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# Habitats, EIA and SEA Update

**1 October 2019**

**Laura Fuller**

# Habitats Update - Habitats Regulations 2017

## ***Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 (SI 2018/1307)***

- Came into force:
  - 28 December 2018
- Amendments to Regulations 63 and 64 of Habitats Regulations
- Amendments to other legislation



# Habitats Update - Policy and Guidance

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January 2019

- EC Habitats Guidance

February 2019

- NPPF Amendment to Para 177

July 2019

- NPPG Update to Guidance on Use of HRA
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# Habitats Regulation Cases

## Cases applying People over Wind:

- *R (Wingfield) v Canterbury City Council [2019] EWHC 1974 (Admin) (24 July 2019)*
- *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government (24 July 2019)*



# Habitats Regulation Cases II

## Cases applying People over Wind:

- *Canterbury City Council v Secretary of State for Housing, Communities and Local Government v Hollamby Estates (2005) Limited and Crondall Parish Council v Secretary of State for Housing, Communities and Local Government, Crondall Developments Limited v Hart District Council [2019] EWHC 1211 (Admin) (14 May 2019)*



# Habitat and EIA Cases II

## ***R. (on the application of Preston) v Cumbria CC (31 May 2019)***

- When is a screening opinion necessary?
- Is an AA necessary where effects would be regulated by Environment Agency



# Habitat and EIA Cases

## ***Holohan and others v An Bord Pleanala [2018] (Case C-461/17) EU:C:2018:883 (November 2018)***

- Scope of an EIA
- Treatment of alternatives
- Rejecting further Information
- Extent and scope of information for AA
- Reasons for decision



# Habitats – Biodiversity Net Gain

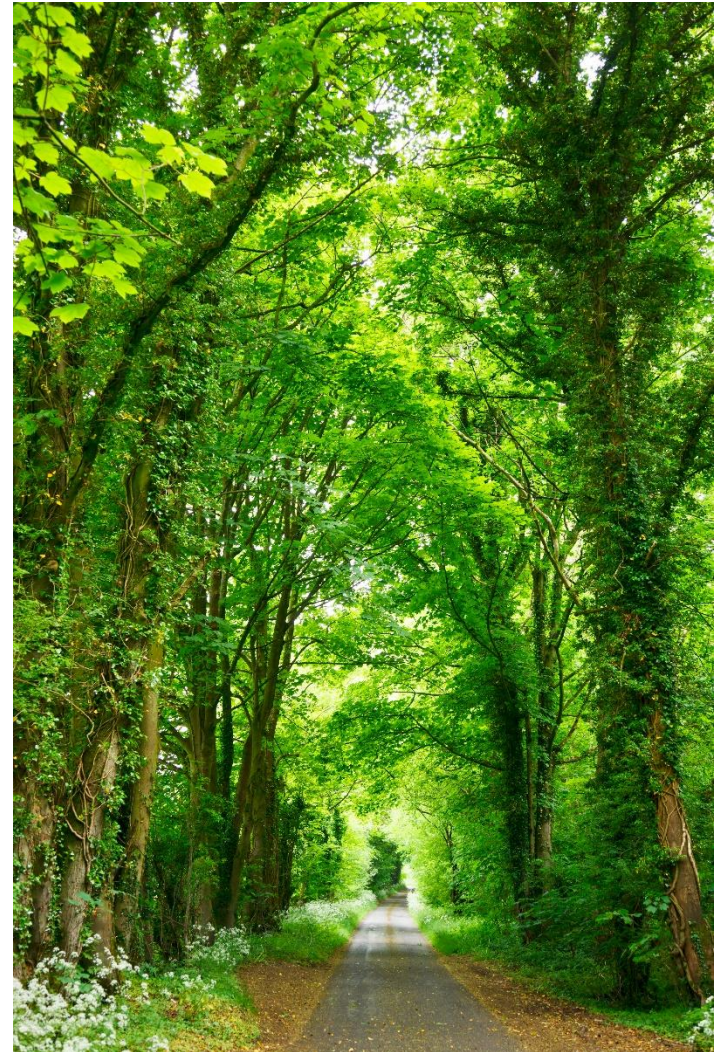
- **What has been proposed?**
  - July 2019 Guidance
  - Natural England Updated Biodiversity Metric
- **Look out for: *Environment (Principles and Governance) Bill – October 2019***





## ***Terre Wallonne ASBL v Region Wallonne C-321/18 (12 June 2019)***

- Does exemption from Appropriate Assessment = exemption from SEA?



# SEA Update II

## ***R. (on the application of Berks Bucks and Oxon Wildlife Trust) v Secretary of State for Transport (10 July 2019)***

- What amounts to a “decision” triggering an SEA?





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