



Draft National Flood and Coastal Erosion Risk Management Strategy for England:

Draft Habitats Regulations Assessment Non-Technical Summary

Consultation Draft

24 MAY 2019

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Non Technical summary

Introduction

We have prepared this draft Habitats Regulations Assessment (HRA) following the requirements of the Conservation of Habitats and Species Regulations 2017 (SI 1012, 2017), also known as the Habitats Regulations. The HRA requires a precautionary approach, to assess whether the updated draft national flood and coastal erosion risk management strategy (the draft strategy) is likely to significantly affect any sites designated under the Habitats Regulations and sites identified or required for compensatory measures (European sites) or adversely affect the integrity of such sites. Because of uncertainty the assessment proceeded to further stages.

We have concluded that, due to the high level strategic nature of the draft strategy, we cannot say with certainty that it will not adversely affect the integrity of any European sites. We have therefore assessed whether alternatives exist to the proposals contained in the draft strategy and whether there are imperative reasons of overriding public interest for proceeding with the draft strategy despite our conclusions on the possibility of adverse effects. We have also considered how compensatory measures could be secured to protect the overall coherence of the European site network.

The draft HRA has been prepared for consultation and will ultimately contribute to finalising the draft strategy. A final HRA will accompany the final strategy.

The stages of assessment

The HRA comprises the following sequential stages:

Screening and test of likely significant effect:

Taking a precautionary approach, the draft strategy was screened to determine whether it is likely to significantly affect European sites. Ultimately it is the measures proposed in the draft strategy that will influence guidance, plans and project outcomes. Consequently our screening has focussed on the measures in particular.

The draft strategy could result in positive changes for the European sites. We could not, however, conclude for certain that negative impacts would not occur, so the HRA proceeded to the next step of appropriate assessment.

Appropriate assessment

To simplify the assessment we grouped the screened measures according to the effect that they might have on European site integrity. Effects can be positive or negative. The measures combined into three groupings created for the purposes of the HRA:

- promote and does not prejudice action to achieve and maintain favourable condition of the European site
- create buffer zones, sub-optimal habitat, sustainable hydrology and water quality improvements
- alternative finance actions and alternative delivery routes, to achieve the changes

Potentially the draft strategy could affect 250 SACs, all SPAs and Ramsar sites and compensatory habitat in relation to European sites. Since the draft strategy does not define the spatial application for the measures it contains (beyond their application to

England as a whole), we have not assessed its implications for any of these individual European sites. As an alternative we have reviewed all 77 protected habitat types that can be found on relevant European sites, looking specifically for features that could be affected by the measures.

The primary purpose of this is to produce the HRA. However there is a secondary benefit as the output from this analysis can also be used to inform implementation of the national strategy, that it might be done in a way that avoids or mitigates for potential damage to European sites.

We put the appropriate assessment through two scenarios. The first, and most likely, is that all the measures ultimately need to conform to the ethos of the 25 Year Environment Plan. The second is that the measures are implemented in ways which do not incorporate the requirements of the European sites as part of their core objectives, but that HRA is carried out. In both scenarios the draft strategy can achieve positive outcomes for the environment, though these are potentially much greater under the first scenario.

However, 6 measures could not be ruled out as ultimately giving rise to negative effects on European site integrity under the second, worst case scenario. There was high uncertainty in relation to a further 11 measures.

Generic mitigation for potential negative effects on European sites is included in the draft strategy. Further specific mitigation measures are recommended for inclusion in the final strategy. However, we cannot rule out the possibility that adverse effects will arise notwithstanding this. Therefore, the draft strategy may only be adopted after we have proceeded through stages 3 and 4 of our assessment (see below).

Through the development of innovative FCERM solutions, especially working with natural processes, as advocated by the draft strategy, there will be potential benefits for European sites, alongside flood or erosion risk management functions.

Assessment of alternatives

There aren't any feasible alternatives to preparing the draft strategy. Doing nothing would not achieve our objectives in updating the national strategy of 2011. Alternatives to the proposed draft strategy would also not achieve our objectives and/or would not better respect the integrity of European sites.

Imperative reasons of over-riding public interest (IROPI)

If the original national FCERM strategy for England published in 2011 is not updated it will be more difficult to efficiently and consistently meet the beneficial expectations of the 25 Year Environment Plan and to deliver a coordinated approach to managing risks from flooding and coastal change, in particular in light of a changing climate. It is therefore considered that there are imperative reasons of overriding public interest for the draft strategy. These reasons relate to human health and public safety.

Compensatory approach

In England, the Environment Agency and other risk management authorities can provide compensatory habitat through various mechanisms; these include habitat compensation programmes and habitat creation programmes, managed realignment, scheme level habitat provision, and actions to achieve environmental outcome measure scores.

Such measures secure that in adopting the draft strategy any necessary compensatory measures are implemented.

However, without any spatial basis for the implementation of the draft strategy it is not possible to determine precisely what compensatory measures will be necessary. Further

definition and development of compensatory measures must be deferred to a later stage of FCERM planning and HRA.

Cumulative and in combination effects

The draft strategy is an essential part of the Defra 25 Year Environment Plan implementation. The draft HRA recognises that the draft strategy will be implemented according to the approaches described in the 25 Year Environment Plan.

Throughout the draft HRA preparation we have been aware of the implications for the draft strategy's measures to give rise to effects in combination with each other, and made relevant reference. We have assessed the implications of the draft strategy's measures in combination with a number of key high level plans. We are unable to conclude that there will not be in combination effects between these factors.

Cross-border effects

Cross-border effects may occur, especially in relation to the estuaries that straddle the borders with Scotland and Wales.

Monitoring

Monitoring is not a component of HRA. We have used the findings of the draft HRA to make suggestions for future monitoring based on the draft strategy's objectives. The types of monitoring might include:

- the value of no regrets types of adaptive approaches
- capability of guidance to meet the requirements of European sites
- incorporation of European site requirements into the core objectives of plans
- ability to meet both the direct and indirect requirements of European sites
- European site requirements, especially in relation to climate change, as part of sustainability indices or criteria

Conclusions

Adopting a precautionary approach, it cannot be concluded with certainty that the draft strategy will not adversely affect the integrity of any European sites. However, we consider that no feasible alternative solutions exist which would better respect the integrity of such European sites. Further, the draft strategy must be adopted for imperative reasons of overriding public interest, related to human health and public safety. The Secretary of State can also secure that any necessary compensatory measures are taken to ensure that the overall coherence of European sites is protected.

For the Glossary, Abbreviations and Bibliography please refer to the end of the main report.

