

Appendix C

**Planning Policy
Guidance**

C1 European Council Directives

C1.1 Council Directive 97/11/EC Environmental Impact Assessment

This Directive requires Member States to carry out an Environmental Impact Assessment (EIA) on certain public and private projects, before they are authorised, where it is believed that the projects are likely to have a significant impact on the environment. For some projects, such as the construction of motorways, airfields and nuclear power stations listed in Annex I to the Directive, such assessments are mandatory.

The objective of an EIA is to identify and describe to the fullest extent possible the potential environmental impacts associated with the construction and operation of a project and to assess whether prevention or mitigation is appropriate. An integral component of the EIA process is the implementation of an effective consultation with statutory bodies and community participation so that opportunities for the public can be provided to raise their concerns/ issues and to be involved throughout all phases of scheme development. Community feedback received during the preparation of the EIA and determination of the project must be taken into account prior to a project approval being granted.

C1.2 The Conservation of Natural Habitats and Wild Flora and Fauna Directive (92/43/EEC)

This Directive provides for the classification and designation of Special Protection Areas (SPA) and Special Areas of Conservation (SAC). Responsibility for the designation of these sites lies with the Environment and Heritage Service (EHS). The EHS will seek to ensure that, as far as possible and consistent with the objectives of each designation, this network of sites is protected from damage or destruction.

There is a designated SAC within the study area (described in greater detail in Chapter 4). Therefore, any corridors resulting in a potential impact upon this SAC shall require an appropriate assessment to be undertaken.

The "Habitats Directive" has been transposed into national legislation through the *Conservation (Natural Habitats) Regulations Northern Ireland 1995*. These regulations are currently under review for amendment in relation to a European Court of Justice Case.

C1.3 The Water Framework Directive (2000/60/EC)

The Water Framework Directive (WFD) establishes an overall framework for the protection of surface and ground waters. The directive uses an integrated approach to water management, based on natural river basins. It aims to simplify and rationalise current legislation and will gradually replace several existing key pieces of EU legislation. River basins must be clearly designated and monitored, with River Basin Management Plans drawn up tailored to the specific circumstances in that river basin.

The study area is located within the Neagh Bann International River Basin District (IRBD).

The directive is transposed to national legislation through the Water Environment Regulations (Northern Ireland) 2003.

C1.4 The Public Participation Directive (2003/35/EC)

This Directive provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment. The Directive has been integrated into a number of regulations including the EIA Directive and Highways Regulations. Public authorities are obliged, under the Aarhus Convention to actively disseminate environmental information in their possession. They must allow the public affected, and environmental non-governmental organisations, to comment on proposals for projects affecting the environment or plans and programmes relating to the environment.

C2 Northern Ireland Legislation

C2.1 The Roads Order 1993

The *Roads Order 1993* is the principal statutory instrument for the regulation of road/highway development in Northern Ireland. Article 67 of the *Roads (Northern Ireland) Order 1993* implements EC Directive 85/337/EEC as amended by Council Directive 97/11/EC. The assessment will be based on DMRB TD 37/93 Stage 1, 2 and 3 Scheme Assessment.

If the scheme were to process past a Stage 2 Assessment, an Environmental Statement (ES) would need to be prepared as part of the Stage 3 Assessment process. An ES would be required in accordance with the provisions of Article 67(A) of the *Roads (Northern Ireland) Order 1993*, the *Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999* and Development Control Advice Note 10 (DCAN10) Environmental Impact Assessment (DoE, 1999).

The preferred route would also require designation as a trunk road in accordance with Article 14(1) of the *Roads (Northern Ireland) Order 1993*.

Acquisition of Lands for construction of the preferred route would be required to conform to Articles 110 – 117 of the *Roads (Northern Ireland) Order 1993*.

C2.2 The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999

These regulations implement EC Directive 85/337/EEC as amended by Directive EC 97/11/EC. The 1999 Regulations are principally concerned with the assessment of certain public and private projects with regards to the environment. They are specifically relevant to the construction of new roads and/ or improvement of existing roads to which the Directive applies. These regulations further amend Article 67 of the *Roads (Northern Ireland) Order 1993*. Moreover they specify the effects that should be identified arising from road schemes and the associated requirements for mitigation.

C2.3 The Water Act (Northern Ireland) 1999

The Water Act contains provisions to combat and prevent pollution affecting waterways and groundwater. The responsible administering authority for matters that trigger the provisions of this legislation is the EHS.

C2.4 The Drainage (Northern Ireland) Order 1973 as amended by the Drainage (EIA) Regulations (Northern Ireland) 2001

The Drainage Order primarily deals with the Rivers Agency's function regarding drainage and flood defence structures, maintenance of watercourses and sea defences and protection of the drainage function of all watercourses. The EIA amendments to the Drainage Order are regarding the effects and impacts of a proposed drainage scheme on the environment.

C2.5 Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006

These Regulations implement the further changes that have been made to the EIA directive under the Public Participation Directive 2003/35/EC. They concern drainage works or marina works or a proposed drainage or canal scheme with regards to public participation on the impact on the environment of such drainage works.

C2.6 The Groundwater Regulations (Northern Ireland) 1998

This piece of legislation aims to prevent the pollution of groundwater. The 1998 regulations transpose the requirements of the EC Groundwater Directive 80/68/EEC. The Directive seeks to prevent the direct or indirect discharge of List I substances to groundwater and control pollution resulting from the direct or indirect discharge of List II substances to groundwater.

C2.7 The Pollution Prevention and Control Regulations (Northern Ireland) 2003

These regulations transpose the Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC). They require that different classes of installations obtain a permit to operate and take steps to prevent pollution, or where that is not possible, to minimise it using 'Best Available Techniques'. The Directive also requires that energy is used efficiently, that waste is minimised and recovered where possible, that measures are taken to prevent accidents and that sites are restored when operations cease.

C2.8 Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) Order 2001

These Regulations implement Council Directive 85 / 337/ EEC (as amended by Council Directive 97/11/EEC). Under the Regulations, approval must be sought from the Department of Agriculture and Rural Development (DARD). DARD would screen all such applications and any that would be likely to have significant environmental effects would be required to prepare an Environmental Impact Assessment.

C2.9 Agricultural Land (Removal of Surface Soil) Act 1953

This Act states that planning permission is required for the stripping or removal of topsoil.

C2.10 The Environment (Northern Ireland) Order 2002

The Order provides the Department of Environment for Northern Ireland with the power to declare areas of land as Areas of Special Scientific Interest (ASSI) where the land is of special interest by reason of its flora, fauna, geological, physiographical, or other features and needs to be protected.

C2.11 Fisheries Act (Northern Ireland) 1966 as amended 2001

The Fisheries Act aims to protect fisheries and their habitats. In particular it aims to prevent pollution of a watercourse, removal of material from a river bed and obstruction of fish passage and movement where weirs are constructed.

C2.12 The Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995

This Order aims to protect historic monuments and archaeological objects. Scheduled Monument Consent must be sought for any works resulting in the demolition, destruction or disturbance of, or any damage to a scheduled monument; any works for the purpose of removing or repairing a scheduled monument or any part of it or of making any alterations or additions thereto; and any flooding or tipping operations on land in, on, or under, which there is a scheduled monument.

C2.13 The Clean Air (Northern Ireland) Order 1981

This legislation aims to prevent air pollution and makes it an offence to cause or permit the emission of dark smoke. It is also an offence to burn unauthorised fuel on farm businesses that are close to towns and cities and fall within 'Smoke Control Areas' as declared by District Councils.

C2.14 The Amenity Lands Act (Northern Ireland) 1965

This has been largely repealed by the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, except for the provisions relating to Areas of Scientific Interest (ASIs), many of which have been re-categorised on declaration as ASSIs.

C2.15 The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (as amended 1989)

This places particular emphasis on the establishment of a network of Areas of Special Scientific Interest (ASSIs), National Nature Reserves (NNRs), Nature Reserves (NRs) and Marine Nature Reserves (MNRs). These include areas important for their geology and land forms as well as for their wildlife.

C2.16 The Wildlife (Northern Ireland) Order 1985

The Wildlife (Northern Ireland) Order 1985 makes it an offence to intentionally kill, injure, or take any wild bird or their eggs or nests. Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young. The Order also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity. The Order makes it an offence to intentionally kill, injure, take, possess, or trade in any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Order also prohibits certain methods of killing, injuring, or taking wild animals. The Order makes it an offence to pick, uproot, trade in, or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants. The Order contains measures for preventing the establishment of species not native to Northern Ireland which may be detrimental to native wildlife, and prohibits the release of animals and the planting of plants listed on Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

C2.17 The Public Health Act 1878

The Public Health (Ireland) Act 1878, (as amended), contains the main legislation relating to statutory nuisances in Northern Ireland. Under this Act, and the amended Public Health Act 1994, Local Authorities have a responsibility to monitor their areas for odour nuisance and can investigate complaints from the public. The Act also covers water supply and sewerage issues.

C3 Relevant Planning Policies and Guidance

C3.1 Shaping Our Future: The Regional Development Strategy for Northern Ireland 2025

The Regional Development Strategy (RDS) 2025 sets out a long-term transportation vision for Northern Ireland. Principally, the vision aims:

“to have a modern, sustainable, safe transportation system which benefits society, the economy and the environment and which actively contributes to social inclusion and everyone’s quality of life”.

The RDS recognises that Northern Ireland is heavily dependent on a road-based transport system reflecting the small internal transport market and dispersed settlement pattern.

The RDS presents four Strategic Planning Guidelines:

- SPG - TRAN 1: To develop a Regional Strategic Transport Network based on key transport corridors, to enhance accessibility to regional facilities and services;

- SPG - TRAN 2: To extend travel choice for all sections of the community by enhancing public transport;
- SPG - TRAN 3: To integrate land use and transportation; and
- SPG - TRAN 4: To change the regional travel culture and contribute to healthier lifestyles.

C3.2 A Planning Strategy for Rural Northern Ireland

This Strategy establishes the objectives and the policies for land use and development appropriate to Northern Ireland. It provides a basis for coordinating decisions in both the public and the private sectors and sets out regional policies for the control of development, to ensure a consistent approach to rural planning matters. Objectives of the strategy include:

- to protect and enhance the natural and man-made environment;
- to meet the future development needs of the rural community;
- to facilitate regeneration of the rural economy;
- to accommodate change, while maintaining the character of the countryside;
- to revitalise rural towns and villages in order to make them more attractive places in which to live and work ; and
- to promote a high quality of design in new development.

The details of the strategy are outlined in a number of policies, some of which have been superseded by the Planning Policy Statements. Policy SP11 on Transportation states that its objective is to facilitate the maintenance and development of an effective and efficient transport network. It will also facilitate the upgrading of the transportation system subject to environmental and planning considerations. The strategy also has policy statements on Heritage, Environmental Protection and Rural Landscapes.

C3.3 Belfast Metropolitan Area Plan (BMAP)

BMAP provides a framework to guide development for the southern part of the study area which lies within Newtownabbey Borough Council Area. The Plan is based on the development of hubs, corridors, gateway of the area and the maintenance of vibrant local communities.

C3.4 The Larne Area Plan 2010

This Plan provides a framework to guide development for the northern part of the study area. This plan is soon to be replaced by the Antrim, Ballymena and Larne Area Plan 2016. This is currently at draft stage and due to be published in 2008. In the absence of this Plan, the provisions of the Larne Area Plan 2010 are being considered for the purposes of this scheme.

C3.5 Regional Transport Strategy 2002-2012 (RTS)

The Regional Transport Strategy (RTS) sets out the progress towards delivery of the transportation vision that can be achieved over the ten-year period 2002-12. The strategy outlines the delivery structures and identifies the transport plans through which it will be implemented, namely the:

- Regional Strategic Transport Network Transport Plan (RSTN TP);
- Belfast Metropolitan Transport Plan (BMTP); and
- Sub-Regional Transport Plan (SRTP).

The RTS provides a commitment to develop and maintain the RSTN to enhance accessibility on an integrated basis for all users, and to examine access to regional gateways and cross border links, with an emphasis on improving connections from the 5 Key Corridors and 4 Link Corridors.

C3.6 Regional Strategic Transport Network Transport Plan 2015 (RSTN)

The RSTN TP sets out how the RTS will be implemented in the Regional Strategic Transport Network (RSTN). The RSTN TP comprises of 5 Key Transport Corridors, 4 Link Corridors and the Belfast Metropolitan Area Corridors, along with the remainder of the trunk road network. The Key Transport Corridors are the upper tier of the Region's long distance routes connecting a number of towns to the major regional gateways and the BMA.

The RSTN TP confirms the individual schemes and projects to be implemented (subject to economic and other assessments, statutory processes and the availability of resources) to support the RDS and RTS objectives/ targets. It sets out plans for short, medium and longer-term proposals as well as proposals for the maintenance, management and development of Northern Ireland's Strategic Transport Network.

The A26 is defined as part of a Key Transport Corridor and included in the plan for strategic road improvement.

C3.7 Sub-Regional Transport Plan 2015 (S RTP)

The S RTP deals with the transport needs of the whole of Northern Ireland with the exception of the Belfast Metropolitan Area and the rail and trunk road networks which are covered in earlier Transport Plans. The S RTP identifies separate packages of measures for the period 2002 – 2015 by the following mode of transport:

- Walking and cycling;
- Public transport; and
- Highways and traffic management.

C3.8 Development Control Advice Note 10 (DCAN10) Environmental Impact Assessment – NI Planning Service 1999

The DCAN10 provides general guidance on the Environmental Impact Assessment (NI) Regulations. It also provides advice on interpretation of the regulations, guidelines on producing environmental statements and outlines the roles and responsibilities of consultees.

C3.9 Northern Ireland Air Quality Policy Guidance

This document provides guidance on ambient air quality management, including air quality reviews, assessments, air quality action planning, transport planning and land use planning. A key part of local air quality management is to reduce the contribution of road transport emissions.

C3.10 Northern Ireland Biodiversity Strategy (NIBG)

The function of the NIBG is to develop a strategy, which assists in delivering the UK's biodiversity commitment and takes into account the particular circumstances of Northern Ireland. The Strategy has identified 15 major issues affecting Biodiversity in Northern Ireland and a number of specific recommendations to tackle these issues. Specific issues which relate to the A26 Dualling include:

- Agricultural Systems and Support;
- Freshwater Use and Management;

- Construction & Development;
- Tourism & Recreation;
- Peatland Management and
- Introduced Species & Genetic Material.

C3.11 Northern Ireland Biodiversity Implementation Plan 2005 -2008

The Implementation Plan contains fifty-six actions which the EHS will undertake to achieve the objectives of the NI Biodiversity Strategy. The actions have target dates of between 2006 and 2008.

C3.12 The Conservation Peatland Policy 1993

The Conservation Peatland Policy published in 1993, has now had many of the action points implemented, and the policy is currently being revised. Additionally, government policies for the protection and conservation of peatland habitats in Northern Ireland are outlined in the document "Conserving Peatland in Northern Ireland - A Statement of Policy". An important aspect of the Peatland Policy is that its development, and the proposed initiatives, relate not just to Environment and Heritage Service (EHS) but integrate all Government activities including Forestry, Agriculture and Planning.

C3.13 Northern Ireland Habitat & Species Action Plans

The UK priority habitats and species that occur in Northern Ireland are considered to be automatically selected as priority habitats and species in Northern Ireland. An additional Northern Ireland habitat is also identified for montane heath. Species specific to Northern Ireland requiring conservation action have also been identified. These include the Irish Hare, Chough, Curlew and Red Squirrel. All-Ireland species action plans have been prepared for the Irish Hare, Corncrake, Pollan and Irish lady's tresses orchid, as for these species action is best undertaken at an all-Ireland level.

Habitats of concern for this scheme include lowland raised bogs and species rich hedgerows. Species of concern will be identified during the stage 2 environmental surveys.

C3.14 Northern Ireland River Conservation Strategy

The conservation strategy sets out to identify and protect the natural and built heritage of rivers in Northern Ireland. The strategy consists of a number of objectives and actions to protect river corridors and facilitate their sustainable use.

C4 Relevant Northern Ireland Planning Policy Statements

The relevant Planning Policy Statements (PPS) which may apply to this scheme are discussed below. These PPS's establish the Government's guidance on the use and planning of land for all forms of development to ensure that consideration is given to a range of key principles such as sustainability, nature conservation and sustainable transport

A more detailed assessment will be carried out to determine the scheme's consistency against the range of key principles provided in these requisite PPSs. This assessment will be conducted during the next stages of scheme development.

C4.1 PPS1 General Principles (DOE March 1998)

PPS1 states the general principles in formulating planning policies, making development plans and exercising control of development. The Statement also sets out the key themes that underlie the approach to planning across the whole range of land-use topics. These are sustainable development, mixed- use, quality development and design.

C4.2 PPS2 Nature Conservation (DOE June 1997)

PPS2 sets out policies for the protection of important wildlife sites, with the most important sites being served by more robust policies and a stricter series of tests for developers to satisfy. A review of PPS 2 was proposed for 2005/2006, and while this has been initiated, it has been suspended while other priorities are assessed.

C4.3 PPS3 Access, Movement and Parking (DOE Feb 2005)

PPS3 sets out planning policies for vehicular and pedestrian access, the protection of transport routes, transport assessment, and parking.

C4.4 PPS6 Planning, Archaeology & Built Heritage (DOE March 1999)

PPS6 sets out the planning policies for the protection and conservation of archaeological remains and features of the built heritage. It provides guidance on direct physical impacts upon the natural or man-made environments. In particular, areas of concern for the proposed A26 Dualling scheme include archaeological sites and monuments, listed buildings, and conservation areas. PPS6 also details a section on Transport and Traffic, where the impact of new routes and routes in the vicinity of existing historic structures shall be assessed.

C4.5 PPS6 Addendum Areas of Townscape Character (DOE August 2005)

The addendum to PPS6 states the planning policies for demolition of buildings, new development and the control of advertisements in Areas of Townscape Character. It aims to ensure that development proposals respect the appearance and qualities of each townscape area and maintain or enhance their distinctive character.

C4.6 PPS11 Planning and Waste Management (DOE December 2002)

PPS11 essentially relates to the development of waste management facilities. The policy also has regard for land improvement through the disposal of inert waste and the concept of waste minimisation in new developments.

C4.7 PPS13 Transportation and Land Use (DRD February 2005)

PPS13 has been prepared to assist in the implementation of the Regional Development Strategy to guide the integration of transportation and land use. It will guide the integration of transportation and land use, particularly through the preparation of development plans and transport plans, prepared respectively by DOE Planning Service and DRD Roads Service.

The policy statement also states the need for Transport Assessment and requires a comprehensive review of all the potential transport impacts of a proposed development or redevelopment, with an agreed plan to mitigate any adverse consequences. It aims to provide information so that decision makers can better understand how a proposed development is likely to function in transport terms.

C4.8 PPS14 Draft Sustainable Development in the Countryside (DRD October 2007)

PPS14 has been drafted to support the Regional Development Strategy (RDS). It specifically responds to the increasing pressure for single dwellings in the countryside. It also contains information in relation to replacement dwellings, the integration and design of all new buildings, rural character, ribbon development, farm diversification, agricultural buildings and development relying on non-mains sewerage.

C4.9 PPS15 Planning and Flood Risk (DOE June 2006)

The policy statement on flood risk seeks to minimise flood risk to people, property and the environment. It includes the concepts of sustainable development and the conservation of biodiversity. The precautionary approach to development is also an important theme that takes account of climate change and supports the wellbeing and safety of people. In reference to the A8 Dualling, policies FLD1 development in floodplains, FLD3 development beyond floodplains and FLD4 flooding and land drainage will be of particular relevance.