

The term 'Appropriate Assessment' can be potentially daunting and can imply the need for extensive studies

criteria by which to screen potential impacts and thereby focus on the control of those, which are of potential concern. In this way, the assessment process can be used to maximum efficiency.

This process was used by Mayer Brown, recently for a local authority who wished to obtain permission for the change of use of a site embedded within a Special Protection Area (SPA). The change of use was not considered to have a significant effect on the surrounding area and various studies were required to examine this assumption.

Advice was sought from environmental lawyers and ecological experts with the result that a screening methodology was developed and applied to the areas of air, noise, hydrology, ecology and visual impact. This collective study was able to demonstrate that the change of use would not affect the site ecology. Advice was also provided in accordance with Planning Policy Statement 9 Biodiversity and Geological Conservation on how minor changes to the site maintenance could in fact enhance the surrounding SPA.

As a result, the findings were accepted and permission for a change of use was granted without the need for a full Environmental Impact Assessment.

Another example of this type of collaborative screening approach is where it was used to undertake a Strategic Environmental Assessment of the Local Development Framework (LDF) for a local council to determine whether the policies within the LDF would require the need for an 'Appropriate Assessment' of the surrounding Special Areas of Conservation (SAC). In this case, specialists were able to identify those policies, which may impact the specific sensitivities of the SACs and the

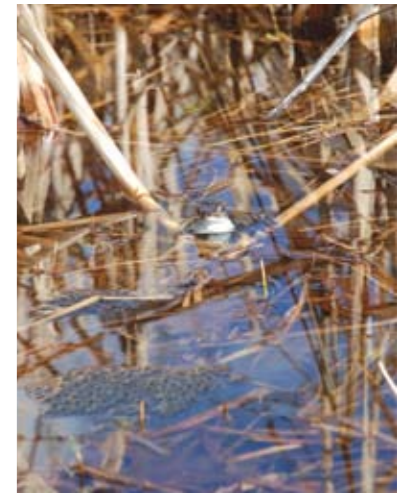
LEFT: For developers to understand new habitat legislation, mediation is needed between all appropriate parties

routes by which these impacts may occur.

This information was then applied to GIS mapping methods to identify the potential routes or pathways of effect and to screen these for impacts via media such as traffic related nitrogen enrichment, urban encroachment (including air and noise impacts) and catchment hydrology and hydrogeology.

The final report recommended the amendment of some proposed policies and thereby screened out the potential for impact and avoided the need for Appropriate Assessment.

Therefore, while it may appear that the environmental legislative process is increasing faster than developers ability to cope with it, the key to progress in these matters is always an understanding of the core requirements of the documents and an ability to include and mediate between all the appropriate parties.



RIGHT: The conservation of proposed sites for development is of utmost importance

Andrea Hughes BSc MSc MCIWEM CEnv

Andrea Hughes began her career in 1996 with a BSc in Environmental Biology. After her degree, she spent some time in the voluntary environmental sector and in 1998 attained an MSc in Ecotoxicology and Pollution Control. She joined Mayer Brown 2003 in order to head up a new Environmental Division and is now a Chartered Environmentalist

TACKLING THE HABITATS DIRECTIVE

Andrea Hughes of Mayer Brown says construction planning and change of use need not be delayed unduly by full Environmental Impact Assessments

IN RECENT years, it has seemed to many that the protection of the environment has become the focus of ever more national and European legislation. Whilst this is an entirely necessary process, it has resulted in developers increasingly finding that they are being asked to provide reports and assessments on environmental subjects and areas with which they are completely unfamiliar.

A highly significant piece of legislation that emerged in the early 1990s is the European Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora, otherwise known as The Habitats Directive. This was transposed into UK law by the Conservation (Natural Habitats &c.) Regulations 1994 as amended. The main initiative of this directive is the creation of a European network of wildlife sites known as Natura 2000. This network is to be made up of Special Areas of Conservation (SACs) under the Habitats Directive and Special Protection Areas (SPA) under the related EC Birds Directive. The terms of the directive are that these sites are to be protected and enhanced. More

specifically, and more crucially for developers, Article 6 (para 3) of the directive requires that: "Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to an appropriate assessment of its implications for the site in view of the sites conservation objectives."

The term 'Appropriate Assessment' used in this context can be potentially daunting and can imply the need for extensive and ongoing studies. While this is likely to be true in some cases, often the reality can be far less onerous. Here, an 'Appropriate Assessment' is purely an assessment that must be appropriate to its purpose under the habitats directive. Therefore, it is often sufficient simply to demonstrate that a plan or project will not constitute 'harm' to the European site.

Again, on the face of it, this is a potentially daunting challenge. However, where developers work closely with all the relevant authorities, including the local council, Natural England and other third parties, it is usually possible to develop