

29 May 2018

Query from the Inspector following submission of the Hearing Statements and in light of:

**People over Wind, Peter Sweetman v Coillte Teoranta
Court of Justice of the European Union Case C-323/17**

The Council is referred to the recent judgment of the Court of Justice of the European Union (CJEU) which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment (AA) and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage.

The Inspector has noted the Council's answer to Q.4, Issue 1b of the MIQ but wants the Council to specifically confirm the following:

- The extent to which the Council considers that its' HRA Report and Addendum Report is legally compliant in light of the above judgment. The screening assessment should be read again before a response is made.
- The Inspector is particularly concerned with any policies or allocations which have been subject to screening in the HRA process which have identified likely significant effects but where it has been concluded that such effects can be mitigated such that AA is not required. Can the Council confirm whether any policies or site allocations fall within this category?

A response to the above should be provided in writing as soon as possible, ideally prior to the opening of the examination hearings.

The Inspector requests that a copy of this note and any response is published on the Examination website.

Karen Ridge

Examination Inspector