Regulation 56 and 61
In relation to Regulation 56 and 61, it would appear to require councils to review previous planning decisions made by the Department. Regulation 61(3) provides that where a planning permission falls to be reviewed under the review provisions it shall be reviewed by a council. It is difficult to see the basis upon which the Department would require a council to review the decisions of any other Competent Authority and we would seek a rationale for this. We would ask that clarification is provided on whether the Council will be required, under the new planning regime, to review previous planning decisions made by the Department and other Competent Authorities. If that is the case, the Council would request that the Department provide a rationale for same.

Regulation 58
This relates to co-ordination where more than one competent authority is involved. The Council is concerned that Regulation 58 (4) provides that competent authorities other than the Department must seek and have regard to the views of the other authorities involved but there is no such obligation upon the Department. No rationale has been provided for why this is the case and an explanation is sought for this omission. In the interests of openness and procedural fairness, the Department should be expected to explain the basis upon which it disagrees with what may be valid concerns on the part of other Competent Authorities.

The Council considers there is a need for a process to identify a lead competent authority where multiple bodies are involved.

It is also noted that councils will be under a duty to review permissions in relation to the winning and working of minerals, i.e., quarries, mines etc. The draft Development Management Regulations published in May 2014 set out the classes of development identified as either major or regionally significant developments.

Major developments were identified as being minerals works where the site exceeds 2 hectares and regionally significant applications as developments involving quarries or open-cast mining where the site surface exceeds 25 hectares, peat extraction where the site surface exceeds 150 hectares or development involving underground mining where the site surface exceeds 2 hectares.

It is noted that all mineral permissions, including those which do not fall under the above definition as either major or regionally significant, were previously determined by the Department. The Council understands that the Department undertook a review of mineral permissions including dormant sites and would welcome the publication, or assurance of the availability of up-to-date information, in relation to the location, size and current status of all such mineral permissions.

Conclusion

The Council considers there is a need for an overarching framework and associated procedures in order to be able to assess more precisely the likely impacts on a European site, including cumulative impacts, the impact of plans and projects outside the Council's boundary and impacts on potential European sites or extensions to existing sites. The availability of adequate resource capacity and expertise within the Northern Ireland Environment Agency will be essential to ensure timely and robust determinations.

The Council is concerned that without such a framework capable of capturing data NI wide for all Competent Authorities and data sharing provisions there will be potential delays in decision making, legal challenges and possible fines from the European Union. It is imperative that robust fit for purpose guidance and structures are developed to ensure that all decisions in relation to plans and projects which affect habitats are taken in accordance with the obligations upon all Competent Authorities within the draft Regulations and the EC 'Habitats' and 'Wild Birds' Directives.