

1 Introduction

1.1 Background

1.1.1 Isle of Wight Council is undertaking a Habitats Regulations Assessment (HRA) of the forthcoming Highways Private Finance Initiative (PFI) which it has recently procured. This is a requirement of the Conservation of Habitats and Species Regulations 2010. This report represents the stage in the HRA process referred to as the Appropriate Assessment.

1.2 The Habitats Regulations Assessment Process

Requirement

1.2.1 Habitats Regulations Assessment is a requirement of the Conservation of Habitats and Species Regulations 2010 ('the Habitats Regulations'), the UK's transposition of European Council Directive 92/43/EEC *on the conservation of natural habitats and of wild fauna and flora* ('the Habitats Directive'). HRA must be applied to any plan or project in England and Wales with the potential to adversely affect the ecological integrity of any sites designated for their nature conservation importance as part of the Natura 2000 network of European sites.

1.2.2 Insofar as this requirement applies to the Highways PFI, the Habitats Regulations state:

"The assessment provisions apply in relation to any plan or project by a local highway authority to carry out within the boundaries of a road any works required for the improvement of the road." Regulation 84(1)(b).

1.2.3 European sites provide ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. These sites consist of Special Areas of Conservation (SAC, designated under the Habitats Directive) and Special Protection Areas (SPA, designated under European Council Directive 2009/147/EC *on the conservation of wild birds* ('the Birds Directive')). Meanwhile, the National Planning Policy Framework (DCLG, 2012) and Circular 06/05 (ODPM, 2005) require that Ramsar sites (UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.

1.2.4 Draft guidance on HRA has been defined by DCLG (2006) with more detailed draft guidance from Natural England (Tyldesley, 2009) and a range of other bodies¹. The guidance recognises that there is no statutory method for undertaking Habitats Regulations Assessment and that the adopted method must be appropriate to its purpose under the Habitats Directive and Regulations. DCLG guidance identifies three main stages to the HRA process:

¹ For example European Commission (2001) and RSPB (Dodd *et al*, 2007)

- ▶ **Screening:** Analysing draft options for likely significant effects on internationally designated sites;
- ▶ **Appropriate Assessment:** Ascertaining the effects on site integrity; and
- ▶ **Alternative Solutions:** Devising alternatives to the plan options, avoidance or mitigation measures.

Screening

- 1.2.5 The Council undertook an initial screening of the proposed Highways PFI (UEEC, 2012) in relation to the nature conservation interests of European sites on and around the Island. The Screening Statement considered all aspects of the Highways PFI services involving the upgrade, operation and maintenance of the existing road system on the Island as well as a total of 18 capital schemes.
- 1.2.6 The capital schemes are essentially individual highway improvement projects that will seek to address parts of the network that the Council has assessed as 'red risk sites' (sections of the highway that are at risk of catastrophic failure within the PFI's 25yr period). Eighteen in total, they are clustered around eight different locations as illustrated in **Figure 1.1**, and characterised by likelihood of a severe geotechnical or geological defect.
- 1.2.7 The screening exercise concluded that the majority of these (ten, as listed in **Appendix I**) would not be likely have a significant effect on a European site. A total of eight schemes were therefore considered likely to have a significant effect or it was uncertain if they would have a significant effect. An Appropriate Assessment is needed to determine if, and in what way the European sites may be negatively impacted, and if necessary devise suitable avoidance and mitigation measures to prevent these impacts having an adverse effect on the integrity of European sites.
- 1.2.8 These eight schemes and the summary outcome from the screening exercise are listed in **Table 1.1**. They are clustered into four geographically based groups. Two schemes were assessed as being likely to have a significant effect on the Solent and Southampton Water SPA and Ramsar site. A further two groups of schemes were considered likely to have, or potentially having, a significant effect on the South Wight Maritime SAC.

Completing the HRA

- 1.2.9 Regulation 61 of the Habitats Regulations (2010) requires that any plan or project likely to have a significant effect should be subject to an Appropriate Assessment undertaken by the relevant competent authority. This report will review the proposals for the each of the eight highway improvement proposals identified as having a likely significant effect on a European site and will provide the Isle of Wight Council, the competent authority, with the necessary information for it to conclude if they will adversely affect the integrity of the sites concerned.
- 1.2.10 Regulation 61 of the Habitats Regulations (2010) is reproduced in **Box 1** below.

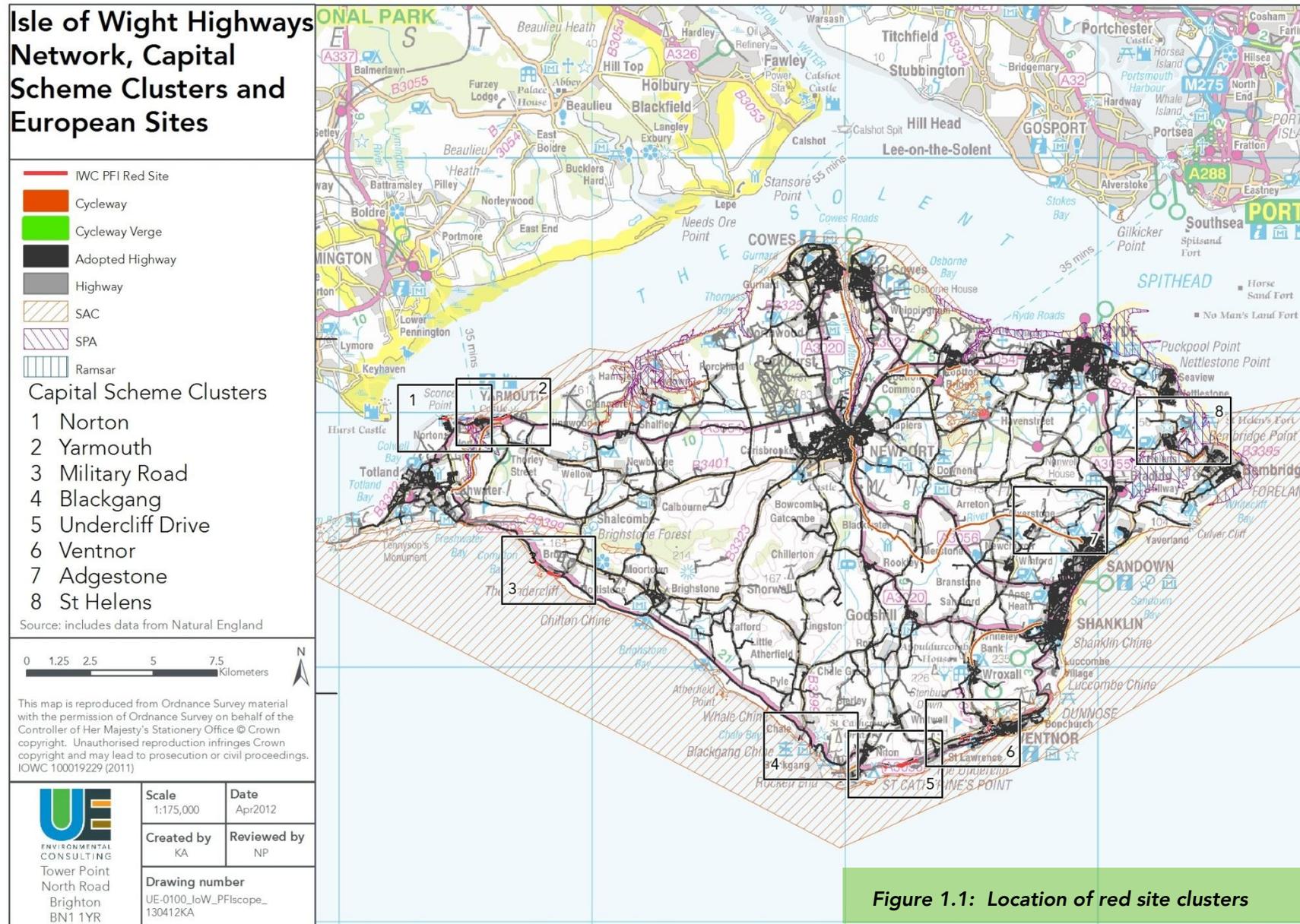


Figure 1.1: Location of red site clusters

Table 1.1: Summary of screening exercise

Capital scheme	Screening outcome	Summary
Duver Road, St Helens	Site is approximately 80m from Solent and Southampton Water SPA/Ramsar	Significant effects to the Solent and Southampton Water SPA and Ramsar Site are likely
	Carriageway requires stabilisation and resurfacing. Solution may require new drainage scheme, potentially involving discharge to, or construction of outfall within, SPA/Ramsar	
	Potential for construction disturbance to bird assemblage	
Undercliff Drive, St Lawrence: Areas A, B, C and D	Sites range from between 300m and 500m from South Wight Maritime SAC	Significant effects to the South Wight Maritime SAC are uncertain, but potentially likely
	Sites affected by complex geological conditions	
	Carriageways require stabilisation and resurfacing	
	Some form of ground water drainage may be considered	
Military Road: Brook Chine, Brook Military Road: Shippards Chine, Brook	Sites are adjacent to South Wight Maritime SAC	Significant effects to the South Wight Maritime SAC are likely
	Sites subject to dynamic coastal processes that need to be managed in the context of the Shoreline Management Plan policy	
	Options include stabilisation, drainage and restoration of carriageway	
Bouldnor Road, Yarmouth	Site is less than 30m from Solent Maritime SAC and Solent and Southampton Water SPA/Ramsar	Significant effects to the Solent and Southampton Water SPA/Ramsar site are likely. Significant effects to the Solent Maritime SAC are unlikely
	Carriageways require stabilisation and resurfacing	
	Solution may require new drainage scheme, potentially involving discharge to SPA/Ramsar	
	Potential for construction disturbance to bird assemblage	

Box 1: Extract from Regulation 61 of the Habitats Regulations 2010

61.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

(2) A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.

(3) The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specify.

(4) They must also, if they consider it appropriate, take the opinion of the general public, and if they do so, they must take such steps for that purpose as they consider appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.

1.2.11 Regulation 84 focuses the requirement of the Appropriate Assessment in relation to highway schemes and states:

Box 2: Extract from Regulation 84 of the Habitats Regulations 2010

84.—(1) The assessment provisions apply in relation to any plan or project—

(a) by the appropriate authority to construct a new highway or to improve, within the meaning of the Highways Act 1980 (b), an existing highway; or

(b) by a local highway authority to carry out within the boundaries of a road any works required for the improvement of the road.

1.3 Purpose and Structure of this Document

1.3.1 Before letting a contract for the future maintenance and management of the Island's highway network, the Isle of Wight Council must ensure that proposals for highway improvement can be implemented without being in contravention of the Habitats Regulations. This report assesses in more detail the effects of proposals made by Vinci Ringway for achieving the road improvements required by the Council through the Highways PFI. The assessment methodology is determined by the requirements of the EU Habitats Directive, its transposition into UK legislation through the Habitats Regulations and by guidance published by the European Commission and others (see above).

1.3.2 The report has the following structure:

- ▶ **Section 2** Reviews of the qualifying features of the European sites concerned, in which the habitats and species populations for which they have been designated are described. It goes on to develop the conservation objectives for the three European sites involved in the assessment, by adding further detail to those identified at the screening stage. The Habitats Regulations require that the assessment is made against these conservation objectives.
- ▶ **Section 3** Describes the habitats and species present at each of the road scheme sites, and which therefore contribute to the European site designation – for example, by attracting certain types of bird for which a European site had been classified.
- ▶ **Section 4** Explains the main features of the proposals made by Vinci Ringway to meet the requirements of the Highways PFI. It includes copies of plans and drawings prepared by Vinci Ringway and text extracted from the proposals they have submitted to the Isle of Wight Council.
- ▶ **Section 5** Assesses the proposals for the road improvement schemes against the conservation objectives for the Solent and Southampton Water SPA and Ramsar site, and concludes whether any will have an adverse effect on the integrity of these sites.
- ▶ **Section 6** Assesses the proposals for the road improvement schemes against the conservation objectives for the South Wight Maritime SAC, and concludes whether any will have an adverse effect on the integrity of this site.
- ▶ **Section 7** Presents a summary of whether there are predicted to be adverse effects on the ecological integrity of any of the three sites.
- ▶ **Section 8** Makes recommendations for actions that could be undertaken that would restore or otherwise improve the condition or conservation status of the European sites associated with the road improvement schemes.
- ▶ **Section 9** Concludes the document.