

# Delivering mitigation and environmental enhancement through EIA

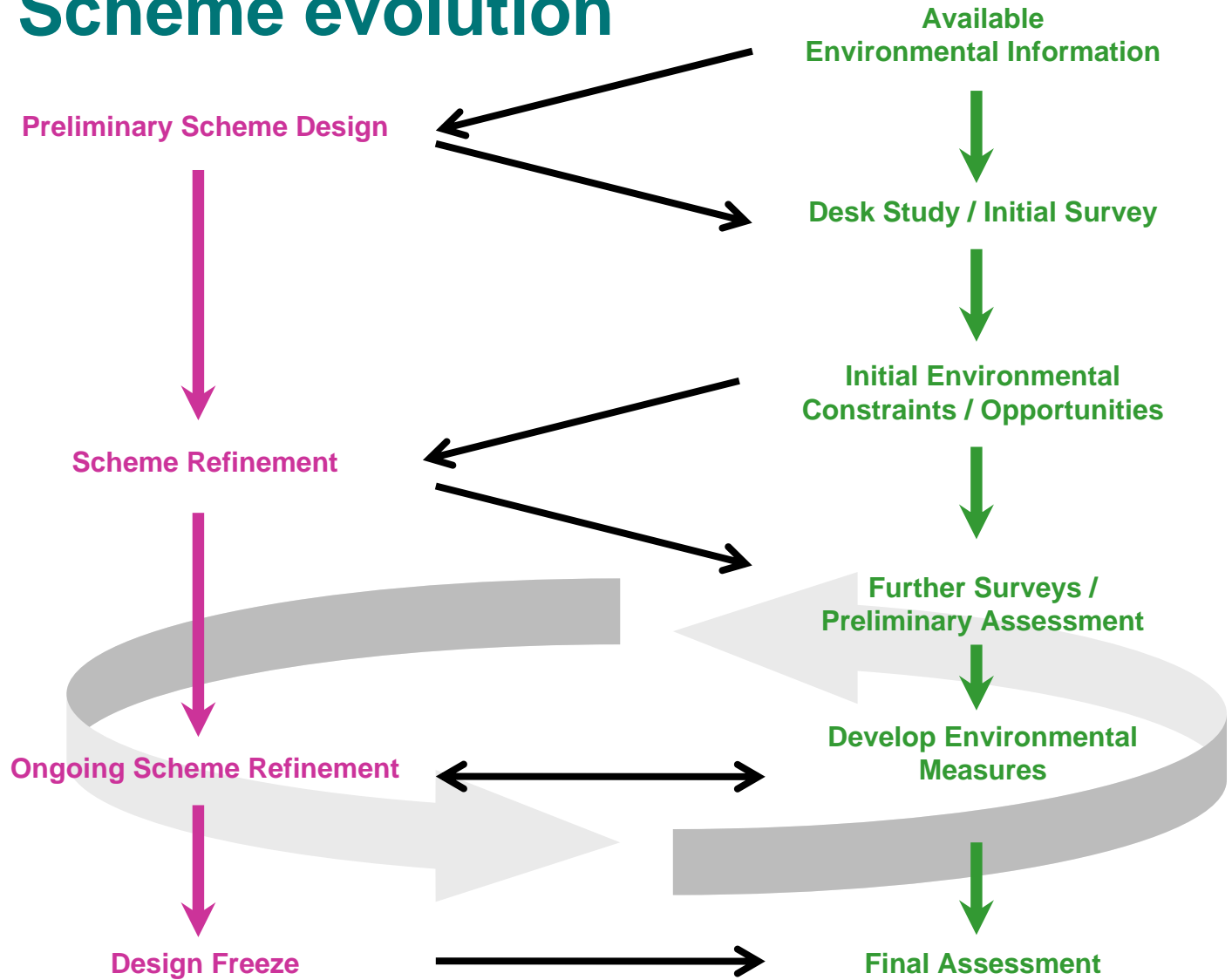
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# Challenges....

- **Defining mitigation**
  - ‘**Environmental measures**’ = counter-acting measures + enhancement measures
  
- **EIA process**
  1. Identifying appropriate environmental measures
  
  2. Building environmental measures into the scheme design - ‘scheme evolution’
  
  3. Ensuring environmental measures are implemented

# Scheme evolution



# Scheme evolution - what else should it involve?

- Consultation on environmental measures amongst the EIA team
- Client approval
- Consultation with others

# Assessing the evolved scheme

- **Scheme description including all agreed environmental measures of ‘shopping list’ of mitigation**
- **ES need deal only with the evolved scheme - cf separate assessments for the ‘mitigated’ and ‘unmitigated’ schemes**
- **Reflect the likely effectiveness of the environmental measures**
- **Ideally there being no mitigation!**

# Caselaw

- **R (Catt) v Brighton and Hove City Council (2007)**
  - Court upheld Council's decision that no EIA required
  - Screening assessment reflected environmental measures
  
- **R (Hart DC) vs SoS CLG et al (2008)**
  - Court upheld the SoS's decision that no AA required
  - Screening assessment reflected environmental measures
  - *"it would have been "ludicrous" for her to disaggregate the different elements of the package*

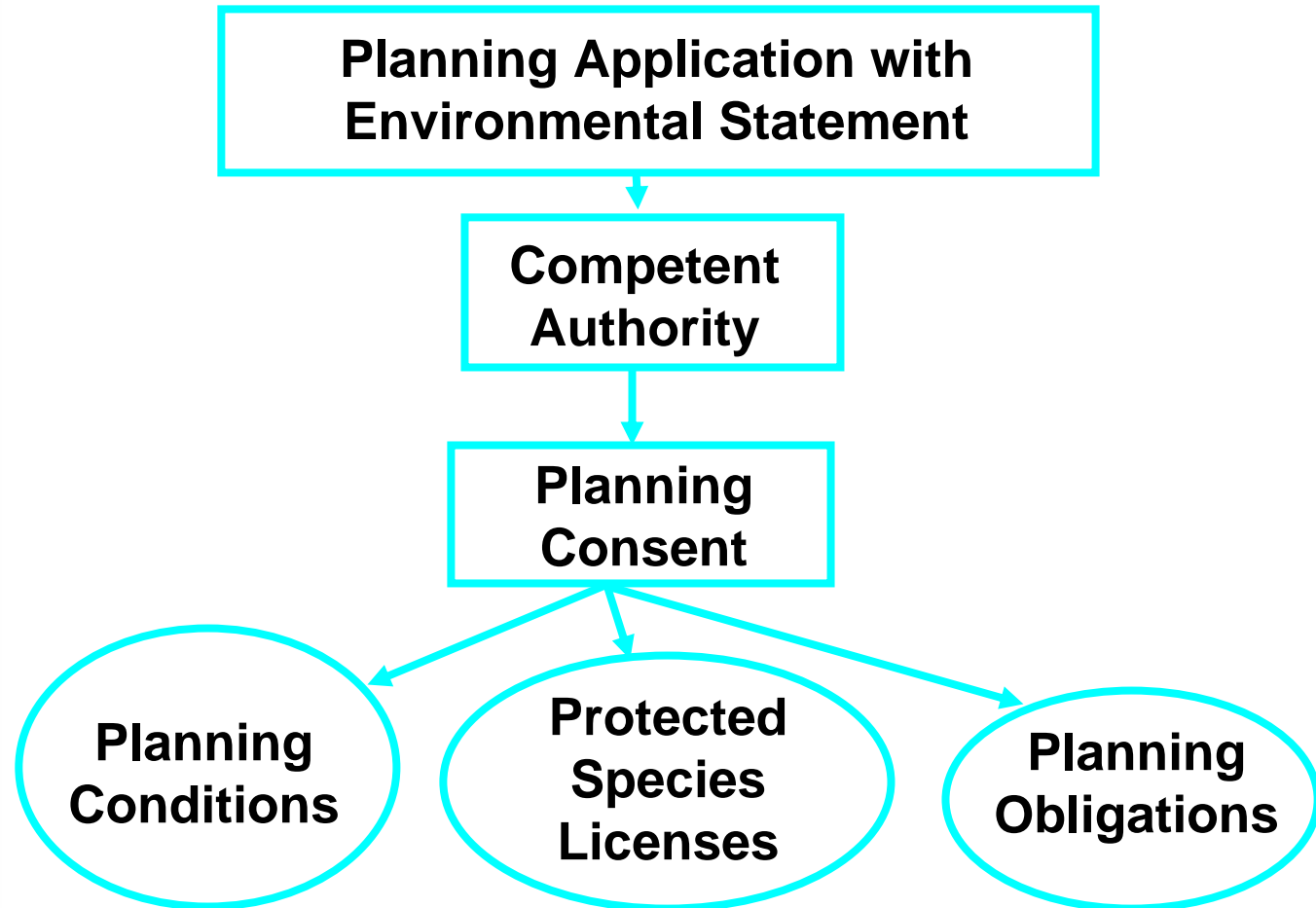
# What are the implications?

- **Shorter ESs**
  - avoids unnecessary work
  - cost savings for developers, LPAs and others
- **Clearer ESs - clarity over the scheme proposals for which consent is being applied & consistency between EIA topics**
  - facilitate better decision-making
  - environmental measures more likely to be delivered

# Environmental Measures in the Development Process

- **Where the ES fits in the Planning System**
- **Securing Environmental Measures**
- **Roles of Developer's Consultant, Competent Authority and Consultee**

# Environmental Measures in the Development Process



# Environmental Measures Post-Consent

- **Break in continuity – goodbye Planner, hello Engineer!**
- **Goodbye Environmental Statement!**
- **Not enough monitoring and enforcement by Competent Authorities**

# Trying to Make Sure Mitigation Happens

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- **Making sure the EIA manager understands!**
- **Making sure the client understands!!**
- **Painting the black picture**
- **Making sure the competent authority understands**

# Schedule of Environmental Commitments (1)

Table 9.5

Potential Effect	Environmental Measure	Type of measure	Monitoring requirements (if any)	Means by which environmental measure may be secured
<b>Operation</b>				
Loss of salmonid eggs and fry due to siltation of spawning beds	Construction of watercourse crossings to be undertaken during summer months (May – October)	Avoidance	None	Planning condition requiring method statement to be prepared before the start of construction
Collision risk to greylag geese	Modification of drainage of Honeymug Bog to reduce its attractiveness to geese as a foraging & loafing area while enhancing its value as wader breeding habitat.	Reduction	5 years post-construction monitoring of goose and wader use of Honeymug Bog	Legal agreement between nPower, landowner and Alnwick District Council requiring agreement and implementation of a Habitat Management Plan.

# Schedule of Environmental Commitments (2)

Table 9.5

Potential Effect	Environmental Measure	Type of Measure	Monitoring requirements (if any)	Means by which environmental measure may be secured
<b>Construction</b>				
Loss of bat roosts	<ul style="list-style-type: none"> <li>•Full mitigation strategy as detailed in Appendix X to be undertaken under Natural England licence to mitigate the loss of roost sites.</li> <li>•Provision of alternative roost site by the incorporation of a loft within double garages at The Friarage site.</li> <li>•Provision of other roosting opportunities by installing bat bricks and slates into several new buildings.</li> </ul>	Compensation	None	Natural England derogation licence