

## HRA guidance consultation - Link response

14 May 2026

This response is on behalf of nature and animal welfare coalition Wildlife and Countryside Link ([Link](#)).

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Wildlife and Countryside Link (Link) welcomes the intention to provide clearer and more accessible guidance on Habitats Regulations Assessments (HRAs). However, we have significant concerns that, as currently drafted, several sections of the guidance risk weakening the robustness of the HRA process that could undermine its core legal purpose.

Across the guidance, we are concerned that the language has shifted from mandatory provisions to a weaker approach. Established safeguards have been qualified or omitted, and the framing of certain provisions risks tilting the balance towards development facilitation at the expense of a rigorous precautionary approach that the Habitats Regulations requires. These are not peripheral concerns. The Habitats Regulations represent some of the strongest, most valuable existing environmental protections in domestic law, and the guidance that sits beneath them must reinforce, not dilute, those protections.

In particular, we are concerned that the guidance inadequately embeds the precautionary principle, does not sufficiently safeguard the mitigation hierarchy, and fails to provide the clarity and consistency needed on key issues including reasonable scientific doubt, in-combination effects, and the exceptional nature of derogation. We also have concerns about the proposal to extend the guidance to the offshore environment in advance of dedicated consultation with marine experts.

Our response sets out specific recommendations for strengthening the guidance across each section, with proposed alternative wording where appropriate. We urge the Government to ensure that the final guidance supports competent authorities to undertake robust, lawful, and consistently applied HRAs, in line with both domestic obligations and the UK's international commitments to nature recovery.

### **Section 1 – Principles to follow in the HRA process**

**Section purpose:** Provides a set of principles that should be followed when engaging with the HRA process.

**11. How helpful are these principles in setting out the overall approach and expectations for how Habitats Regulations Assessments should be undertaken?**

1 – very unhelpful 2 – somewhat unhelpful 3 – **neither helpful nor unhelpful** 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We welcome the intention to provide clearer principles for undertaking Habitats Regulations Assessments (HRAs). However, as currently drafted, several principles risk introducing ambiguity or weakening established safeguards, particularly the application of the precautionary principle and the mitigation hierarchy. Before moving onto the principles themselves, we are concerned by the change from saying “you will need to” follow the principles to the proposed text saying competent authorities “should” follow the principles. This is a substantial weakening of the level of importance and necessity given to the principles themselves.

Firstly, the principle to “*work with applicants constructively to find a way to allow plans and projects, if possible, while still complying with legal obligations*” should be reframed to better reflect the legal requirement to avoid adverse effects on site integrity. The primary objective at the screening stage must be to avoid Likely Significant Effects (LSE). We suggest alternative wording such as:

*“work with applicants to identify ways to deliver plans and projects that avoid Likely Significant Effects on European sites, in line with the mitigation hierarchy, prior to considering mitigation or derogation.”*

Secondly, the principle to “*make judgements based on the facts of the individual situation and the ecological condition of the site’s features*” risks being interpreted in a way that undermines the precautionary principle. HRAs must be grounded in the best available scientific evidence, but where uncertainty remains, a precautionary approach must be applied. Clarification should be added to explicitly reaffirm this requirement.

The principle should be amended to read ‘*make judgements based on the facts of the individual situation, the ecological condition of the site’s feature, mobility of some features beyond site boundaries, and the impact deterioration of features (whether the reason for the site’s designation or not) would have upon the wider ecosystem, as well as deterioration of habitats beyond the boundaries on site features, and the prospective positive impacts related to achieving their full restoration potential. The precautionary principle must always be applied, especially in the case of ecosystem impacts*’.

This consideration of wider ecosystem effects would provide a constructive lens through which to assess risks of harm. Environmental features protected under the Habitats Regulations often form the keystone of local ecosystems, underpinning their structure, function, and resilience. The precautionary principle, alongside other core requirements of the Habitats Regulations, should not be treated as procedural or legal formalities, they are essential safeguards designed to prevent irreversible ecological damage and the potential collapse of interconnected ecosystems, with far-reaching environmental, social, and economic consequences. Given the ongoing decline in ecosystem health and the threat this represents, it is necessary to recognise the ecosystem-wide importance of protected features at an early stage and to apply a rigorously precautionary approach to the assessment of risks.

Thirdly, it is notable that some established and important principles appear to have been omitted. In particular, the principle to “consider possible combined effects on the site with other plans and projects” should be retained at the principles stage, rather than only addressed later in the guidance, as it is fundamental to ensuring a comprehensive assessment of cumulative impacts. Similarly, the removal of the principle to “*consider all possible effects of the proposal, at every phase, on the designated features of the site, including impacts that are direct and indirect, temporary and permanent*” risks regressively narrowing the scope of assessment. Both principles are essential to the integrity of the HRA process and should be reinstated to provide clarity and consistency from the outset.

Fourthly, the statement that authorities should “*only ask applicants for information that’s relevant to the site’s conservation objectives and proportionate*” could be read as discouraging robust evidence gathering. Instead, guidance should emphasise that competent authorities must obtain sufficient information to fully and lawfully undertake each stage of the HRA, including screening, appropriate assessment, and, where necessary, consideration of alternatives and imperative reasons of overriding public interest (IROPI). Information relevant to the site, but not necessarily directly relevant to the site’s objectives, can still be invaluable especially when considering matters of site integrity and connectedness with other sites.

Link also welcomes the continued reference to the need for assessment when air, water or noise pollution can impact a habitats site some distance away. However the further information on this issue that is provided in the section on appropriate assessment in the current version has been lost in the proposed draft. We call for its reinstatement.

Finally, while early consideration of derogation may support process efficiency, the principle risks normalising its use. Derogation under the Habitats Regulations is intended to be exceptional and a last resort, only after all alternatives have been ruled out and strict tests met. The guidance should make this clear, for example:

*“consider, where appropriate and only after avoidance and mitigation options have been exhausted, whether a derogation may be required, recognising that derogation is a last resort and subject to strict legal tests.”*

Overall, while the principles are a useful starting point, they should be strengthened to more clearly embed the mitigation hierarchy, the precautionary principle, and the exceptional nature of derogations to ensure legal compliance and effective protection of European sites.

## **12. Do these principles strike the right balance between supporting users in complying with legal requirements and encouraging an efficient approach to decision-making?**

Yes No **Somewhat** Don't know

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

The principles do not yet strike the right balance. As currently framed, several elements risk prioritising process efficiency over the robust application of legal safeguards, particularly the mitigation hierarchy and the precautionary principle.

The emphasis on “working constructively” to allow plans and projects could be interpreted as encouraging progression of proposals at the expense of nature, rather than ensuring that avoidance of Likely Significant Effects (LSE) is the starting point. This should be reframed to prioritise avoidance of harm.

Similarly, the principle to make judgements based on the “individual situation and ecological condition” risks undermining the precautionary principle if not clearly qualified. Efficiency should not come at the expense of scientific rigour or legal certainty. An explicit reference to applying a precautionary approach where uncertainty exists is needed.

The direction to request only “relevant and proportionate” information may also inadvertently discourage the collection of sufficient evidence to support lawful decisions. Instead, the guidance should emphasise that competent authorities must obtain all information necessary to fully complete each stage of the HRA process.

Finally, early consideration of derogation may improve procedural efficiency, but it must be clear that derogation remains a last resort, only to be pursued once avoidance and mitigation options have been exhausted and strict legal tests are met.

### **Re-using an existing HRA**

#### **13. How helpful is the detail in this section on when an existing HRA can and cannot be used?**

**1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful**

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We recognise the intention to improve efficiency through the re-use of existing HRAs where appropriate. However, the guidance requires strengthening to ensure that ecological protection and legal compliance are not undermined.

There must be significant caution embedded in the process for re-using HRAs in line with the precautionary principle. Ecological conditions and site baselines can change rapidly, and new plans or projects may interact with existing pressures to create cumulative impacts, as well as the developments at the heart of previous HRAs will impose a change on baseline conditions. Nature is not static, and a reliance on previous assessments risks overlooking significant changes in site condition, updated evidence, or in-combination effects. Our understanding, technology, and survey

methods also evolve and by avoiding over-reliance on older assessments, we may find certain potential impacts could be more confidently scoped out or downgraded. The guidance should more clearly emphasise that re-use is only appropriate where the baseline, evidence, and impact pathways remain demonstrably current and valid.

We recommend strengthening key wording to reflect legal requirements. For example:

- We suggest introducing an additional clarification to ensure that re-use is only undertaken where it is demonstrably appropriate. For example, a new bullet (or amendment to an existing bullet) could state:

*“An existing HRA may only be relied upon where it can be clearly demonstrated that the baseline information, evidence base, and impact pathways remain current, relevant, and valid.”*

- Similarly, *“The applicant should provide the information required...”* should be amended to: *“The applicant must provide the information required...”*

The worked example provided risks downplaying the importance of changing environmental baselines and cumulative effects. Even where a specific feature is not directly affected by a proposal, deterioration in site condition may alter the overall assessment of integrity and the acceptability of additional pressures. Any new HRA must therefore consider the current condition of the site and whether, in combination with other impacts, the proposal could result in Likely Significant Effects or adverse effects on site integrity. The legislation does not support simply carrying forward previous conclusions where circumstances have materially changed.

Finally, the guidance should make clearer that competent authorities must obtain all information necessary to undertake a lawful and complete HRA, and that re-used material can only form part of that assessment where it remains robust and based on the best available scientific evidence. Furthermore, where there is a lack of best available scientific evidence, there should be a requirement to report these evidence gaps to Defra to log them and attempt to resolve them at a national level.

#### **14. Will this section give support to users in avoiding unnecessary repetition of work related to HRAs?**

Yes No **Somewhat** Don't know

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We are concerned that, as drafted, the guidance risks over encouraging reliance on previous HRAs in situations where new assessments are in fact required.

Ecological baselines can change quickly, and new evidence, site condition changes, or additional plans and projects can give rise to in-combination and cumulative effects that were not previously assessed. As such, avoiding repetition must not come at the expense of ensuring that decisions are based on up-to-date information and the current environmental context. The guidance should more clearly emphasise that re-use is only appropriate where it can be demonstrated that all relevant factors, including site condition, conservation objectives, presence/absence of protected species and cumulative pressures, remain unchanged and that the previous assessment is still valid.

The example provided risks underplaying the importance of changing environmental baselines and cumulative impacts. Even where a proposal does not directly affect a specific feature, deterioration in other features or increased pressures may influence the overall assessment of site integrity. Any new HRA must therefore consider whether, in light of both current conditions and other plans or projects, the proposal could give rise to Likely Significant Effects or adverse effects on site integrity. To help achieve this, key wording should be strengthened to clearly and better reflect compliance with the associated legal duties.

### Section 3 – Checking for likely significant effects on a habitats site

#### 15. How helpful is the detail in this section on determining whether a plan or project could have a significant effect on a protected site?

1 – very unhelpful 2 – **somewhat unhelpful** 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We are concerned aspects of the draft risk creating ambiguity and weakening established legal principles.

The definition of “likely” effects is particularly concerning. The emphasis on “only considering real, not hypothetical risks” and requiring “credible evidence that the risk is real” risks undermining the precautionary principle, which is fundamental to HRA. Screening must allow for a degree of uncertainty, including the use of reasonable scientific judgement and extrapolation where data is limited. The wording should be amended to clarify that where uncertainty remains, effects cannot be ruled out. It is not clear what is meant by “real” versus “hypothetical risks”, which could cause unnecessary confusion for users.

Similarly, the distinction between inherent design features and HRA-specific mitigation requires careful handling. The guidance would benefit from strengthening in several areas. For example, when considering whether effects are likely, the guidance should explicitly include timing and duration of impacts, not just location. In addition, the statement that “*an evidence plan is a voluntary, non-legally*

*binding agreement*” is concerning. Where such plans are used to inform statutory assessments, they must provide a robust and reliable basis for decision-making. Presenting them as non-binding risks undermining the effectiveness and completeness of the HRA process.

Finally, the wording on significance and site condition should more clearly reinforce that, particularly where sites are in unfavourable condition, there should be limited scope to accept additional impacts, and cumulative effects must be fully considered in relation to conservation objectives.

**16. How helpful is the detail in this section on how a real (as opposed to hypothetical) risk should be identified and evidenced?**

**1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful**

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We have significant concerns that this section risks misrepresenting how risk should be identified at the screening stage.

The emphasis on “real, not hypothetical risks” and the requirement for “credible evidence that the risk is real” could be interpreted as setting too high a bar for identifying Likely Significant Effects (LSE), and in doing so, undermining the precautionary principle. HRA screening must allow for a degree of uncertainty and rely on objective scientific judgement, including the use of existing knowledge, reasonable assumptions, and extrapolation where site-specific data may be limited. Effects should only be ruled out where there is sufficient evidence to do so beyond reasonable scientific doubt.

The current wording risks excluding risks that are uncertain but plausible, which is not consistent with established case law. We suggest alternative wording such as: *“An effect is ‘likely’ where it cannot be ruled out, on the basis of objective scientific information and applying the precautionary principle, that the plan or project would have a significant effect on the site.”*

In addition, the guidance should clarify that assessing risk is not limited to spatial factors, but must also consider timing, duration, and frequency of impacts, as well as in-combination effects. The section needs to embed clearer alignment with the precautionary principle to ensure that potentially significant risks are not screened out prematurely and a de facto regression in the levels of protection is avoided.

**Section 4 – Checking for in-combination effects with other plans and projects**

**Checking for in-combination effects with other plans and projects**

**17. How helpful is the detail in this section on how in-combination effects should be considered?**

1 – very unhelpful 2 – **somewhat unhelpful** 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

The current drafting risks underplaying the importance of a comprehensive and precautionary approach.

The statement that competent authorities are “not required to list and consider every proposed plan and project” (and may stop once a single in-combination effect is identified) could limit understanding of the full cumulative pressure on a site. While this may be sufficient to trigger Stage 2, a more complete picture of relevant plans and projects is often necessary to inform effective avoidance and mitigation measures and to ensure robust conclusions at Appropriate Assessment. For the developer, by identifying a broader view of cumulative impact, they could find the most effective, efficient and robust mitigation or design alteration as early as possible, allowing for more truly sustainable proposals to move forward.

More broadly, the guidance should reinforce that in-combination assessment is central to the integrity test and must be undertaken in line with the precautionary principle, particularly where multiple small impacts may collectively lead to significant effects.

**18. Should this section include further detail on what should be considered an in-combination effect?**

**Yes** No Somewhat Do not know

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

The current wording risks underplaying the importance of understanding the full range of cumulative pressures on a site. In particular, the suggestion that competent authorities may stop searching once a single in-combination effect is identified could limit the ability to design effective avoidance and mitigation measures, which often depend on a comprehensive understanding of all relevant plans and projects.

Further detail should also emphasise that in-combination effects include the interaction of multiple small or individually insignificant impacts, which may collectively undermine conservation objectives. This is particularly important where sites are already under pressure or in unfavourable condition.

We suggest additional wording such as:

*“Competent authorities should identify and consider all relevant plans and projects necessary to understand the full extent of in-combination effects, in order to inform appropriate avoidance and mitigation measures and ensure a robust assessment of site integrity.”*

## Section 5 – How to use screening criteria

### 19. How helpful is this section at setting out the purpose of the screening criteria?

1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We have significant concerns that elements of the current guidance as drafted risk weakening the robustness and legal certainty of the HRA process.

We have concerns about the suggestion that competent authorities may rely on their own expert judgement "without needing more detailed information such as surveys or modelling." Expert judgement has a legitimate role in HRA, but it should not substitute for adequate evidence, especially in the context of major resource constraints on competent authorities. In practice, such conclusions should be informed and, where necessary, validated by the relevant Statutory Nature Conservation Body, and the guidance should make this explicit.

On record-keeping, the guidance currently states that competent authorities "should" record their reasoning and evidence. Our view is that this must be a strict requirement not a recommendation. A mandatory duty to record decisions enables them to be audited, verified, and supports consistency across competent authorities. We recommend replacing "should" with "must."

### 20. How helpful is the detail in this section on what criteria must be met for a plan or project to be screened out?

1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

The section lacks sufficient clarity on the evidence required to support a screening-out decision. Permitting competent authorities to rely solely on their own expert judgement, without recourse to

surveys, modelling, or advice from the relevant Statutory Nature Conservation Body, leaves the criteria underspecified. Given the legal consequences of screening decisions and the potential for irreversible harm to internationally designated sites, the guidance should be more prescriptive about when SNCB input is required and what constitutes an adequate evidence base. It is also unclear what is meant by “hypothetical risks” without discounting the precautionary principle.

Finally, the use of “should” in relation to recording reasoning weakens rather than clarifies the criteria for screening out. If competent authorities are not required to record how and why screening criteria were met, decisions cannot be effectively audited or scrutinised. Replacing “should” with “must” would provide greater clarity and consistency, and better reflect the legal weight of these decisions.

## **Section 6 – Assessing the potential effect of a plan or project on the integrity of a site**

### **21. How helpful is the detail in this section on the definition of site integrity?**

**1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful**

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

**No comments**

### **22. How helpful is the detail in this section on the role of conservation objectives?**

**1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful**

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

**No comments**

## **Section 7 – Checking effects against a site’s conservation objectives**

### **23. How helpful is this section on how maintain and restore objectives should be handled when assessing an impact on site integrity?**

**1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful**

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We are concerned the guidance on “temporary effects” lacks sufficient clarity to be consistently or robustly applied in practice.

In particular, the statement that a site’s objectives will not be undermined where affected areas can return to the same level of ecological functionality within “an appropriate timescale” is ambiguous. The term “appropriate timescale” is not defined, leaving it open to interpretation and creating a risk of inconsistent application between competent authorities. Similarly, the guidance does not define what constitutes a “temporary effect” in this context, which could range from short-term, reversible disturbances to impacts lasting multiple years or ecological cycles. Even where effects are genuinely temporary, these could still delay efforts to restore a site or prevent population recovery by years, particularly in the face of climate change, and therefore we would argue that this still has the capacity to undermine the conservation objectives.

Without clearer parameters, there is a risk that effects of a duration or severity that could meaningfully undermine conservation objectives are inappropriately screened out or minimised. This is particularly important where ecological recovery may be slow, uncertain, or dependent on external factors.

To improve clarity and robustness, the guidance should:

- Define or provide criteria for determining what constitutes a “temporary effect,” including consideration of ecological timescales (e.g. seasonal cycles, species lifecycles, habitat recovery rates).
- Provide clearer direction on what may be considered an “appropriate timescale,” potentially linked to the specific conservation objectives, the condition of the feature, and its ability to recover.
- Explicitly state that where there is uncertainty regarding recovery timescales or outcomes, a precautionary approach should be applied.

For example, the text could be strengthened to include:

*“Where there is uncertainty about the duration of an effect or the ability of affected areas to return to the same level of ecological functionality within a clearly defined and ecologically appropriate timescale, the precautionary principle must be applied, and the effect should not be assumed to be temporary.”*

## **Section 8 – Considering reasonable scientific doubt**

### **24. How helpful is this section in explaining what constitutes reasonable scientific doubt?**

1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

**Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.**

We are concerned that several passages risk being misapplied in ways that could weaken the precautionary foundations of the HRA process.

The statement that competent authorities do not "always" need to assess the reasonable worst case scenario, and that "it is not necessary for there to be no risk", is inadequately explained and could invite selective reasoning. The guidance does not set out what conditions must be met before a competent authority may depart from a reasonable worst-case approach. There is also inconsistency in this statement with the later sentence: "More information is likely to be needed where any of the following apply: ... the ecological consequences of potential effects could be substantial;" this introduces uncertainty for the applicant in providing appropriate information. Additionally, without that clarity, there is a real risk that competent authorities, particularly those under pressure to approve development, will use this passage to justify insufficient assessment. The guidance should specify the circumstances in which departing from a reasonable worst-case approach is appropriate, and make clear that this represents an exception rather than a default. The guidance should re-iterate that it is especially risky to deviate from a reasonable worst-case scenario when harms could damage the wider ecosystem.

We are also concerned that the guidance leaves the judgement on whether reasonable scientific doubt exists with inadequate safeguards. Many competent authorities, including port authorities, local planning authorities, and government reporters, will not have the specialist ecological expertise required to exercise it reliably. Statutory Nature Conservation Bodies (SNCB) exist precisely to provide that expertise, and its involvement at this stage of the assessment process should be expressly referenced in the guidance. Without it, outcomes are likely to be inconsistent and, in some cases, inadequate. We strongly recommend that the guidance is amended to make clear that competent authorities (which are not SNCBs) should seek SNCB advice when exercising judgement on reasonable scientific doubt.

Finally, we are concerned about any framing that treats mitigation and the Article 6(4) derogation criteria as alternatives. The availability of derogation does not diminish the obligation to apply the best available mitigation, and both conditions should apply simultaneously rather than as substitutes for one another. We recommend replacing "or" with "and" in any formulation linking these two requirements, and suggest the following amendment: *"Where reasonable scientific doubt remains, the plan or project cannot be approved unless suitable mitigation measures are applied, and where residual adverse effects on site integrity remain, the derogation criteria under Article 6(4) are also met."*

## Section 9 – Securing compensatory measures

### 25. How helpful is the detail in this section on compensatory measures?

1 – very unhelpful 2 – somewhat unhelpful 3 – **neither helpful nor unhelpful** 4 – somewhat helpful 5 – very helpful

Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.

#### Q25. How helpful is the detail in this section on compensatory measures?

We are concerned that several passages require strengthening to ensure the guidance is effective in practice.

We are concerned that the list of suitable compensatory measures, creating new habitat, extending existing habitat, or enhancing habitats within an existing site etc, could be misleading as currently drafted, particularly in a policy landscape that already includes Protected Site Improvement Agreements and Ecosystem Defence Mechanisms. The guidance does not make sufficiently clear that these measures must represent genuine additionality. Habitat enhancement that would reasonably be expected to occur through normal site management cannot qualify as compensation, and this applies with particular force to habitat that is already a designated feature or that already meets SAC-level condition. The guidance should make explicit that compensatory measures must involve the same habitat type, must not already be a designated feature of the site in question, and must demonstrably go beyond what would have happened in the absence of the plan or project. Without this clarity, there is a real risk that applicants present existing management obligations as compensatory measures, undermining the coherence of the network that the derogation regime is intended to protect.

We are also concerned about the absence of any deadline for putting in place the legal, technical, financial and monitoring arrangements required to secure compensatory measures. The guidance states that these arrangements must remain in place "in most cases indefinitely", but says nothing about when they must be established. This is not a theoretical concern, as the first derogation decision in Scotland included a requirement for compensatory woodland planting that, to our knowledge, has never been fulfilled. Indefinite obligations that are not time-bound at the point of consent are, in practice, unenforceable. The guidance should require that all necessary arrangements are in place and operational before any adverse effect on the site is permitted to occur, and should make clear that consent cannot be acted upon until this condition is satisfied.

## Section 10 – Habitats regulations assessments: guide for applicants

### 26. How helpful is this additional guidance at setting out how to engage with the HRA as an applicant?

1 – very unhelpful 2 – somewhat unhelpful 3 – neither helpful nor unhelpful 4 – somewhat helpful 5 – very helpful

Please provide any reasoning or evidence to support your response. Where relevant, please suggest alternative wording you consider clearer or more effective, including draft text where possible.

No comments

#### Efficiency impacts of the updated HRA guidance

27. What impact do you expect the refreshed guidance to have on the overall time taken to complete an HRA?

Significantly shorter overall time Slightly shorter overall time No impact on overall time Slightly longer overall time Significantly longer overall time **Don't know**

Please provide any reasoning to support your response.

No comments

#### Amending the HRA guidance to include the offshore

The HRA guidance currently applies to Habitats sites in England and inshore waters (within 12 nautical miles of the coast). We are proposing to draft the guidance so that it also applies to Habitats sites in the offshore waters of England (12 to 200 nautical miles off the coast).

28. Do you agree with the proposal to draft the HRA guidance so that it applies to Habitats sites in the offshore waters of England, as well as the inshore waters?

Agree **Disagree** Do not know

Please provide any reasoning or evidence to support your response

The application of the Habitats Regulation offshore is already subject to considerable change, particularly for offshore wind development which constitutes a large proportion of plans and projects in the offshore zone. This includes changes through the Conservation of Habitats and Species (Offshore Wind) (Amendment etc.) Regulations 2026, and guidance accompanying the regulations due to be published shortly, as well as the establishment of the Marine Recovery Fund. Applying the guidance offshore in addition to the new offshore wind specific guidance also risks duplication, confusion and a double weakening of protections for marine species which are in severe decline and under mounting pressure. A wiser course of action would be to pause the application of the guidance beyond 12 miles, to allow the offshore wind specific changes and guidance to bed in, and then to consult further with marine experts.

In addition, offshore habitat sites face specific challenges, as well as specific regulatory regimes and processes. Extension of this guidance to the offshore environment should not be taken forward without a specific review of the relevance of the guidance to those challenges and processes. Specific public consultation must also take place before any extension of the guidance to the offshore to allow views to be given on how the guidance should be adapted for the offshore.

**29. Are there any parts of the HRA process in the offshore which you would like us to focus on in the guidance?**

Yes **No** Do not know

**Please provide any reasoning or evidence to support your response**

As set out above, the application of this guidance offshore risks confusing applicants when offshore specific reforms are ongoing and risks a regression of protections, at a time when extinction risks for marine species are rising. This application should be paused, and further conversations held with marine experts.

**Further comments on the draft Habitats Regulations Assessment Guidance**

**30. The full updated draft Habitats Regulations Assessment Guidance can be found in the above fact bank. Are there any aspects of the draft guidance not already covered in the previous questions you would like to comment on?**

**Please provide any reasoning or evidence to support your response**

We welcome the explicit inclusion of “other sites that are protected by the HRA as a matter of policy” as this is clear and unequivocal in the absence of legislative requirements. We also welcome the explicit recognition of “functionally linked land” as potentially triggering the HRA process.

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Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 90 organisations to use their joint voice for the protection of the natural world and animals.

The following organisations have contributed to and endorse this response:

Plantlife

CPRE – the Countryside Charity

Froglife

Amphibian and Reptile Conservation (ARC)

Ancient Tree Forum (ATF)

Friends of the Earth  
The National Trust  
People's Trust for Endangered Species (PTES)  
British Ecological Society (BTES)  
British Hedgehog Preservation Society (BHPS)  
The Wildlife Trusts  
Bat Conservation Trust (BCT)  
Bumblebee Conservation Trust

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