

# European Commission Connecting Europe Facility (CEF)

## Transport

Natural England Information Note for Applicants:

Completing Application Form Part C

### Introduction

1. Applicants to the European Commission's CEF Work Programme 2014 - 2020 are required, under Part C, section 5 of the application form, to submit specified environmental information regarding the impact of their project on the Natura 2000 network of protected sites.
2. As part of the application Natural England is requested to sign and seal a declaration (set out in Part C Annex C-I) in relation to the application of the Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) confirming
  - that the Action proposed is not likely to have significant effects on a NATURA 2000 site
3. This information note provides advice to applicants on how Natural England handles requests for the completion of declarations in Annex C-I of the CEF application form and outlines the information the applicant will need to provide to enable requests to be handled effectively by Natural England.

### Background Information

4. Section 5 and the accompanying Annex C-I declaration relate to the application of the European Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora), which has been transposed into UK domestic legislation through the Conservation of Habitats and Species Regulations 2010 (as amended), (the "Habitats Regulations 2010").
5. The Habitats Regulations 2010 require a competent authority to consider whether the proposal is likely to have a significant effect on the internationally important interest features of the site, alone or in combination with other plans and projects, or where the potential effects are uncertain. An Appropriate Assessment ("AA") is required where a plan or project is not directly connected with or necessary to the management of the site and is likely to have a significant effect, either alone or in combination, on a NATURA 2000 site. It is up to the competent authority to appropriately assess all plans and projects (whether permitting another to undertake, or carrying out a plan or project itself), which are likely to have a significant effect on NATURA 2000 sites. Those promoting a project must submit all relevant information to the competent authority which it may require to undertake the assessment.

6. Natural England is the statutory advisor to competent authorities in England in its role as the appropriate “nature conservation body” (see regulation 5 of the Habitats Regulations 2010). It is a statutory requirement for competent authorities to consult Natural England at the AA stage, in accordance with regulation 61(3) of the Habitats Regulations 2010 and to “have regard” to any representations that it may make. Competent authorities may also choose to consult Natural England at other stages in the assessment process, particularly with regard to the likelihood of significant effects.
7. In light of the conclusions of the AA, the competent authority may only agree to a plan or project after having ascertained that it will not adversely affect the integrity of any NATURA 2000 site (see regulation 61(5)). This is the case unless, in exceptional circumstances, there are no alternative solutions and the plan or project must be carried out for imperative reasons of overriding public interest (see regulation 62 of the Habitats Regulations 2010). Part 5(4) on Form C applies in this situation. (Note: Natural England is not the “competent authority” for Part 5(4) where a project is likely to have adverse effects on the integrity of NATURA 2000 sites. The competent authority in this situation is the Secretary of State).
8. Further guidance documents on the Habitats Regulations 2010 are listed at Annex 1.

### **How Natural England deals with CEF Application Forms, Part C-I**

9. Natural England has established a central hub for our planning and development advisory service. Please send all CEF consultations electronically to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk). Very large documents should be sent by disc or hard copy to: Customer Services, Natural England, Hornbeam House, Electra Way, Crewe Business Park, Crewe, Cheshire, CW1 6GJ. Please label the consultation as a CEF Transport Application Form, Part C. The hub assesses these consultations quickly and will forward the consultation onto one of our specialist local advisers for further action.
10. Natural England requires certain information in assessing whether to endorse the declaration in Annex C-I. The information required is specified in paragraphs 11 and 12 below.
11. Applicants should submit to Natural England a map showing the location of planned development and adjacent/nearby NATURA 2000 sites. The map should be at scale of 1:100,000 (or the nearest possible scale) and should indicate the location of the activities associated with the proposal as well as the NATURA 2000 sites concerned. If maps are not to this scale it may result in the form being rejected by the European Commission. Please also provide Natural England with grid references for the locations of actions.

12. Applicants should complete Form C Section 5, along with Annex C-I , and should provide Natural England with a clean copy. It is the role of the applicant to complete the form including the boxes identifying the grounds on which the applicant has made its decisions in relation to the Habitats Regulations 2010. Supporting evidence should be provided where this is available or can reasonably be obtained as follows:

- If the action is not likely to have significant effects on a NATURA 2000 site, Natural England recommends that the applicant also provides a screening assessment that identifies how the conclusion of no likely significant effect has been reached.
- If the action is likely to have a significant effect on a NATURA 2000 site then an Appropriate Assessment should have been undertaken to show whether there will be any effect on the integrity of the NATURA 2000 site. All supporting information including an AA should be provided with the form, as requested on Form C at 5(2).

13. An AA should be based upon up to date information. This may require additional research or ecological survey work. The assessment should consider all elements of the proposed project, including any long term impacts or impacts arising from additional infrastructure requirements. The assessment should consider all qualifying interest features of all NATURA 2000 sites potentially affected, having regard for any particular sensitivities of each interest feature and must consider any impacts on the conservation objectives for the site. The site's current environmental baseline, i.e. whether meeting conservation objectives or currently in a deteriorated state, should also inform the AA. Conservation objectives for European protected sites within the Natura 2000 network in England can be found at:

<http://publications.naturalengland.org.uk/category/6490068894089216>

14. Natural England will respond to the consultation within 21 days provided it has received all the information specified under paragraphs 11 and 12 above. If this information has not been provided Natural England will respond by requesting this information. Natural England will respond to any subsequent consultations within 21 days provided it has received the information requested.

### **Good Practice**

15. Natural England would welcome early consultation on transport projects that are likely to be submitted as a CEF application. Early engagement will allow sufficient time for Natural England to advise applicants on relevant issues. Early engagement increases the likelihood of identifying solutions to issues and

preventing delays. Natural England can, if requested, provide pre-application advice to applicants through its Discretionary Advice Service:

<https://www.gov.uk/discretionary-advice-service-get-advice-on-planning-proposals-affecting-the-natural-environment-in-england>

## **Annex 1**

Guidance on Habitats Regulations 2010:

Defra Website: <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/>

Planning Inspectorate: Habitats Regulations Assessment: Advice Note 10 Habitats Regulations Assessment Relevant to Nationally Significant Infrastructure Projects (Although aimed at NSIP applicants, it is a useful source of information)

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2012/10/Advice-note-10-HRA.pdf>

Highways Agency Design Manual for Roads and Bridges (DMRB) guidance, Volume 11, Section 4. Annex C is an Assessment of the Implications on European Sites (AIES) screening matrix and summarises the information needed for an assessment of likely significant effect under the Habitats Regulations 2010 as amended. There is also guidance on Appropriate Assessment in Annex F.

<http://www.dft.gov.uk/ha/standards/dmr/vol11/section4/hd4409.pdf>.

Natura 2000 sites can be located at: <http://www.magic.gov.uk/>

Conservation objectives for European protected sites within the Natura 2000 network in England can be found at:

<http://publications.naturalengland.org.uk/category/6490068894089216>