

**THE NATIONAL POLICY
STATEMENT FOR NATIONAL
ROAD AND RAIL NETWORKS
HABITATS REGULATIONS
ASSESSMENT**

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1. INTRODUCTION

- 1.0.1 The Secretary of State for Transport has laid the final National Policy Statement (NPS) for national road and rail networks for designation, pursuant to the Planning Act 2008, following public consultation and parliamentary scrutiny.
- 1.0.2 The National Networks National Policy Statement (NN NPS) sets out the Government's policy for the future development of nationally significant infrastructure projects (NSIPs) on the road and rail networks in England. The thresholds for NSIPs are defined in the Planning Act 2008 as amended by The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013.¹ These developments are referred to as national road, rail and strategic rail freight interchange developments in this document.
- 1.0.3 This Habitats Regulations Assessment (HRA) Report sets out the findings of the HRA for the NN NPS.

¹ The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013 No.1883 Article 4

2. SUMMARY OF NATIONAL POLICY STATEMENT FOR NATIONAL ROAD AND RAIL NETWORKS POLICY

2.3.1 The Government's strategic objectives for the national networks are set out in the box below.

Government's vision and strategic objectives for the national networks

The Government needs to deliver national networks that meet the country's long-term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. This means:

- Networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs.
- Networks which support and improve journey quality, reliability and safety.
- Networks which support the delivery of environmental goals and the move to a low carbon economy.
- Networks which join up our communities and link effectively to each other.

2.3.2 In broad terms, the policy in the NN NPS is for a significant and balanced package of improvements and enhancements across the road and rail networks, targeting key pressure points and transforming the networks for the longer term. This sits alongside a significant package of measures to protect the environment and support sustainable transport on the national networks.

2.3.3 Across the modes Government's policy is:

- **Roads** – reduce congestion and unreliability by focusing on improving and enhancing the existing national road network, including through enhancements beyond the existing highway boundary. However, in some cases, to meet the demands on the national road network it will not be sufficient to simply expand capacity on the existing network and so some new road alignments and corresponding links will be needed.
- **Rail** – improve the capacity, capability and reliability of the rail network at key locations for both passenger and freight movements to improve journey times, and to maintain or improve operational performance. Where this incremental approach is not sufficient, new or re-opened alignments to improve capacity, speed, connectivity and reliability should be considered. Where major new inter-urban alignments are required, high speed rail alignments are expected to offer the most effective way to provide a step change in inter-city capacity and connectivity, as well as helping to deliver long term sustainable economic growth.
- **Strategic Rail Freight Interchanges** – support the transfer of freight from road to rail and facilitate sustainable rail freight growth. To this end, there is a need for an expanded network of SRFIs to serve regional, sub-regional and cross-regional markets providing good connectivity with both the road and rail network. These will be private sector, commercial developments that need to be located near the business markets they will serve – major urban centres, or groups of centres – and be linked to key supply chain routes. Given the need for effective connections for both rail and road, the number of locations suitable as SRFIs will be limited which, will restrict the scope for developers to identify viable alternative sites.

2.3.4 Whilst most schemes will be brought forward primarily for economic reasons, Government policy is also to bring forward schemes to improve safety, enhance the environment and improve accessibility for pedestrians and cyclists.

3. REQUIREMENTS OF THE DIRECTIVES AND REGULATIONS

- 3.0.1 The main objectives of the European Habitats Directive 1992 are:
- "to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies", Article 2(1); and*
- "to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest", Article 2(2).*
- 3.0.2 The Habitats Directive, and its associated Wild Birds Directive 2009, are transposed into UK law by means of the Conservation of Habitats and Species Regulations 2010 (as amended) and the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) transpose the Habitats Directive in the UK offshore marine area (beyond 12 nautical miles). The legislation is normally abbreviated to the 'Habitats Regulations.'
- 3.0.3 The requirements of the Habitats and Wild Birds Directives, and the UK Habitats Regulations include the designation or classification of 'European sites,' for the protection of biodiversity of importance in a European context. European sites are a network of sites 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) designated under the Wild Birds Directive for rare, vulnerable and regularly occurring migratory bird species and internationally important wetlands.
- 3.0.4 In addition, it is a matter of UK law that candidate SACs (cSACs) are considered in this process and Government policy is that sites designated under the 1971 Ramsar Convention for their internationally important wetlands, potential SPAs (pSPAs), potential SACs (pSACs) and sites identified as compensation for impacts on European Sites should be considered in the same way. All the aforementioned sites are collectively referred to as 'European sites' hereafter.
- 3.0.5 Under Article 6 of the Habitats Directive, and Regulation 61 of the Habitats Regulations, a step by step process of considering the potential impacts of a plan or project on a European site is set out. This is the HRA process. A more detailed level of assessment is required where a plan or project, being undertaken by or authorised by a 'competent authority' is likely to have significant effects upon a European site. A competent authority is any public body or individual holding public office, and therefore includes Government Departments preparing NPS. The legislation requires any plan or project to be subject to an assessment, known as an 'appropriate assessment,' if it cannot be determined that, on the basis of objective information, the plan or project will not have a significant effect on any European site. It is recognised that there may be limitations or uncertainties in predicting effects on European sites, particularly when dealing with strategic level plans such as those at the NPS level. The requirement, where uncertainty exists, is to ensure the precautionary approach is applied, and where there is a possibility of an impact that cannot be avoided, the plan or project should not be screened out and should proceed to the appropriate assessment stage.
- 3.0.6 The appropriate assessment stage allows the competent authority to gather further information in order to fully appreciate the extent and nature of potential impacts, and therefore enable the competent authority to conclude whether the plan or project will have an adverse effect on the European site or not. Where adverse effects cannot be

excluded, the plan or project should not proceed unless further tests are met, relating to there being no alternative solutions and the need for the plan or project is such that it is of over-riding public interest.

- 3.0.7 When a competent authority is undertaking a HRA, the assessment and its report is normally broken down into the key stages as follows:

Stage 1

Screening – the initial process, which identifies whether there is the potential for any the impacts upon a European site arising from a plan or project, either alone or in combination with other plans or projects, and considers whether these potential impacts are likely to be significant. This screening stage informs whether further information gathering is necessary, and is undertaken on a precautionary basis, whereby a potential impact is assumed at this stage if there are any uncertainties pending further information gathering.

Stage 2

Appropriate Assessment – the more detailed assessment and information gathering stage, which informs consideration of the potential impact on the integrity of the European site of the plan or project, either alone or in combination with other plans or projects, with respect to the site's structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment should consider the options available for the potential mitigation of those impacts. This is to determine whether adverse effects on the integrity of the site can be excluded, taking into account all measures to mitigate for any such potential impacts. A competent authority should not proceed with or authorise any plan or project for which adverse effects on site integrity cannot be ruled out. However, a plan or project could still proceed if the following tests are fully met.

Stage 3

Assessment of alternative solutions – where residual impacts cannot be excluded, despite the application of mitigation measures, the assessment of alternative solutions examines alternative ways of achieving the objectives of the plans or projects that have a lesser impact where alternative solutions exist, those should be pursued and the subsequent stage below should not be proceeded to.

Stage 4

Assessment where no alternative solutions exist and where adverse impacts remain – where there are no alternative solutions, an assessment is made to determine whether the plan or project is necessary for imperative reasons of overriding public interest (IROPI). This requires the plan or project to be of urgent and necessary reasons of public interest that over-ride the potential loss or harm to the European site. Where a plan or project will negatively affect a "priority" habitat or species on a site for which they are a protected feature, the competent authority can normally only consider reasons relating to human health, public safety, or beneficial consequences of primary importance to the environment. Other imperative reasons of overriding public interest can only be considered having obtained and had regard to the opinion of the European Commission. In all other cases a competent authority can consider other imperative reasons of overriding public interest including those relating to social or economic benefit in addition to those of human health, public safety, or beneficial consequences of primary importance to the environment. This would include cases where priority habitats and species are present on a European site but they would not be affected by the proposal. Where a plan or project is to proceed for such reasons, compensatory measures must be secured in order to maintain the overall coherence of the Natura 2000 network.

Each stage is considered in turn, and the assessment made and conclusions drawn for the HRA of the National Networks NPS are detailed below,

3.1. Screening (Stage 1)

Step 1 Determine whether the plan is directly connected with or necessary to the management of the [European] site

3.1.1 In this context, “directly” means solely conceived for management of a European site. “Management” means management measures required in order to maintain the favourable conservation status of the features for which a European site has been designated or classified.

3.1.2 The NN NPS is not directly connected with or necessary to the management of European sites.

Step 2: Describe the plan and describe and determine whether it is likely to have a significant effect on a European site(s). Describe and characterise any other plans or projects which, in combination with this plan, have the potential for having significant effects on the European site

3.1.3 The NN NPS sets out the Government’s policy for the future development of infrastructure on the national road and rail networks in England. The NPS is a high level policy statement, which sets the policy context for network projects to come forward for determination/consent.

3.1.4 At this stage the nature of projects that may come forward in accordance with the NN NPS are unknown, but there is the potential for such projects to significantly affect European sites. This possibility cannot be ruled out at this stage. It is therefore considered that the NN NPS, has the potential for significant effects on European sites. Projects have the potential to give rise to significant effects alone, but also, where effects are not significant alone, there may be a number of other plans or projects that could act in combination. Examples of these are summarised in Table 1 below.

Table 1: Examples of Potentially Significant Effects of the NPS on European Sites

Example Plans and Projects	Potential Significant In-Combination Effects
Other NPSs	• Habitat loss
Local Plans/Local Development Frameworks (where still in operation)	• Habitat fragmentation
Local Transport Plans	• Habitat isolation and severance
Nationally Significant Infrastructure Projects and associated development(s) which are either operating, consented or in planning	• Changes to hydrology
	• Changes to erosion/sedimentation regimes
	• Pollution to water
	• Pollution to air

Step 3: Identify the potential effects on the European site

3.1.5 Existing national networks cover much of England, which can be seen from Figure 1 below. These maps show Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) in England together with the Strategic Road Network and the rail network. (Candidate SACs and potential SPAs are not shown).

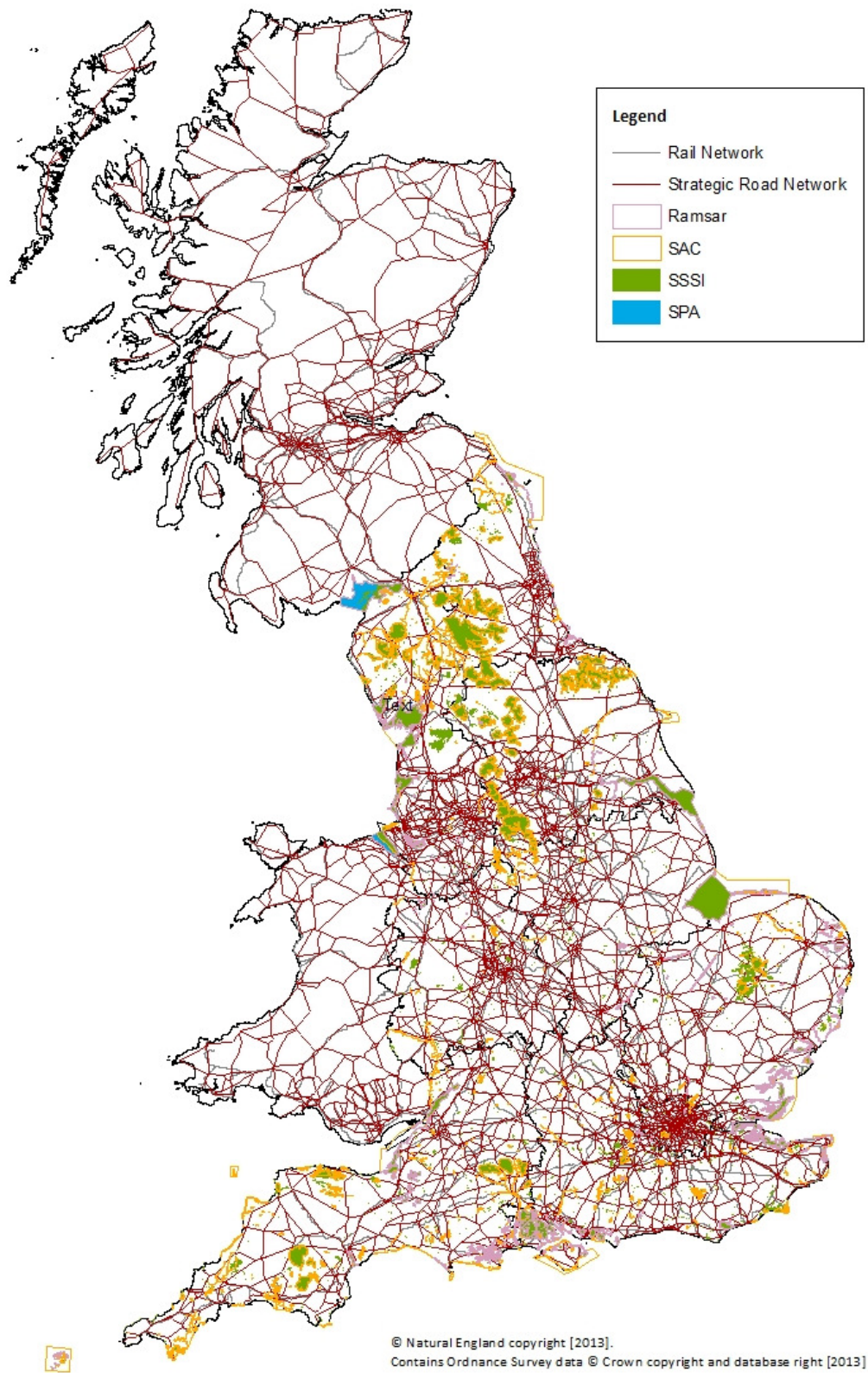


Figure 1: Location of Designated Areas and the National Networks

- 3.1.6 Additionally it is the Government's policy to accord Ramsar sites similar protection to that required by the Directives. The map above also shows Ramsar sites in England. As can be seen, most such sites are also covered by SPAs.
- 3.1.7 Candidate Special Areas of Conservation (cSACs) form part of the Natura 2000 network and, as such are afforded the same legal protection as SACs. It is also the Government's policy that similar provisions apply to potential Special Protection Areas (pSPAs) and Ramsar sites even though these are not Natura 2000 sites as a matter of law. These sites, whether protected by law or policy are collectively referred to as European sites throughout this report.
- 3.1.8 As can be seen from the map above, parts of the existing SRN and the existing rail network pass close to protected sites. In addition, the NPS does not specify locations of SRFIs and these could, therefore, also be proposed in close proximity to protected sites. There is the potential for National Networks development to result in a number of impacts upon European sites, such as physical damage/disturbance, impacts on water quality, impacts on air quality and noise impacts.

It is not possible to refine the list of European sites that may be affected by national network proposals, and it must therefore be concluded that any site may potentially be affected by network infrastructure development.

Step 4: Assess the significance of any effects on European sites

- 3.1.9 The NN NPS contains guidance and direction regarding the protection of European sites. However, the possibility of significant effect upon one or more European sites from future national networks development cannot be excluded in advance of considering individual applications as they come forward.

3.2. Appropriate Assessment (Stage 2)

- 3.1.10 The NN NPS does not identify locations to construct new nationally significant infrastructure. As a result it has not been possible to provide detailed consideration of the impact on the integrity of one or more European site(s) of the NPS, with respect to a specific European site's conservation objectives and its structure and function. The NN NPS does not identify or promote any national networks project at any location, at the project level, and this plan level assessment therefore does not provide a detailed appropriate assessment of potential impacts, rather it identifies a number of possible impacts at the construction and operational phases of national network infrastructure projects. As such this document identifies likely impacts at this strategic level, and is provided to assist lower tier assessments, but in no way is an exhaustive list of potential impacts.
- 3.1.11 Any national networks project proposal should be the subject of project level assessment and whether a project meets or fails the HRA tests will be considered by the decision maker on a case by case basis
- 3.1.12 There is a need for case by case decisions at each stage of project level HRA, including alternative solutions and imperative reasons of over-riding public interest if required. Whether these tests are met is for the project level decision maker to determine. Highlighting the potential for national network projects to affect European sites within the NN NPS does not set precedent or give weight to project level assessment findings or decisions. Whilst the NN NPS provides policy direction, each case must be taken on its merits. Any project coming forward should seek to prevent impacts by the location, design, timing and extent of works. Projects should consider potential impacts early on in the process, and seek to design out any such impacts.
- 3.1.13 Taking account of their relative locations with respect to national networks, it is possible to identify that some European site interest is more likely to be at risk than others. Of

the 79 Annex I habitats occurring in England, the Habitats most likely to be potentially affected by national networks development proposals include, but are not restricted to:

- Lowland habitats (grassland, heathland, woodland); and
- Wetland and associated habitats (standing waters, watercourses, bogs, mires, depressions, fens).

3.1.14 Within the habitats that could be affected, species that are most likely to be affected include, but are not restricted to:

- Aquatic plants and other plants susceptible to changes in hydrology, nutrient status and pollution;
- Heathland vegetation susceptible to erosion, increased incidence of fire and changes in air quality;
- Lichens (as a result of changes in air quality);
- Birds (notably in SPA sites);
- Otter (through habitat severance and greater mortality);
- Bats (through habitat severance and greater mortality);
- Great crested newt (through isolation and habitat severance);
- Fish (through changes in water quality and flow rates and habitat severance);
- Invertebrates (e.g. molluscs, arthropods) through habitat fragmentation/loss/change; and
- All other communities/species assemblages associated with the affected habitats.

3.1.15 Project level HRAs should be based on up to date information about the site, its current sensitivities and other influences on the interest features. Their current conservation status and ability to meet the site conservation objectives will all be factors in a project level HRA.

3.1.16 At a strategic level, the generic impacts associated with national networks development cannot be predicted. However, it is recognised that large scale network related development has the potential to lead to impacts, taking account of both construction and operation of the project, such as those outlined below. It should be noted that this should in no way be considered as an exhaustive list of impacts.

Habitat loss and fragmentation, e.g.

- Direct land take in European sites could lead to reduction in area of habitats for which the site is designated or which support species for which the site is designated (for instance wintering birds). The reduction in size of habitat units or their fragmentation may make them more susceptible to edge effects or damaging chance events such as fire.

Habitat isolation and severance, e.g.

- Isolation or severance could result in disruption to migration or lifecycles of species for which the site is designated (for instance, through creation of barriers to movement by fish). In the longer term disruption to dispersal processes could result in reduction in habitat quality through interruption of plant or habitat dispersal processes.

Changes to hydrology, e.g.

- Reduction in water entering European Sites could lead to drying out of habitats and change in habitat characteristics or loss of important species. Sites and the species supported would also be more prone to negative effects of drought events.
- Increase in water entering European Sites could lead to more surface water or damper soils and changes in habitat characteristics or loss of important species. Sites and the species supported would also be more prone to negative effects of flood events.
- Changes in groundwater levels could lead to change in habitat characteristics or loss of important species. Sites would also be more prone to negative effects of drought or flood events.
- Changes to volume, duration or timing of flow (especially in rivers) could affect fish migration or spawning patterns.

Changes to erosion/sedimentation regimes, e.g.

- Changes in flow rates could result in changes in accretion or deposition in sensitive habitats such as sandbanks, changing their composition or distribution. Changes could also affect species such as fish which rely on particular substrate types for spawning and could experience reduced reproductive success.

Pollution to water, e.g.

- Increases in contaminated run off could result in build up of toxic compounds in plant or animal species leading to mortality of species affected or those feeding on the directly affected species. Pollution could result in increased vulnerability to disease or reduced reproductive success or species dispersal and therefore could result in changes to ecosystem composition.
- Increased nutrient status or changes in chemical composition of water (for instance changes to oxygen levels) could lead to changes in the ecosystems in designated sites (for instance the increased growth of undesirable species that out compete plants for which the site was designated).

Pollution to air, e.g.

- Increases in pollutants such as nitrogen, sulphur and particulates in air could result in their increased deposition. This could result in reduction of health or reproductive ability of plants or viability of habitats, through physical smothering of vegetation or changes in nutrient regimes that favour undesirable plants in designated sites.

Pollution to soil, e.g.

- Increases of pollutants that change the physical or chemical characteristics of soils could lead to conditions unsuitable for species or habitats for which sites have been designated (for instance acidification leading to loss of plants characteristic of calcareous habitats).

Noise and vibration disturbance, e.g.

- Noise disturbance could make sites unattractive for species for which they have been designated (for instance construction noise or new traffic noise may result in SPA birds wintering at a site in reduced numbers or abandoning the site). If birds do not reduce their use or abandon a site they may still be negatively affected, for instance through spending less time feeding which may result in increased mortality or reduced breeding success.

- Noise may act as a barrier (for instance to fish movement) or disrupt species behaviour.
- Noise disturbance may cause birds to abandon nests or behave in a way which makes nests more vulnerable to predation.

Light disturbance, e.g.

- Lighting may lead to changes in the use of a designated species by making it less attractive (for instance by nesting or wintering birds).
- Lighting may have a severing effect for instance by creating a barrier to bat movement.

Human activity, e.g.

- The presence of a workforce or users of national networks and construction site activity/use of the networks may disturb animal species in designated sites and result in their abandoning or changing their patterns of use of the site.
- The creation of additional routes may increase access to places where human activity is uncommon at present which may lead to increased disturbance and subsequent effects on the species using designated sites. Increased erosion from visitor pressure may also occur.
- Human activity may lead to an increased incidence of events such as fire which could reduce habitat quality or increase mortality of species for which the site is designated.

- 3.1.17 Any national networks project should follow the principles of the mitigation hierarchy, firstly seeking to avoid impacts on European sites by considering potential impacts early in the design process and adapting a project's location, footprint, nature, scale, duration and construction methodologies in order to remove the likelihood of any impacts.
- 3.1.18 Where impacts cannot be avoided, measures to mitigate for impacts should be applied.
- 3.1.19 Whilst avoidance and mitigation requirements will be case specific, it may be beneficial to note the following mitigation/avoidance measures as examples of those used in previous national networks developments:
- Timing activities so that they avoid important habitat/species life-cycle stages (e.g. breeding seasons and overwintering of migratory species);
 - Developing management plans and procedures to reduce the risk of adverse effects on the integrity of a European site/species; and
 - Using different technologies for certain activities to avoid/reduce the risk of adverse effects on the integrity of a European site/species.
- 3.1.20 In addition, early liaison with regulatory and Statutory Nature Conservation Bodies to develop/amend a project so that it avoids/reduces the risk of adverse effects on the integrity of a European site/ species is recommended.
- 3.1.21 In conclusion, it is recognised that the NN NPS is a high level policy document that does not identify or support any locations for national network development; rather it sets a general policy context for the national network. It is imperative that European sites are considered early in the process, to maximise opportunities to avoid and mitigate for potential impacts. It is apparent, however, that given the proximity of European sites to the existing infrastructure network, there remains a risk that European sites could be adversely affected by project level proposals.
- 3.1.22 A clear division is made between the plan and any subsequent projects. Whilst national network development should come forward in accordance with the NN NPS, the NN NPS

does not give any additional weight to project level decisions where adverse effects on European site integrity cannot be ruled out.

- 3.1.23 However, it is recognised that there is the potential for project level national network development to affect a European site, and due to the risks and uncertainties surrounding projects that may come forward. It is therefore concluded that adverse effects on European site integrity cannot be ruled out at the plan level, because the uncertainty of future projects is such that a precautionary approach must be applied. It cannot be concluded that national network development will proceed without adverse effects.

3.2. Assessment of NPS Level Alternative Solutions (Stage 3)

- 3.2.1 In considering NPS level alternative solutions, the following principles have been applied, following guidance provided in Assessment of plans and projects significantly affecting Natura 2000 sites (EC, 2001) and Habitats and Wild Birds Directive: guidance on application of article 6(4) (Defra, 2012):

- Alternatives are limited to those that would deliver the objectives of the plan, i.e. the Government's strategic objectives for the national networks.
- Alternatives should be limited to those which are financially, legally and technically feasible. Whilst an alternative can't be ruled out due to cost, there does come a point when it is so expensive that it would not be reasonable to consider it as an alternative.
- If an alternative meets the two criteria above, and it is then considered to have lesser effects on European sites, the competent authority should not give consent for the plan.

- 3.2.2 Identification of NPS level alternative solutions that meet the Government's strategic objectives, and which are financially feasible, is particularly challenging because the NPS is non-spatially specific, i.e. it does not identify where particular developments would be brought forward. This means that it is not possible to identify alternatives to the NPS that would have lesser impacts on European sites because it is not possible to identify what the impacts of any non-spatially specific NPS would be.

- 3.2.3 For example, two alternatives, which meet the NPS objectives, were appraised within the Appraisal of Sustainability (AoS), which supports the NN NPS. However, as with the NPS neither alternative is spatially specific and it is therefore not possible to determine whether these alternatives would have lesser impacts on European sites, i.e. because it is not known where particular developments would be brought forward in the alternatives or the NPS.

- 3.2.4 Additionally, the road and rail networks are existing entities. This means that whilst the NPS is non-spatially specific and does not identify where particular developments would be brought forward, any development would likely to be directly relevant to that entity. As such this further limits alternatives that could be considered.

- 3.2.5 In addition, it is considered that "do nothing" does not constitute a viable alternative because this would not achieve the objectives of the NPS so would not represent a viable alternative.

- 3.2.6 It is not, therefore, considered that there are viable alternatives to the NPS, which could be assumed to have lesser effects on European sites.

- 3.2.7 For any project-level proposal for which adverse effects on site integrity cannot be ruled out, even with the application of mitigation measures, the assessment of alternative solutions will need to take place before determining whether there may be imperative reasons of over-riding public interest. The assessment of alternatives for NPS purposes

does not replace the need for the assessment of alternatives for HRA purposes at the project level.

- 3.2.8 At this plan level, a precautionary assumption is made that there is the possibility of projects coming forward that cannot rule out adverse effects on European site integrity and for which there are no alternative solutions at the project level. This plan level assessment does not conclude that there are no alternative solutions; rather it concludes that, whilst not setting any precedent, there is the possibility of such conclusions being reached at the project level.

3.3. Imperative Reasons of Overriding Public Interest (IROPI) (Stage 4)

- 3.3.1 The NN NPS is a high level generic document, which is not scheme specific or locationally specific. This being so, as described in the preceding steps above, with the precautionary principle in mind, we cannot definitively rule out the potential for adverse impacts on European sites arising from national network projects.
- 3.3.2 As it cannot be ascertained at this stage, in the absence of project information, whether alternatives at a project level could proceed with lesser impacts but still meet the requirements of the NN NPS, it is not possible to conclude at this stage whether alternative solutions exist at the project level.
- 3.3.3 In addition, a “zero option” – not developing and designating a NN NPS – would not offer greater protection for European sites than the NPS or the alternatives outlined in the AoS, as development proposals for road and rail networks would still be brought forward, whether or not a designated NPS happens to be in place. Nor would it achieve the Government’s objectives to clarify and strengthen the planning framework.
- 3.3.4 As the NPS does not identify specific locations for interventions, and neither do any of the alternatives, it is not possible to reach a definitive conclusion about whether or not any of these alternatives would have adverse impacts on European protected sites, nor what comparative impacts they would have on those sites.
- 3.3.5 There is a strong economic and social need for the measures supported by the NPS. This need is detailed in the NPS and summarised below. There is the potential that, for individual projects coming forward to meet the national network need it may not be possible to rule out adverse effects on site integrity and alternative solutions. It is therefore recognised that national network development may be deemed imperative by the project level decision maker, and that the public interest overrides that of the European site. Whilst IROPI will be considered at the project level, the following considerations may be relevant to any project level decision.
- 3.3.6 The national road and rail networks that connect England’s cities, regions and international gateways play a significant part in supporting economic growth and productivity as well as facilitating passenger, business and leisure journeys across the country. Well-connected and high-performing networks with sufficient capacity are vital to meet the country’s long-term needs and support a prosperous economy.
- 3.3.7 The national networks are already under considerable pressure. On the road network, it is estimated that around 16% of all travel time was spent stuck in traffic in 2010.² On the rail network, overall crowding on London and South East rail services across the morning and afternoon peaks on a typically week day in Autumn 2012 was 3.0%, with the worst performing operator's services experiencing 7.1% of passengers in excess of capacity.³
- 3.3.8 Increases in economic prosperity and population will increase the pressure on our networks even further. Up to 2030, traffic is forecast to increase by 30% under central

² Based on forecast figures from National Transport Model for all England roads.

³ Office of Rail Regulation, <http://www.rail-reg.gov.uk/upload/pdf/nrt-yearbook-2010-11.pdf>

estimates, rail journeys by up to 46%, while rail freight has the potential to nearly double.⁴ Without action, congestion and crowding will constrain the economy and reduce quality of life. In 2010 the direct costs of congestion on our strategic road network was estimated at £2 billion per annum and this is expected to rise to £8.6 billion per annum without any intervention.⁵

- 3.3.9 Developments in other sectors will also place pressure on specific parts of the networks. Areas of high growth, housing developments, new employment opportunities and development of other large infrastructure projects will have significant impacts on the use of the national networks.
- 3.3.10 A network of SRFIs is a key element in aiding the transfer of freight from road to rail, supporting sustainable distribution, rail freight growth and meeting the changing needs of the logistics industry, especially the ports and retail sector. The location of many existing rail freight interchanges in traditional urban locations mean that there is no opportunity to expand, that they lack warehousing and they are not conveniently located for the modern logistics and supply chain industry.
- 3.3.11 Whilst the key driver of the need for development of the national networks will usually be economic, broader environment, safety and accessibility goals will also generate requirements for investment.
- 3.3.12 In their current state, without development, the national networks will act as a constraint to sustainable economic growth, quality of life and wider environmental objectives. The Government has therefore concluded that there is a compelling economic and social need for development of the national networks and this provides an Imperative Reason of Overriding Public Interest at 'plan' level for new national networks developments to be provided for, generically, under the NN NPS.
- 3.3.13 It should be noted that where development proposals for which adverse effects on a 'priority' habitat or species European site interest cannot be ruled out imperative reasons of over-riding public interest would need to be established solely for reasons relating to human health, public safety, beneficial consequences of primary importance to the environment, or, pursuant to an opinion from the European Commission, another reason of over-riding public interest. Social and economic reasons would not constitute an imperative reason when the adverse effects relate to priority features.
- 3.3.14 As it is recognised that there are uncertainties regarding national network developments that may be proposed in accordance with the NN NPS, the NPS does not rule out development that may affect a European site. However, recognition of the potential for projects to need to make an IROPI case should not be taken to mean that IROPI has been established for each individual road, rail and rail freight interchange infrastructure scheme which will come forward under the new planning regime. The impacts on protected sites or species of any individual development proposal should be assessed through project-level Appropriate Assessment on a case-by-case basis and individual schemes will need to be considered on their own merits.
- 3.3.15 An IROPI case would need to be specific for any development proposal, but a case may potentially be established under any of the following categories:
- 3.3.16 Economic or social benefits, e.g. an intervention would prevent congestion on the Strategic Road Network that would otherwise significantly constrain the economy and reduce quality of life, noting that this would only apply where priority interest features were not adversely affected.

⁴ DN - source.

⁵ Based on forecast figures from DfT National Transport Model. Although it would not be realistic or cost effective to eliminate congestion completely as the costs in building new infrastructure would outweigh the time savings benefits to travellers, these figures illustrate that the cost of not responding to transport pressures can be substantial.

- 3.3.17 Human health, e.g. an intervention would result in air quality improving to within national air quality objectives at a local level.
- 3.3.18 Public safety, e.g. an intervention would significantly reduce the risk of accidents at an accident problem location.
- 3.3.19 Beneficial consequences of primary importance to the environment, e.g. an intervention would significantly reduce negative landscape and visual impacts of transport infrastructure.
- 3.3.20 It is therefore concluded that IROPI will be a project level decision. For this high level policy document, this HRA concludes that there is the potential for projects to come forward where adverse effects cannot be ruled out and a project level case made for there being no alternative solutions and IROPI, in order to meet the public need for improved network infrastructure.
- 3.3.21 The plan level HRA has proceeded to the imperative reasons test on a precautionary basis, in light of the uncertainties at project level. A conclusion at plan level HRA that there may be imperative reasons at the project level does not set precedent for the consideration of this test by the project level decision maker.

4. POTENTIAL COMPENSATORY MEASURES AND MONITORING

- 4.0.1 It is not possible to predict in advance of specific development applications coming forward what compensatory measures might be needed in individual cases where there are no alternative solutions and IROPI is established.
- 4.0.2 In such cases, developers will be expected to identify and acquire suitable locations for compensatory habitat. The key factors in determining whether and what compensatory habitat would be appropriate include:
- That it should be outside an existing European site;
 - That it must be able to contribute towards the Natura 2000 network, e.g. could be outside an SPA but close enough to extend the range of bird species that use it; connectivity with other habitats should be considered;
 - That it should be able to integrate with regional long-term coastal zone management plans,
 - With a view to ensuring the overall integrity of Natura 2000 is best protected, assuming that the development will be able to satisfy the 'alternatives' and 'IROPI' components of the Directive tests. EC guidance (Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC, January 2012 makes it clear that compensatory measures must:
 - address, in comparable proportions, the habitats and species negatively affected;
 - provide functions comparable to those which justified the selection criteria of the original site, particularly regarding the adequate geographical distribution of sites and species;
 - in extent be at least one to one with the site being lost or damaged. One to one ratios are really only acceptable where the compensatory measures are able to restore complete ecological structure and function;
 - be in place before a site is irreversibly affected by a project. Where it is not possible to do this, for instance because a particular habitat will take many years to reach ecological maturity, then competent authorities should consider providing extra compensation for the losses that would occur in the meantime;
 - be monitored to ensure their effectiveness.
- 4.0.3 A comprehensive monitoring scheme should inform any necessary changes or remedial measures required if the objectives of the compensation provision are not fully met in a timely manner.

5. HABITATS REGULATIONS ASSESSMENT FOR INDIVIDUAL APPLICATIONS

- 5.0.1 Under the Habitats Directive and national transposing regulations, any application where a significant effect on European sites is likely, will require an appropriate assessment. Each application will first require a HRA screening and, if deemed necessary, the subsequent stages of the HRA.
- 5.0.2 This HRA of the NPS does not in any way reduce the scope of HRA required in the case of an individual development application where screening shows that the possibility of significant effect cannot be excluded. It will be for the Competent Authority to apply in full the tests stipulated by the Directive.
- 5.0.3 The NPS may be considered to supply relevant information for the Competent Authority to take into account when considering these tests, but again cannot and does not pre-judge them. All the circumstances of each case at the time of the application must be taken into account.
- 5.0.4 When competent authorities are undertaking an appropriate assessment they must consult the appropriate nature conservation body and have regard to any representations that body makes. As impacts on sites can be both indirect and direct, decision makers should be aware that European sites in Scotland or Wales may also be affected by transport schemes in England. Natural England is the appropriate nature conservation body for European sites in England, Scottish Natural Heritage for sites in Scotland and the Countryside Council for Wales for sites in Wales.
- 5.0.5 This HRA provides a level of guidance for the preparation of project level HRA. This should be taken to be high level guidance only, and does not provide comprehensive coverage of all that may be required in project level HRA.