes the methodological approach for the completion of the HRA for the LLDC Local Plan.

## 2 HABITATS REGULATIONS ASSESSMENT METHODOLOGY

### 2.1 Requirements for HRA

- 2.1.1 Under Article 6 of the Habitats Directive, an assessment is required where a plan or project may give rise to significant effects upon one or more Natura 2000 site (also known as 'European Sites'). Natura 2000 is a network of areas designated to conserve natural habitats and species that are rare, endangered, vulnerable or endemic within the European Community. This includes Special Areas of Conservation (SAC), designated under the Habitats Directive for their habitats and/or species of European importance, and Special Protection Areas (SPA), classified under Directive 2009/147/EC on the Conservation of Wild Birds (the codified version of Directive 79/409/EEC as amended) for rare, vulnerable and regularly occurring migratory bird species and internationally important wetlands.
- 2.1.2 In addition, it is a matter of law that candidate SACs (cSACs) and Sites of Community Importance (SCI) are considered in this process. Furthermore, it is Government policy that sites designated under the 1971 Ramsar Convention for their internationally important wetlands (Ramsar sites) and potential SPAs (pSPAs) are also considered.
- 2.1.3 Paragraph 3, Article 6 of the Habitats Directive states that:

*'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 or 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 the implications for the site and subject to paragraph 4 (see below), the competent national authority 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'.*

2.1.4 Paragraph 4, Article 6 of the Habitats Directive states that:

*'If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.'*

2.1.5 The requirements of the Habitats Directive are transposed into UK law by means of the Conservation of Habitats and Species Regulations 2010 (as amended)<sup>1</sup>.

2.1.6 Regulation 102(1) of this legislation states that:

*'Where a land use plan –*

- a) Is likely to have a significant effect on a European site in Great Britain 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,*

*The plan-making authority for that plan shall, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.'*

2.1.7 In 2012, these Regulations were amended to transpose more clearly certain aspects of the Habitats Directive. No fundamental changes to the Regulations were made.

2.1.8 Finally, paragraph 166 of the National Planning Policy Framework (NPPF)<sup>2</sup> states that:

*'Local Plans may require a variety of other environmental assessments, including under the Habitats Regulations where there is a likely significant effect on a European wildlife site (which may not necessarily be within the same local authority area).*

## 2.2 Methodology

### Legislation and Guidance

2.2.1 The HRA process will draw upon the following legislation and guidance:

- EC Directive 92/43/EEC (the Habitats Directive);
- The Conservation of Habitats and Species Regulations 2010 (as amended);
- European Commission (2000). Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC; European Commission 2000;
- European Commission (2001). 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;

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<sup>1</sup> SI 2010/490

<sup>2</sup> National Planning Policy Framework, Department for Communities and Local Government, March 2012

- 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.

## The HRA Process

- 2.2.2 **Stage 1: Screening** is the process which initially identifies the likely impacts upon a European site of a plan or project, either alone or in combination with other plans or projects, and considers whether these impacts may be significant. 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<sup>3</sup> to the effect that unless the likelihood of a significant effect can be ruled out on the basis of objective information, then an Appropriate Assessment must be made.
- 2.2.3 **Stage 2: Appropriate Assessment** is the detailed consideration of the impact on the integrity of the European site of the plan project, either alone or in combination with other plans or projects, with respect to the site's conservation objectives and its structure and function. This is to determine whether or not there will be adverse effects on the integrity of the site. This stage also includes the development of mitigation measures to avoid or reduce any possible impacts.
- 2.2.4 **Stage 3: Assessment of alternative solutions** is the process which examines alternative ways of achieving the objectives of the plan that would avoid adverse impacts on the integrity of the European site, should avoidance or mitigation measures be unable to cancel out adverse effects.
- 2.2.5 **Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain.** At Stage 4 an assessment is made with regard to whether or not the plan or development is necessary for imperative reasons of overriding public interest (IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the Natura 2000 network.
- 2.2.6 The overall aim of HRA is to determine, in view of a site's conservation objectives and qualifying features, whether a plan (or project), either in isolation or in combination with other plans or projects, will have a significant adverse effect on a European Site. The HRA process will therefore be applied to all aspects of the LLDC Local Plan that could have potential impacts upon a European site.

## Identification of the Zone of Influence

- 2.2.7 The scope of the European sites to be considered against the LLDC Local Plan has been determined through the consideration of the potential Zone of Influence of the Plan (i.e. by looking at those European sites for which there is a potential effect pathway). Thus the European sites scoped into the HRA will be those which lie within the LLDC Local Plan boundary together with those that are shown to be linked to the area covered by the LLDC Local Plan by a known pathway. CLG guidance<sup>4</sup> states that the HRA should be: *proportionate to the geographical scope of the option [plan] and the nature and extent of any effects identified.*

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<sup>3</sup> Waddenzee case C-127/02

<sup>4</sup> Department for Communities and Local Government (2006) Planning for the Protection of European Sites. Guidance for Regional Spatial Strategies and Local Development Documents.

## In-combination Plans or Projects

2.2.8 The HRA process will also give consideration to other Local Plans or development projects which could act in-combination with the LLDC Local Plan to result in any likely significant effects on the European sites identified. Whilst the plans and development projects to be considered are not known at this stage, they are likely to include (as a minimum) existing Local Plans for surrounding Boroughs of London, and major developments within the LLDC boundary. Potential Local Plans and documents to be considered as part of the HRA include:

- Hackney Core Strategy Development Plan Document (December 2010);
- Newham 2027: Planning Newham the Core Strategy (adopted January 2012 interim version);
- Core Strategy 2025 Development Plan Document for Tower Hamlets (adopted September 2010);
- Waltham Forest Local Plan Core Strategy (adopted March 2012);
- Area Action Plans (Hackney Wick and Fish Island);
- The London Plan;
- Olympic Legacy Supplementary Planning Guidance (2012);
- Olympic, Paralympic and Legacy Transportation Planning Applications 2007 Appropriate Assessment Screening Report; and
- The Legacy Communities Scheme.

## Consultation

2.2.9 Throughout the HRA process, consultation will be carried out with Natural England and other relevant stakeholders. Early liaison and consultation is an integral part of the HRA process and we will engage Natural England and other stakeholders over the production of this HRA Scoping Report. Liaison will also be undertaken between the HRA and SA teams, together with policy makers, as the iterative nature of the HRA process means that the results of the Scoping (and subsequent Screening exercise) should feed into the policy formation.

# 3 IDENTIFICATION OF EUROPEAN SITES

## 3.1 Introduction

3.1.1 Table 1 lists the European (Natura 2000) sites considered to have the potential to be affected by the LLDC Local Plan and will therefore be considered in the HRA:

**Table 1 European Sites that could be affected by the LLDC Local Plan**

Name of Site	Identification Number	Status
Lee Valley Special Protection Area	UK9012111	SPA
Lee Valley Special Protection Area	UK11034	Ramsar
Epping Forest Special Area of Conservation	UK0012720	SAC

3.1.2 Further details regarding their characteristics, including their conservation objectives, are provided below.

## 3.2 Lee Valley SPA and Ramsar

### Site Characteristics

3.2.1 The Lee Valley SPA and Ramsar is located to the north-east of London, where a series of wetlands and reservoirs occupy about 20km of the valley. The site comprises embanked water supply reservoirs, sewage treatment lagoons, and former gravel pits that support a range of man-made, semi-natural, and valley bottom habitats. These wetland habitats support wintering wildfowl, in particular gadwall (*Anas strepera*) and shoveler (*A. clypeata*), which occur in numbers of European importance. Areas of reedbed within the site also support significant numbers of wintering bittern (*Botaurus stellaris*).

3.2.2 The Lee Valley SPA/Ramsar consists of four Sites of Special Scientific Interest (SSSIs) including: Turnford and Cheshunt Pits SSSI, Rye Meads SSSI, Amwell Quarry SSSI, and Walthamstow Reservoirs SSSI. Of these sites, Walthamstow Reservoirs SSSI lies within the London Boroughs area, Turnford and Cheshunt Pits SSSI lies within the Hertfordshire/Essex border, and the remainder lie within Hertfordshire. Walthamstow Reservoirs SSSI is the closest component of the Lee Valley SPA/Ramsar site, at a distance of 3.4km north-west from the LLDC Local Plan boundary.

### Qualifying Features

#### Lee Valley SPA

3.2.3 The Natura 2000 Standard Data Form, for the Lee Valley SPA was compiled when the site was designated in 2000. In 2001, the JNCC undertook a Review of UK SPAs, which resulted in the updating of many SPA citations, including the Lee Valley SPA.

3.2.4 The changes as a result of the SPA review are likely to be the subject of formal changes to the SPA designation in due course; however, at present the legally protected species remain those in the original citation. Therefore, for the purposes of this assessment, the species listed as qualifying features on the original SPA data form will be used. This means that the following species will be included in the assessment:

3.2.5 The site qualifies under Article 4.1 of the Directive (79/409/EEC) by regularly supporting overwinter populations of European importance of the following species:

- Bittern, 6% of the wintering population in Great Britain (5 year peak mean, 1992/3-1996/7)

3.2.6 This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species overwinter:

- Shoveler (North-western/Central Europe), 1% of the population (5 year peak mean, 1993/4-1997/8)
- Gadwall (North-western Europe), 1.5% of the population (5 year peak mean, 1993/4-1997/8)

## Lee Valley Ramsar

3.2.7 With respect to the Ramsar designation, the Lee Valley is designated as it qualifies under Criteria 2 and 6, supporting species of international importance.

3.2.8 **Ramsar Criterion 2** (supporting vulnerable, endangered, or critically endangered species or threatened ecological communities):

- The site supports the nationally scarce plant species whorled water-milfoil (*Myriophyllum verticillatum*) and the rare or vulnerable invertebrate *Micronecta minutissima* (a water-boatman).

3.2.9 **Ramsar Criterion 6** (regularly supporting 1% of the individuals in a population of one species or subspecies of waterbird):

Species with peak counts in spring/autumn:

- Shoveler (NW & C Europe) 287 individuals, representing an average of 1.9% of the GB population (5 year peak mean 1998/9-2002/3).

Species with peak counts in winter:

- Gadwall (NW Europe) 445 individuals, representing an average of 2.6% of the GB population (5 year peak mean 1998/9-2002/3).

## Conservation Objectives for the Lee Valley SPA

3.2.10 The Conservation Objectives for the Lee Valley SPA, as identified by Natural England<sup>5</sup>, are listed below.

3.2.11 Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features (see below), ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.

3.2.12 Subject to natural change, to maintain or restore:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The populations of the qualifying features;
- The distribution of the qualifying features within the site.

3.2.13 Qualifying Features:

- A021 *Botaurus stellaris*; Bittern (Non-breeding)
- A051 *Anas strepera*; Gadwall (Non-breeding)

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<sup>5</sup> Natural England, European Site Conservation Objectives for Lee Valley Special Protection Area Site Code: UK9012111

- A056 *Anas clypeata*; Shoveler (Non-breeding)

## Conservation Status and Vulnerability of the Lee Valley SPA/Ramsar

- 3.2.14 During the most recent condition assessment undertaken by Natural England in November 2012, Amwell Quarry SSSI, Rye Meads SSSI, and Turnford and Cheshunt Pits SSSI were all considered to have 100% of their area in favourable condition (i.e. meeting their conservation objectives but with scope for enhancements). Walthamstow Reservoirs SSSI was reported to have 100% of its area in an unfavourable but recovering condition.
- 3.2.15 Lee Valley SPA is reported to be vulnerable to two main influences: discharge of waste and human recreation. Eutrophication exists in areas of the SPA as a result of a number of influences, including: sewage outfalls, surface runoff, and ground water pollution. Human disturbance of the European site through recreation causes disturbance of wintering bird populations, although zonation of the site has regulated this disturbance. To a lesser extent, there is also pressure from public demand for water supply during periods of drought.

## 3.3 Epping Forest SAC

- 3.3.1 Epping Forest SAC covers an area of 1,605ha within Essex and parts of east London, with 70% of the site comprising broadleaved deciduous woodland. Epping Forest is one of only a few remaining large-scale examples of ancient wood-pasture in lowland Britain. Its semi-natural woodland is particularly extensive, forming one of the largest coherent blocks in the country. Most of the woodland is characterised over-mature pollards. Its long history of pollarding, and resultant large number of veteran trees, has ensured that the site is also rich in fungi and dead-wood invertebrates, particularly the stag beetle (*Lucanus cervus*), for which the site is one of its major strongholds. Epping Forest also includes a variety of unimproved acid grasslands, which have become uncommon elsewhere in Essex and the London area.
- 3.3.2 Epping Forest is underpinned by one SSSI, Epping Forest SSSI. The SAC is located 2.9km from the LLDC Local Plan boundary.

### Qualifying Features of Epping Forest SAC

- 3.3.3 Annex I habitats that are a primary reason for selection of this site:
- 9120 Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer (*Quercion robori-petraeae* or *Ilici-Fagenion*)
- 3.3.4 Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:
- 4010 Northern Atlantic wet heaths with *Erica tetralix*
  - 4030 European dry heaths
- 3.3.5 Annex II species that are a primary reason for selection of this site:
- 1083 Stag beetle

## Conservation Objectives for Epping Forest SAC

3.3.6 The Conservation Objectives for the Epping Forest SAC, as specified by Natural England<sup>6</sup>, are listed below.

3.3.7 Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.

3.3.8 Subject to natural change, to maintain or restore:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- The populations of qualifying species;
- The distribution of qualifying species within the site.

3.3.9 Qualifying Features:

- H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath
- H4030. European dry heaths
- H9120. Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer (*Quercion robori-petraeae* or *Ilici-Fagenion*); Beech forests on acid soils
- S1083. *Lucanus cervus*; Stag beetle

## Conservation Status and Vulnerability of Epping Forest SAC

3.3.10 Following the most recent condition assessment undertaken by Natural England in November 2012, 83.66% of Epping Forest SSSI is considered to be in favourable (or unfavourable but recovering) condition, with 14.51% considered to be unfavourable but with no change and 1.83% in unfavourable condition and declining. The primary reason for the unfavourable and declining condition at the site is believed to be air pollution, in particular the effects of excessive levels of oxides of nitrogen and other pollutants, and the related deposition of acidity and of nitrogen.

3.3.11 Absence of historic pollarding practices and the presence of atmospheric pollutants from the surrounding urban area are considered to be responsible for the decline in lichen and moss populations at the site. Introduced management regimes are helping to reverse the decline. Epping Forest SAC is also subject to a comprehensive management plan, which is designed to

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<sup>6</sup> Natural England, European Site Conservation Objectives for Epping Forest Special Area of Conservation Site code: UK0012720

improve the habitats for the Annex II species for which the site is designated. Measures include leaving dead wood and monitoring water tables.

## 4 IDENTIFICATION OF POTENTIAL IMPACTS OF THE PLAN

4.1.1 No direct landtake from the European sites will be proposed as part of the LLDC Local Plan. All of the European sites lie outside of the LLDC Local Plan boundary. Potential effects are therefore only likely where potential effect pathways exist between activities or individuals within the LLDC Local Plan and the European sites. The following potential effects on the qualifying interest features of the European sites have therefore been identified as part of this scoping process and will be considered for the HRA:

- Recreational pressure;
- Hydrology;
- Air quality; and
- Climate change.

### 4.2 Recreational Pressure

4.2.1 The qualifying habitats and species of both the Lee Valley SPA/Ramsar and Epping Forest SAC are both sensitive to increased recreational pressure (for example, through: trampling of sensitive vegetation, and noise and visual disturbance of qualifying interest species) although neither site is particularly threatened by this at present. Both European sites are large, attractive areas for recreation, and are known to draw in residents from the London Boroughs, Essex, Hertfordshire, and beyond. The sites are located 3.4km and 2.9km (respectively) from the LLDC Local Plan area.

4.2.2 Increased residential developments within the LLDC Local Plan area, as part of housing policies, and in combination with other Local Plans and large housing developments in the vicinity of the European sites, have the potential to result in increased recreational pressure on the European sites. Therefore, recreational pressure will be considered further in the HRA process.

### 4.3 Hydrology

4.3.1 The water supply for the LLDC Local Plan area is likely to derive from the same source as the majority of London, namely the River Thames and the River Lee, with some water abstraction also deriving from the Lee Valley Reservoirs (part of the Lee Valley SPA/Ramsar). Increased residential development and/or for industrial/commercial use within the LLDC Local Plan is likely to increase demand for water in the London area, and therefore, could potentially affect the Lee Valley SPA/Ramsar. Epping Forest also contains wetland areas which could also be affected by increase demands on water supply.

4.3.2 Increased residential development and/or industrial/commercial development is also likely to increase demands on drainage and sewage, which although likely to be subject to regulatory controls, could also affect European sites if unmitigated. Therefore, impacts on the hydrology of the European sites as a result of the LLDC Local Plan will also be investigated.

## 4.4 Air quality

- 4.4.1 Air pollution is of particular concern to the habitats of Epping Forest SAC, and is known to have contributed to a decrease in the number of lichen species present within the site. As part of the HRA process, data available on critical loads for the habitats and species present at both European sites together with existing levels for the sites will be reviewed, although it is considered likely that these have already been exceeded. Major air pollutants are Oxides of Nitrogen and Nitrogen deposition, both of which are derived from combustion (predominantly vehicle emissions). Both Epping Forest SAC and the Lee Valley SPA/Ramsar have major roads located within close proximity to their habitats.
- 4.4.2 There is potential for vehicles associated with the LLDC Local Plan area to use the major road network that passes these European sites. Therefore, an increase in housing and/or commercial developments, as part of the LLDC Local Plan policies, has the potential to affect the European sites.

## 4.5 Climate Change

- 4.5.1 Changes in climate are predicted for the future, with warmer, wetter winters and hotter, drier summers, together with more frequent and more extreme weather events, such as heat waves. Major cities such as London are also particularly susceptible to 'heat island effects', where solar energy is stored within the urban buildings and infrastructure, making it several degrees warmer in cities than in rural areas. Both Epping Forest and Lee Valley SPA/Ramsar are likely to be subject to climate change, which could result in reduced water levels and increased stress on vegetation and species. Climate change could also result in a change in the distribution of species, including potential colonisation of new species, including invasive/pest species.
- 4.5.2 Climate change effects could be exacerbated by further development of urban areas and reductions in green space, together with increased vehicle movements; therefore, climate change will be considered as part of the HRA process for the LLDC Local Plan.

## 5 NEXT STEPS

- 5.1.1 Following the agreement of the Scoping Report with Natural England, the next steps within the HRA process will be as follows.

### 5.2 Stage 1A: HRA Screening Report

- 5.2.1 A Screening Report will be produced as per European Commission guidance<sup>7</sup> to include the following process:
1. Determine whether the plan (or policy) is directly connected with or necessary for the management of Natura 2000 sites.
  2. Describe the plan and describe and characterise any other plans or projects which, in combination, have the potential for having significant effects on Natura 2000 sites.
  3. Identify the potential effects on Natura 2000 sites.

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<sup>7</sup> European Commission (2001). 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](#)

4. Assess the likely significance of any effects on Natura 2000 sites.

5.2.2 A draft Screening Report will be issued to Natural England for consultation. The final report will be issued once comments have been received and amendments made (should they be required).

## 5.3 Stage 2: Appropriate Assessment

5.3.1 Should the screening stage of a policy-level HRA suggest that significant effects on European Sites are likely, or are not known, the Appropriate Assessment stage will need to be completed. A Statement to Inform Appropriate Assessment (SIAA) would therefore be prepared in order to help the competent authority (LLDC) to decide whether or not the policies significantly affect the integrity of the European sites.

5.3.2 The SIAA is essentially an impact assessment targeted specifically at the qualifying features of the European sites that could be affected by the proposals. Where potential conflicts between policy and ecology are identified, recommendations would be made to either modify the policy or appropriate and achievable mitigation measures would be produced to ensure that the policy would not lead to significant impacts on any qualifying features of the European sites.

5.3.3 However, if adverse effects on site integrity remain, the process must proceed to Stage 3 (consideration of alternatives) and Stage 4 (Imperative Reasons of Overriding Public Interest (IROPI) and compensatory measures).

## 5.4 Stage 3: Review HRA in light of any significant changes to Local Plan

5.4.1 Following consultation on the draft LLDC Local Plan and the HRA Report (Screening and, if required, the SIAA), the HRA will be reviewed and updated as required to reflect any significant changes.

5.4.2 The process will be repeated following the Examination in Public.