
EIA and Habitats in the application process

When to screen?

Laura Fuller and Lucy Metcalfe

EIA Directive 2011 and EIA Regulations 2017

EIA Assessment

Screening

Process to decide if a project is likely to have a significant effect on the environment

EIA Assessment

In-depth analysis of the impact of the project on the environment (scoping opinion to confirm extent of analysis)

Decision

The project can be approved by LPA providing an EIA has been carried out

EIA - the screening process

Is the development listed in Schedule 1 or Schedule 2 of the EIA Regulations 2017?



Sch1

Schedule 1 – EIA **always** required



Sch 2

Schedule 2 – EIA required if development exceeds Schedule 2 thresholds or is in a sensitive area and is likely to have significant effects on the environment



No

EIA could still be required if there are likely to be significant effects on the environment

Habitats Directive 1992 and Habitats Regulation 2017

Habitats Regulations Assessment

Screening

Process to decide if a project is likely to have a significant effect on the integrity of a European site

If a LSE cannot be ruled out

Appropriate Assessment

Full and in-depth analysis of the impact of the project on the protected site

If there is still a LSE and no alternative solutions

IROPI Test

The project can only be approved if there are imperative reasons of overriding public interest and compensatory measures have been taken

Habitats screening

People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17) (April 2018)



- **“...a full and precise analysis of the measures capable of avoiding or reducing any significant effects on the site concerned must be carried out not at the screening stage, but specifically at the stage of appropriate assessment”**
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Habitats screening

What is a mitigation measure?

PINS note (May 2018)

Distinction drawn between:

- measures which are “**integral to a plan**” which can be taken into account at the screening stage
 - “**integrated or additional avoidance or reduction measures**” which cannot be considered at the screening stage
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Habitats Regulations Assessment

Grace v An Bord Pleanála (C-164/17) (July 2018)



Distinction between different types of mitigation measure:

- **Protective measures** to avoid or reduce negative effects (can be considered in an AA but not in screening)
 - **Measures to compensate** for unavoidable negative effects (cannot be assessed as part of screening or AA)
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Habitats - the screening process

Is the project likely to have a **significant effect** on the integrity of a European site?

Yes

Appropriate
Assessment
required

No

Does the 'no significant effect' conclusion rely on **mitigation measures** which have been introduced to avoid a LSE?

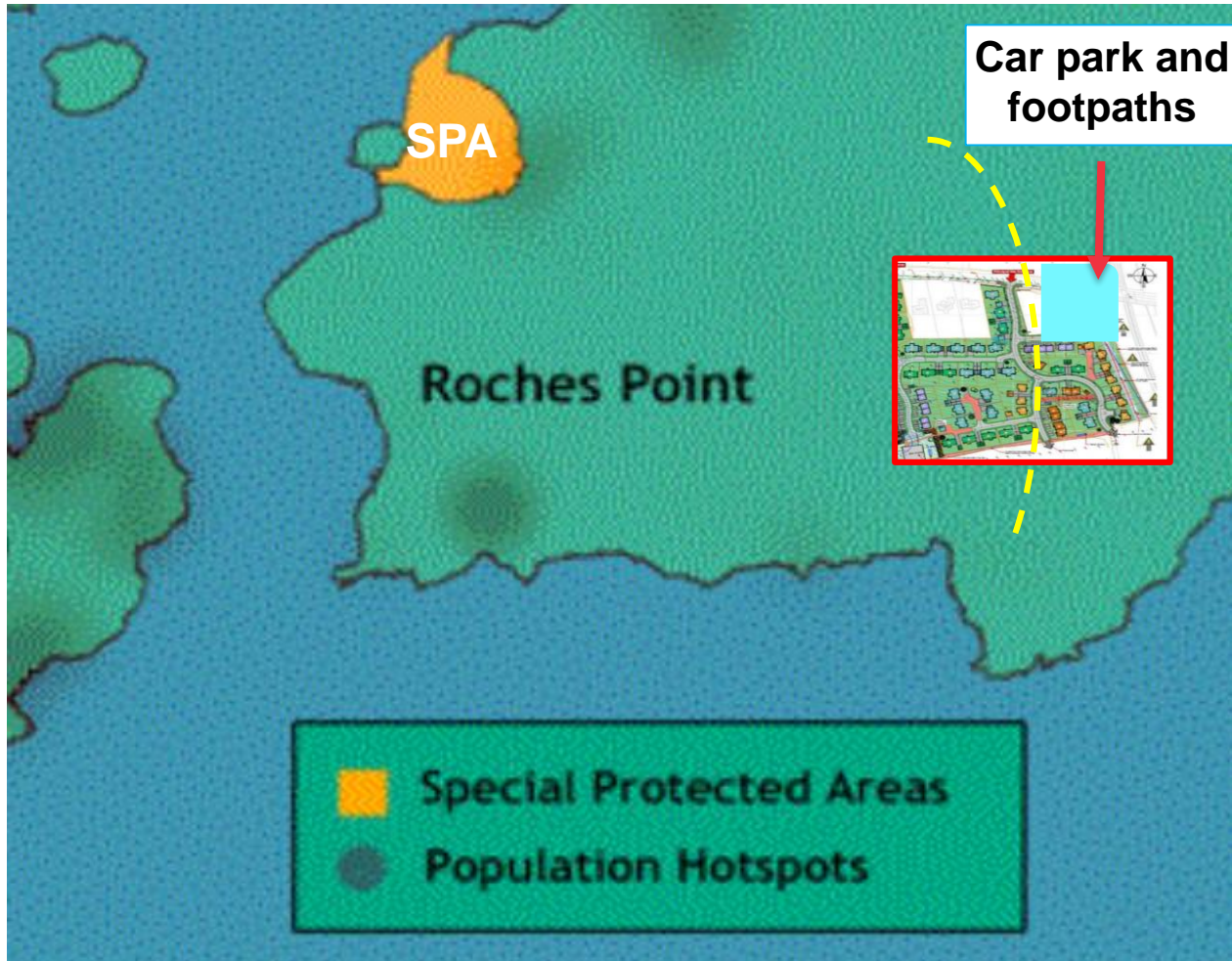
No

No further
assessment needed

Yes

Appropriate
Assessment
required

Scenario 1 – small housing development



Proposed mitigation: location of car park/footpaths beyond yellow line

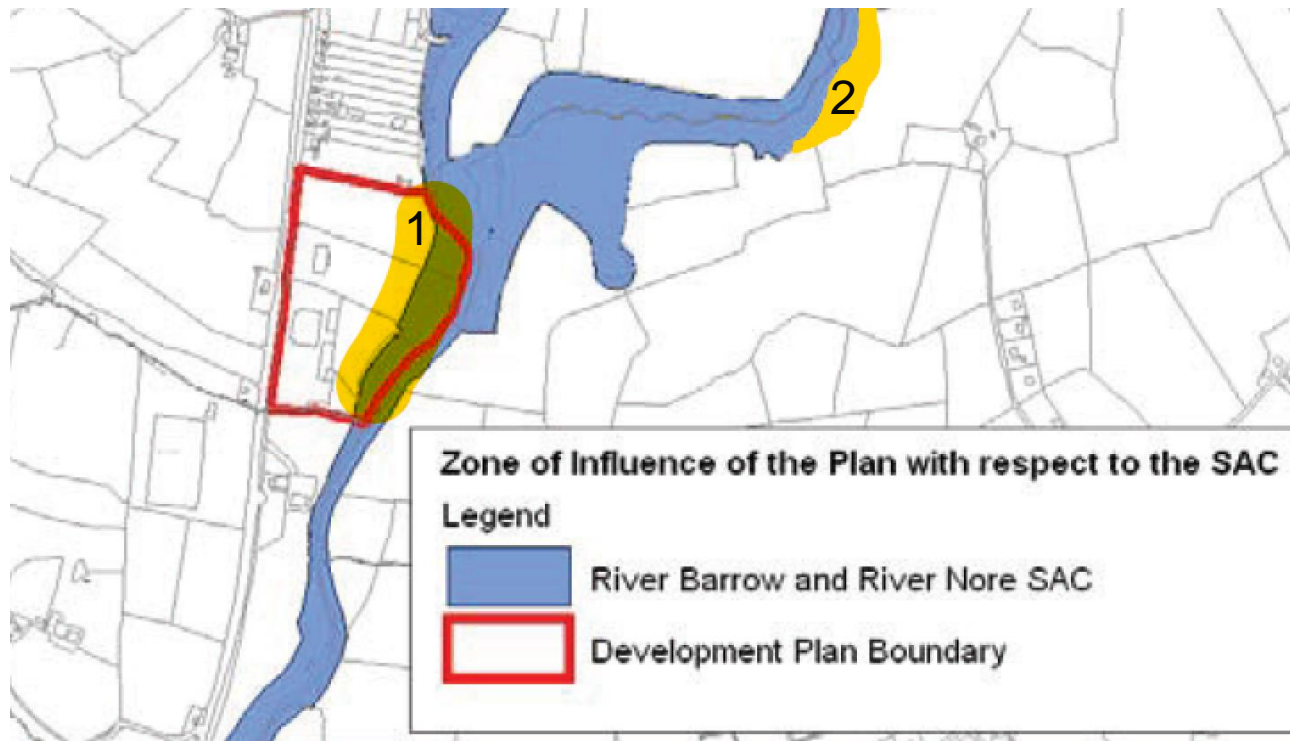
Scenario 1 - Q & A

- 1. Should EIA screening have been considered?**

 - 2. Should HRA screening have been carried out?**

 - 3. What mitigation measures can be considered for EIA/HRA screening purposes?**
 - A. EIA screening (if required):
 - B. HRA screening:
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Scenario 2 – small brewery



Proposed mitigation measures:

1. CEMP including methods to prevent run-off from vehicles into watercourse, permanent waterside barriers to prevent access to the SAC
2. Additional compensatory habitat to offset unavoidable residual effects

Scenario 2 - Q & A

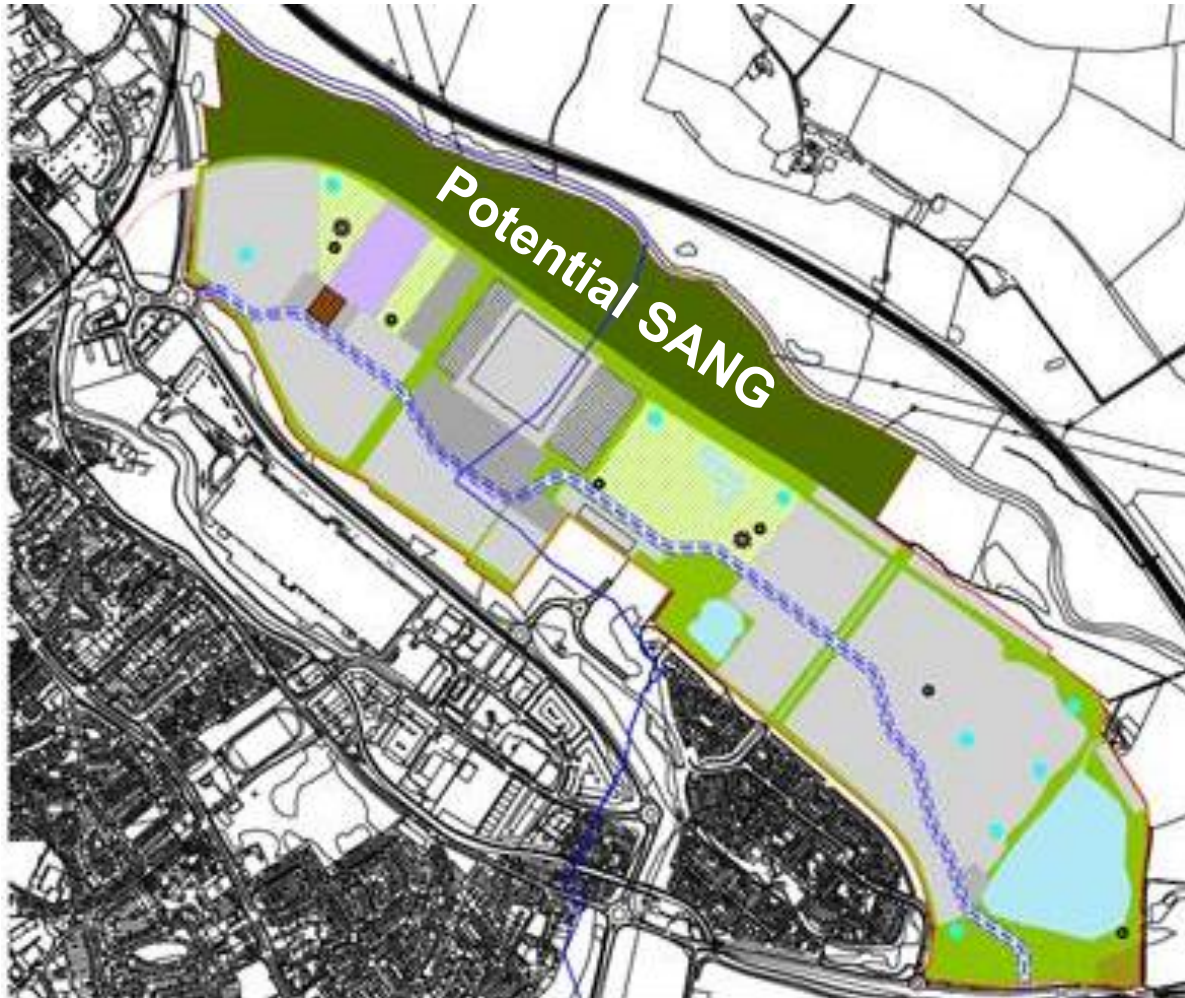
- 1. Should EIA screening have been considered?**

 - 2. Should HRA screening have been carried out?**

 - 3. What mitigation measures can be considered for EIA/HRA screening purposes?**
 - A. EIA screening:

 - B. HRA screening:
-

Scenario 3 - Large housing led mixed-use development



**4 SACs within 10km
of the site**

**(all within 200m of a
main road)**

Proposed mitigation measures:

- Opportunity on site for a SANG (suitable alternative natural green space)
- HGV routing plan

Scenario 3 - Q & A

- 1. Should EIA screening have been considered?**

 - 2. Should HRA screening have been carried out?**

 - 3. What mitigation measures can be considered for EIA/HRA screening purposes?**
 - A. EIA screening:

 - B. HRA screening:
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