

*Environmental Impact Assessment:  
A guide to good practice  
and procedures*

---

A consultation paper



*Environmental Impact Assessment:  
A guide to good practice  
and procedures*

A consultation paper

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London SW1E 5DU  
Telephone: 020 7944 4400  
Website: [www.communities.gov.uk](http://www.communities.gov.uk)

© *Crown Copyright 2006*

*Copyright in the typographical arrangement rests with the Crown.*

*This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.*

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at [www.opsi.gov.uk/click-use/system/online/pLogin.asp](http://www.opsi.gov.uk/click-use/system/online/pLogin.asp) or by writing to the Office of Public Sector Information, Information Policy Team, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: [HMSOlicensing@cabinet-office.x.gsi.gov.uk](mailto:HMSOlicensing@cabinet-office.x.gsi.gov.uk).

Further copies of this publication and alternative formats are available from:

DCLG Publications  
PO Box 236  
Wetherby  
West Yorkshire  
LS23 7NB  
Tel: 0870 1226 236  
Fax: 0870 1226 237  
Textphone: 0870 1207 405  
E-mail: [communities@twoten.com](mailto:communities@twoten.com)  
or online via the DCLG website: [www.communities.gov.uk](http://www.communities.gov.uk)

Printed in the UK on material containing no less than 75% post-consumer waste.

June 2006

Product Code 05 SCDD 03704

# Contents

<b>Introduction</b>	<b>5</b>
<b>1. Project Preparation</b>	<b>8</b>
Introduction to Project Preparation	8
Options Appraisal	8
Environmental Studies	11
Consultation	14
Type of Planning Application	17
Summary	19
<b>2. Screening: Is EIA needed?</b>	<b>20</b>
Introduction to Screening	20
The Statutory Procedures	21
Summary	30
<b>3. Scoping</b>	<b>31</b>
Introduction to Scoping	31
The Statutory Procedures	32
Summary	36
<b>4. Assessing the Environmental Impacts</b>	<b>37</b>
Introduction to Assessing the Environmental Impacts	37
Methods of prediction	37
Assessment of Significance	39
Cumulative Effects	40
Summary	41
<b>5. Preparing the Environmental Statement</b>	<b>42</b>
Introduction to Preparing the ES	42
ES Content	42
Writing/Formatting and Co-ordinating the ES	47
Summary	48
<b>6. Submission and Evaluation of the Environmental Statement by the Local Planning Authority and the Decision</b>	<b>49</b>
Introduction to Submission and Evaluation of the ES and the Decision	49
The Statutory Procedures	49
Summary	55

<b>7. Post-Decision Practices</b>	<b>56</b>
Introduction to Post-Decision Practices	56
Environmental Action Plans	57
Planning Conditions/Obligations	58
Summary	59
<b>8. Bibliography and References</b>	<b>60</b>
<b>Appendix A: The EIA Directive</b>	<b>61</b>
<b>Appendix B: Relevant Regulations for Projects Outside the Town and Country Planning System</b>	<b>80</b>
<b>Appendix C: Professional institutions/Government bodies with advice on EIA</b>	<b>81</b>
<b>Appendix D: Schedule 3 of the EIA Regulations</b>	<b>82</b>
<b>Appendix E: Scoping List</b>	<b>84</b>
<b>Appendix F: Basic requirements for the content of an ES</b>	<b>87</b>
<b>Appendix G: Example Structure of an Environmental Statement</b>	<b>89</b>

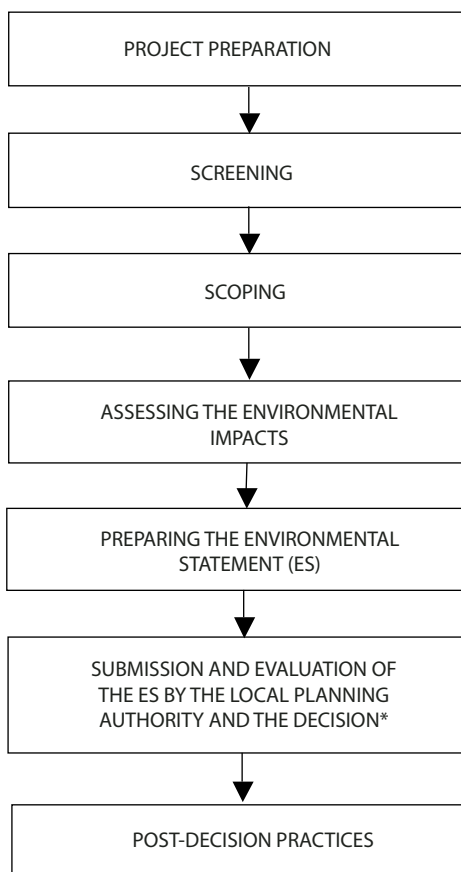
# Introduction

1. Environmental Impact Assessment (EIA) is a process for identifying the environmental effects (positive and negative) of proposed developments before development consent is granted. The aim of EIA is to prevent, reduce or offset the significant adverse environmental effects of development proposals, and enhance positive ones. It is a means to ensure that planning decisions are made in the knowledge of the attendant environmental effects and with full engagement of statutory bodies, local and national groups and members of the public.
2. The statutory requirement for Environmental Impact Assessment comes from Directive 85/337/EEC as amended by Directive 97/11/EC and Article 3 of Directive 2003/35/EC (the 'Public Participation Directive'). The full text of the amended Directive is provided at **Appendix A**.
3. In England this is given legal effect primarily through the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (SI 1999 No 293) as amended by with the Town and Country Planning (Environmental Impact Assessment)(England and Wales) (Amendment) Regulations 2000 (SI 2000 No 2867) and [2006 amending regulations No XXX]. The regulations apply to all projects which fall under the Town and Country Planning system. Other Regulations apply for those projects subject to development consent outside this system – these are detailed in **Appendix B**.
4. The guide applies only to those developments that seek consent through the 'Town and Country Planning system'<sup>1</sup>, and therefore any reference to 'the EIA Regulations' refers to those described in paragraph 3 above. However, most guidance will also be appropriate (in full or in part) to the devolved administrations and the other complementary Regulations in **Appendix B**. For applications in Wales and Scotland, activities of the Secretary of State would normally be undertaken by the Welsh Assembly Government and the Scottish Executive respectively.
5. The EIA process enables environmental factors to be given due weight, along with economic and/or social factors, when planning applications are being considered, thus promoting a sustainable pattern of development. Responsibilities primarily fall upon:
  - the developer who collects data, undertakes consultations and environmental studies so that environmental issues are taken into account in project design, including mitigating measures, which are reported in an Environmental Statement (ES) which is submitted alongside the planning application
  - the local planning authority (LPA) in reviewing the ES, seeking further information if necessary and undertaking consultations with the public and statutory agencies.

---

<sup>1</sup> Exceptionally, old mineral permissions granted prior to the original Town and Country Planning Act will fall under the EIA Regulations if variations to that consent are sought. In this case however the review of the consent is undertaken under different legislation (the Planning and Compensation Act 1991 and the Environment Act 1995).

- 6. This guide provides advice on the statutory procedures that must be followed for any 'EIA application' (including the decision whether the EIA Regulations apply). It also reflects good practice guidance on the implementation of the process and suggests additional sources of information. It is aimed at a wide readership, to include anyone involved with applications, whether as regulators, developers or consultees (see **Section 2** for a definition of 'consultee').
- 7. It updates and consolidates previously published guidance available from ODPM including 'Environmental Impact Assessment: A guide to procedures' (ODPM, 2000) and 'Preparation of Environmental Statements for Planning Projects that Require Environmental Assessment: A good practice guide' (DoE, 1995) and 'Evaluation of Environmental Information for Planning Projects – A good practice guide' (DoE, 1994). It also incorporates recent case law and amendments to the EIA Regulations [coming into force in 2006].
- 8. The structure of the guide is based on seven key stages of EIA, beginning when a project is conceived and continuing through to delivery of environmental mitigation and, where appropriate, monitoring. These stages are set out below, although it should be noted that, whilst the process is generally linear (as shown), in practice it often includes several iterations and feedback loops.



\* Note: in most cases it is the LPA, but in some circumstances the Secretary of State evaluates the ES and determines the planning application – see Paragraphs ...



9. To assist in navigating the guide, markers indicating the stage being described are included in the left margin of every page.
10. Case law has strongly influenced EIA practice, with court judgements in the UK and in the European Court of Justice serving to achieve greater clarification on many aspects of the EIA Regulations. Key cases are included in the text, along with other information and examples, as follows:

**CASE STUDY BOX**

Relevant case studies to illustrate best practice in operation.

**CASE LAW BOX**

A summary of relevant case law highlighting legal interpretation of the case

**EXAMPLE BOX**

Providing theoretical examples of implementation of the requirements.

**RESOURCES BOX**

Information on where useful resources can be found.

**SUMMARY BOX**

At the end of each chapter, a summary of the key points is provided.

11. Whilst this is a guide to EIA only, it is important to be aware of the potential for other assessment or permitting regimes to apply to any particular development. Where this is the case, information requirements often overlap and it is usually cost effective for the developer, and often preferred by the statutory consultees, if parallel assessments are made. Such regimes include:
  - Pollution Prevention and Control Regulations (2000)
  - Control of Major Accident Hazards Regulations (1999)
  - Habitats Regulations (1994)
12. In the first instance, relevant statutory bodies should be contacted for information/advice on these regimes, for example, the Environment Agency or Health and Safety Executive.
13. Finally, it should be noted that this guide is not intended to be an authoritative interpretation of the law and does not remove the need to refer to the EIA Regulations. Most sections of this guide relate to/expand on the EIA Regulations and EIA Circular 2/99 and therefore they should be read together.

# 1. Project Preparation

## Introduction to Project Preparation

14. Whilst the submission of an Environmental Statement (ES) is part of the planning application process, consideration of environmental matters should begin at project inception, when EIA can become a tool for sustainable design. There are no statutory procedures associated with this preparatory stage, but it is undoubtedly one of the most important. Even where projects do not ultimately require an ES, taking account of environmental considerations at this stage will ensure a better proposal and should lead to speedier determination of the application.
15. This section of the guide introduces:
  - Options appraisal
    - Site selection and strategic environmental assessment
    - Project design and mitigation
  - Environmental studies
    - Preliminary site walkover
    - Desk study
    - Field survey
  - Consultation
  - Type of Application
16. Work initiated at this stage frequently continues throughout the project, up to the point of application and beyond.

## Options Appraisal

### Site Selection and Strategic Environmental Assessment

17. Where a development is being progressed in accordance with a local plan allocation, the level of detail on site selection warranted by the EIA Regulations may well depend on the extent to which this has been addressed in any Strategic Environmental Assessment (SEA) required under EC Directive 2001/42/EC<sup>2</sup>. The local plan (or equivalent) is typically developed from a series of separate evidence based studies for specific topics, many of

---

2 i.e. plans whose preparation begins after 21 July 2004 or are not adopted by 21 July 2006

which consider site selection, for example the local waste plan/strategy, minerals plans and housing landbank studies. As such, the suitability of particular sites for a certain type of development may have been established.

18. It should be noted, however, that a plan allocation (regardless of whether it has undergone SEA) indicates the broad type of development for an area and does not identify the suitability of an individual project or obviate the necessity for EIA and the use of the screening procedure. In cases where developments of strategic importance are being promoted, both the SEA and EIA Directives may apply.
19. For projects where site selection is not informed by a development plan or similar (e.g. sites which unexpectedly become available through industrial closure), evidence of systematic consideration of site options, using objective criteria, is likely to be a pre-requisite to EIA. It is generally crucial for schemes which undergo public inquiry. Strategic alternatives looking at different ways of solving the problem (e.g. public transport improvements vs road widening) may sometimes be relevant, though it is not normally practicable for EIA purposes.
20. Published guidance on appraisal tools to assist in site selection mostly relate to major transport projects. However, they can provide a useful framework for adaptation to other projects – see Example Box below.

#### **EXAMPLE BOX: SITE SELECTION APPRAISAL TOOLS**

**The Transport Analysis Guidance Website (WebTAG) can be accessed at [www.webtag.org.uk](http://www.webtag.org.uk)**

The Department for Transport has initiated this website to provide detailed guidance on the appraisal of transport projects and wider advice on scoping and carrying out transport studies.

The guidance should be seen as a requirement for all projects/studies that require government approval. For projects/studies that do not require government approval TAG serves as a best practice guide.

The site originally brought together the Department's existing documents, *The Guidance on the Methodology for Multi-Modal Studies* (GOMMMS) and associated supplements, *Applying the Multi-Modal Approach to Appraisal to Highway Schemes* (The Bridging Document) and *Major Scheme Appraisal in Local Transport Plans*. The material on this site supersedes these documents.

The Department will release all future updates of guidance via this site and will aim to incorporate other relevant documents when the opportunity arises.

## Project Design and Mitigation

21. Once the site has been selected (see Paragraphs ...), early consideration of environmental features within the site allows the project's design to respond to the environmental constraints and opportunities present. EIA, in the widest sense, is an iterative assessment and design tool and even where it is not required formally through the EIA Regulations (as described in the following sections of this guide), developers are advised to consider fully the environmental implications of their development at this critical stage. The involvement of environmental professionals at project preparation stage ensures that this opportunity is maximised. Ideally, an EIA co-ordinator would be identified at this stage.
22. The design stage presents the optimum time to incorporate mitigation measures into a scheme. The hierarchy of mitigation of environmental effects is:

AVOIDANCE – making changes to the project's design (or potential location) to avoid adverse effects on an environmental feature. This is considered to be the most acceptable form of mitigation.



REDUCTION – where avoidance is not possible, adverse effects can be reduced through sensitive environmental treatments/design<sup>3</sup>.



COMPENSATION – where avoidance or reduction measures are not available, it may be appropriate to provide compensatory measures<sup>4</sup>. It should be noted that compensatory measures do not eliminate the original adverse effect, they merely seek to offset it with a comparable positive one.



REMEDICATION – where adverse effects are unavoidable, management measures can be introduced to limit their influence<sup>5</sup>.



ENHANCEMENT – projects can have positive effects as well as negative ones, and the project preparation stage presents an opportunity to enhance these positive features through innovative design

---

3 For example, where structures are to be introduced onto river banks with the potential to disrupt otter passage, otter ledges can be incorporated into the project design to ensure their pathways are maintained and the potential for adverse effects is reduced.

4 For example, where a development destroys an area of habitat, this could be recreated at an alternative location.

5 This can include construction and site operation controls which have no physical manifestation in the built scheme, including, for example, dust control measures, construction noise abatement techniques etc.

23. An example of mitigation through design is provided in a case study, below, of the Turner Contemporary art gallery.

**CASE STUDY BOX: TURNER CONTEMPORARY, MARGATE**

In 2002 an Environmental Statement for the proposed Turner Contemporary art gallery in Margate was completed. The proposal was for the art gallery to be constructed on the existing pier which stretches out over an area of high nature conservation value, designated as a SSSI, SPA, SAC and Ramsar site by virtue of its internationally important population of migratory turnstone and other bird species of national importance (e.g. sanderling).

The scheme design was developed in consultation with English Nature and included various apron, ramp and screening structures integrated into the support structure for the pier/new building to protect/create suitable habitat/feeding opportunities for wading birds.

With these measures in place, it was concluded in the EIA that residual effects of the development on wading birds would be insignificant. This was supported by English Nature who made no objection to the planning application, which was granted permission in 2003.

24. Frequently, however, a comprehensive team of environmental professionals is engaged only to prepare an Environmental Statement as part of the statutory process and is not actively involved at the design stage. This limits the potential for environmental design treatments.
25. Early consideration of the environment in design is not just good practice, but can be cost effective. Resources can be wasted in pursuing schemes where the environmental constraints are significant enough to prevent development or undermine its feasibility.
26. Design should necessarily respond to the principles of sustainable development (as set out in the Government's Sustainable Development Strategy Securing the Future (2005)). Mitigation and enhancement measures incorporated in the initial stages of design are invariably more successful and cost-effective than those 'bolted on' at a later stage.

## Environmental Studies

27. Consideration of environmental issues in site selection and project design needs to be supported by baseline environmental studies. The information gathered during this stage will focus on identifying likely sensitive receptors, preliminary mitigation and opportunities for environmental benefits/enhancements. It will also indicate the composition and focus of the team that needs to be assembled to support the developer through an application. Any data collected will ultimately be used to provide the baseline for the ES. Typically the detail required will depend on the nature, scale and location of the project, and will vary for different environmental components, however, the list below identifies the typical data requirements as a project progresses.
- Preliminary site walkover (see paragraph 28)
  - Desk study (see paragraphs 29-30)
  - Field surveys (see paragraphs 31-36)

## Preliminary Site Walkover

28. A preliminary site walkover enables an understanding of the site and its environs and identification of the key issues.

## Desk Study

29. Desk study data will support preliminary site appraisals and identification of the key issues, and for some environmental topic areas, can be expanded to provide sufficient data for the ES baseline and assessments.
30. Sources of information for desk study data include statutory consultees (see paragraph 38), NGOs (e.g. RSPB) and local groups (e.g. local wildlife groups). Information can be obtained directly through consultation (see below), or through published information (including Local Authorities' Local Plans/Local Development Frameworks) and websites (including the Environment Agency's website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) and the Multi-Agency Geographic Information for the Countryside (MAGIC) website ([www.magic.gov.uk](http://www.magic.gov.uk)). Information about the composition of the local population can be found in the Annual Public Health Report produced by the local Primary Care Trust or the Regional Public Health Observatory.

## Field Surveys

31. For some environmental topic areas, field surveys will be required to identify baseline conditions for the EIA (see Example box below). The full scope of these surveys would usually be determined during the formal scoping stage (see **Section 3**). Some surveys (in particular ecology) are seasonally dependent and/or may be required over a long duration (for example, up to 12 months for some species, or potentially summer and winter for landscape surveys). In these cases it may be prudent to begin survey work at an early stage (prior to formal scoping) to prevent delays in the application.

**EXAMPLE BOX: FIELD SURVEYS**

The particular surveys required for each ES will be dependent on the project and its location, as well as sensitivities identified during scoping. However, the following list provides an example of the types of surveys that might typically be required:

- Habitat survey
- Protected species surveys (for example, bats, badgers, breeding birds, great crested newt, otter, water vole etc)
- Intrusive ground investigation (to identify contamination etc)
- Visual impact survey
- Landscape character survey
- Archaeological field evaluation
- Baseline noise survey
- Road traffic survey
- Water quality survey
- Air quality survey

32. The detailed information collected about the site through the survey work will further inform the project design, allowing it to better respond to the site's characteristics. If surveys are to be progressed in advance of formal scoping, however, agreement on their scope should be sought with the Local Planning Authority – repeating or commissioning additional surveys (should the baseline work be considered inadequate on submission of the ES) can be costly in money and time.
33. The importance of the availability of survey information at the time of the decision is referred to in the case below.

**CASE LAW BOX: ESSENTIAL INFORMATION**

In *R v Cornwall County Council ex parte Jill Hardy [2001 JPL 786]* the applicant carried out an EIA and provided an ES. Although it was known that the conditions at the site were those favoured by a protected species, bats, the applicant did not investigate for their presence as a part of the EIA. The planning authority, advised by English Nature, imposed a condition requiring the applicant to carry out a survey to establish whether bats were present prior to commencing the development. The Court held that this information should have been included in the ES, otherwise the authority could not comply with the requirement in Regulation 3(2) to take the environmental information into consideration. The planning permission was quashed.

34. In the above case the information from the surveys should have been included in the ES as the presence of bats would lead to significant environmental effects. In *R(PPG 11 Ltd) v Dorset County CC [2004] Env LR84* the ES contained information on reptile species, but with further surveys and translocation recommended before construction commenced. A challenge against the consent failed because it was concluded that, whatever the results of the surveys, the effect on ecology would not be significant. Here, therefore, a requirement for a survey could be imposed as a condition of the consent.

35. In designing surveys, the study area is likely to include, as a minimum, the site of the development, its access and any other areas that may be disturbed during construction and operation. However, the boundaries of study areas may need to be more extensive to encompass the full range of direct and indirect environmental impacts which could follow from development – see the following Example Box.

#### EXAMPLE BOX: STUDY AREAS

Landscape surveys will usually include the zone of visual influence – generally all land which is visually linked with the development site.

Hydrological and ecological surveys may need to follow streams or river courses for considerable distances downstream (and possibly upstream) depending upon judgements about the concentrations and likely dispersal patterns of effluent to be discharged from a new facility.

36. All field surveys undertaken should be designed and implemented in a manner that can be accurately repeated post-construction if necessary, so that predicted effects can be monitored and the success of mitigation measures assessed. Standard protocols and guidance/methodologies are available from professional institutions/statutory agencies for field surveys – see **Appendix C**.

## Consultation

37. There has been an increasing emphasis on consultation and public involvement in planning applications since the EIA Regulations first came into force. This has arisen principally from the UN Economic Commission for Europe (UNECE) Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, which was ratified by the UK in February 2005. The overall principles of Aarhus on participation in environmental decision-making are that it should be widespread, timely and effective.
38. The key issues for consultation in the context of EIA are:
- **When should consultation take place?** Formal procedures are available for consultation, with statutory bodies during the scoping stage (see Section 3) and with the public at submission and review (see Section 6) stages. However, almost all stages of the process will benefit from consultation in one form or another. The project preparation stage is particularly important in meeting the Aarhus Convention objectives of providing ‘*early public participation, when all options are open*’.
  - **Who should be consulted?** The EIA Regulations define a set of statutory consultees. However, roles are also identified for the ‘public concerned’ (those directly affected by or with a direct interest in the proposal, including non-governmental organisations (NGOs) promoting environmental protection) and the wider public. The composition of these groups is provided in the Resource Box below. In general, consultation should be as wide as possible and opportunities to engage with the public should be taken wherever possible/practical.



- **What are the benefits of consultation?** Consultees can bring extensive local knowledge, data and insight into the process. Engagement with the local community and organisations can facilitate acceptance of the scheme and ensure that the development process can be progressed with mutual benefit. Consultation that is started early, engaging a wide group of potential consultees and is maintained throughout the proposal/application preparation process will provide the most significant benefits to all involved.

## RESOURCE BOX: CONSULTEES

### Statutory consultees

In all cases, the following are statutory consultees:

any principal council for the area where the land is situated, if not the relevant planning authority;

Natural England;

The Environment Agency

Those listed in Article 10 of the GDPO where relevant. They include (for a full list see Article 10):

The Health and Safety Executive

Secretary of State for Transport

Rail network operators

Local Highway Authority

Secretary of State for Culture, Media and Sport

Historic Buildings and Monuments Commission for England

DEFRA

Waste Regulation Authority

Sports Council for England

British Waterways Board

### The 'public concerned'

This consultee group is not defined in the Regulations and the appropriate composition of this group will differ depending on the nature and location of the development. However, it could include

Individuals directly affected by a development – including, for example, existing residents, business owners etc

Local community groups

Nationally based NGOs with an environmental remit – including, for example, RSPB where development has implications for birds

Locally based NGOs with an environmental remit – including, for example, local wildlife trusts

### The 'wider public'

All others with an interest in the project although not directly affected.

39. The type and degree of consultation appropriate during the project preparation stage will be dependent on the nature, scale and location of the development. For example, more extensive consultation is likely to be (although not exclusively) required for projects which have significant emissions, are located in sensitive environments (due to natural habitats or proximity to communities) and/or are of a large scale.

40. Consultation during this stage is particularly important in gaining a wider understanding of the key issues in the locality, and for obtaining baseline information (see above).
41. An example of where extensive consultation has been used to not only inform the baseline but also help to shape the form of the development is provided in the case study box below.

#### **CASE STUDY BOX: CONSULTATION IN PROJECT PREPARATION**

##### **Mixed Use Development at Hengrove Park, Bristol.**

The masterplan for Hengrove Park was developed and revised over a course of two and a half years in the light of extensive debate, public consultations and the emergence of technical information in a range of key topic areas including ecology, traffic and movement, soils, geology and water as well as market issues.

The project preparation phase contained five distinct phases of development:

- Urban Framework Plan (2001): the starting point for the masterplan team.
- Stage 1 masterplan (May 2003): this version culminated from the first stages of technical surveys and public consultation. Taking part in early 2003, public consultation took the form of specific outreach work with local groups, officers and wider stakeholders culminating in the Draft Plan Workshop held in March 2003.
- Revised Stage 1 Masterplan (March 2004): revisions made in the light of ecological survey work results, concerns raised by local interest groups and changes to the brief
- Stage 2 Draft Masterplan (September 2004): prepared for a major public consultation effort, comprising drop in exhibitions which were attended by around 600 people over four days.
- Final Masterplan: submitted as part of the outline application in February 2005.

The principal changes to the plan that were made as a result of the community consultation were (a) maintenance of 'the mounds' as an ecological reserve; (b) removal of housing from the boundary of the site where it abuts existing residential areas; and (c) a reduction in size by 50% of the proposed central water body.

## **Type of Application**

*[NB. Paragraphs 42 to 44 are subject to revision to take account of the judgments of the European Court of Justice, dated 4 May 2006, in Cases C-290/03 (Reference for a preliminary ruling in the proceedings *The Queen oao Diane Barker v London Borough of Bromley*) and C-508/03 (*European Commission v UK*). The Department for Communities and Local Government will, separately from this consultation exercise, issue advice on any policy or legislative changes that it may propose as a consequence of those judgments.]*

42. At project preparation stage it will also be important for the developer team to consider and seek the advice of the Local Planning Authority (LPA), and perhaps its own legal team, on the form of the planning application. The extent of information frequently provided in an “outline” application is unlikely to meet the requirements of statutory EIA due to uncertainties in project definition and impacts. Subject to the circumstances of a case the LPA may not entertain an application without details on siting, design, external appearance, access or landscaping. The position of outline applications with regard to description of development has been examined in various judicial challenge cases and details are provided below.

**CASE LAW BOX: ROCHDALE**

In **R v Rochdale MBC ex parte Tew [3PLR74]**, the authority authorised a scheme based on an illustrative masterplan showing how the project might be developed, but with all details left to reserved matters. The ES assessed the likely environmental effects of the scheme as in the illustrative masterplan. However, there was no requirement for the scheme to be developed in accordance with the masterplan, allowing in theory, a very different scheme to be built. The consent was subsequently quashed.

In the second of the **R v Rochdale MBC cases ex parte Milne (2000)** where the outline planning permission was also subject to legal challenge, there was a schedule of development setting out the detail of buildings and likely environmental effects and a masterplan. The LPA imposed conditions tying the outline permission to the documents and drawings in the application so that the development would have to be within the parameters considered in the ES. The judge confirmed that the Regulations had been complied with and upheld the LPA’s decision. The consequence of the condition was that approvals going beyond ES parameters would be unlawful.

The lesson of this case underscores that of **ex parte Tew** that outline applications with only illustrative details of the development are unlikely to comply with the Regulations and that a clear link (usually by condition) must be drawn between the consent and information supplied. This need not preclude flexibility but development must be within the remit of the outline permission.

43. Essentially this demonstrates that it is the ES that is driving the content/detail of the application, not the type of application. Further details regarding description of development within the ES are provided in **Section 4**.
44. It should be noted that applications at reserved matters stage<sup>6</sup> must not include aspects that go beyond the project approved at outline application stage. If the reserved matters application goes outside the project approved at outline stage, a new planning permission will be necessary or there will be a risk of a legal challenge.

---

<sup>6</sup> An outline application allows the applicant to reserve one or more matters (siting, design/external appearance, landscaping and means of access) for consideration at a later stage. Full details of these aspects of the development are agreed through ‘reserved matters applications’.

## Summary

### **SUMMARY BOX: PROJECT PREPARATION**

The key messages from this section of the guide are:

- Consideration of environmental issues should begin as early as possible in project preparation
- Consideration of options/alternatives should be undertaken objectively
- Environmental studies should begin early to inform initial design development and environmental requirements in later stages
- Consultations should be early and wide reaching
- The project preparation stage is a key part of the iterative process of EIA – consideration of environmental issues is most effective when integrated into project development and opportunities are lost when EIA is ‘bolted on’ at a later stage.

## 2. Screening: Is EIA needed?

### Introduction to Screening

45. All projects<sup>7</sup> listed in Schedule 1 of the EIA Regulations require EIA. For those listed in Schedule 2, the Local Planning Authority (LPA) has a responsibility to decide whether EIA is required – this is the process referred to as “screening”.
46. During preparation for Schedule 2 projects the developers or their consultants may decide to submit an Environmental Statement with the planning application. This triggers the EIA process. In all other cases, some element of screening will apply.
47. The screening process is the first part of EIA governed by statutory procedures. Screening occurs in response to either:
  - A pre-application request for a screening opinion by a developer, or
  - Receipt of an application for development, not accompanied by an ES, where the development has the potential to have significant effects on the environment.
48. The aim of the screening process is to identify those projects that are likely to have significant effects on the environment. In the UK determining “**significance**” follows a two-stage approach, firstly by applying ‘exclusive’ thresholds and criteria specified in the EIA Regulations and, secondly, on a case by case basis having regard to the selection criteria specified in Schedule 3 to the EIA Regulations.
49. This section covers:
  - The Statutory Procedures
    - Overview (including flow chart 1: ‘Screening Procedures Overview’)
    - Requesting a screening opinion
    - How the screening decision is made (including flow chart 2: ‘The Screening Decision’)
    - Screening tools
    - Recording the decision and notifying relevant parties
    - Referral to the Secretary of State
    - Reversal of screening decisions

---

<sup>7</sup> This includes projects which would normally enjoy Permitted Development Rights or such similar planning exceptions. Where they qualify as Schedule 1 or 2 projects, permitted development rights (or equivalent) are removed unless the screening opinion states that EIA is not required. Where an EIA is required the application must progress under the standard planning procedures. Section 73 applications to vary conditions are also included.

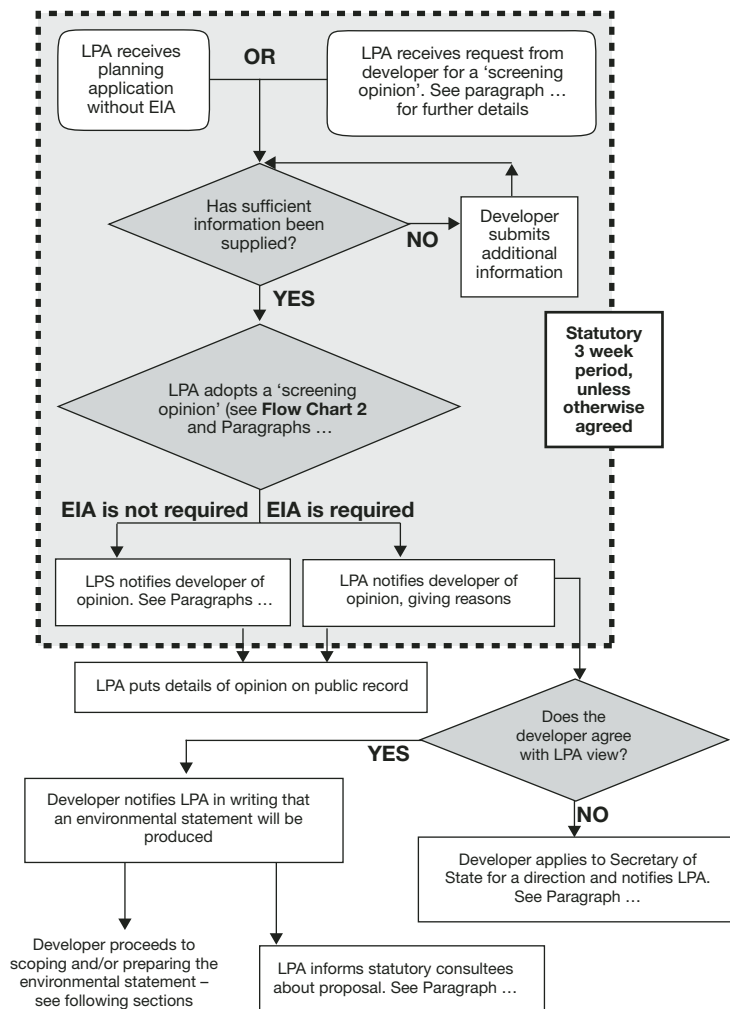
## The Statutory Procedures

### Overview

50. An overview of the statutory procedures relating to screening is set out in **flow chart 1**, followed by explanatory text. In summary, key aspects of the process to be undertaken by the LPA are:

- Determining whether sufficient information has been supplied
- Adopting an opinion on whether EIA is required
- Informing relevant parties of the screening opinion made

Flow chart 1: Screening procedures overview



51. All aspects of the procedures described in the flow charts must be followed and recorded appropriately in order not to offer possible grounds for legal challenge. An example of where a basic error in administrative procedure led to a successful legal challenge is provided below.

**CASE LAW BOX: APPROPRIATE AUTHORITY**

In the case of **R v St Edmundsbury Council, ex parte Walton 1999** a decision to grant planning permission was quashed because a decision not to require EIA was taken by an officer with no formal delegated authority\*.

\*The authority to make various planning decisions is delegated by the Council to its committees, sub-committees and employees and must be exercised in accordance with adopted protocols.

### Requesting a screening opinion

52. The broad intention of requesting a screening opinion is that developers can obtain a clear view from the LPA on the need for EIA well before they reach the stage of lodging a formal planning application. This should minimise the possibility of delay or uncertainty. Where the matter is not raised until a formal planning application is lodged, the developer risks serious delay if either the planning authority or the Secretary of State rules that an ES must be prepared. No action will be taken on the planning application until the developer has prepared an ES and submitted it to the planning authority.
53. The information provided with a screening request must be sufficient to allow the LPA to make a decision and must include:
- a plan identifying the site of the proposed development
  - a brief description of its nature and purpose
  - an objective description of its possible effects on the environment.
54. The information provided should allow the LPA to assess the potential for significant environmental effects to occur. LPA staff considering applications may have information about proposed development sites. But developers should not assume this; so they are encouraged to provide as much information as possible about the likely effects of the proposed development, including results from preparatory studies carried out. This will help planning authority staff reach a speedier decision. It is recognised however that full knowledge of every significant environmental effect cannot be expected at this stage, and that a valid screening decision can be made without the full assessment process being carried out.
55. The developer may approach the planning authority for an opinion on the need for EIA at any time in advance of a formal planning application. Whilst the seeking of a formal screening opinion is not mandatory, discussion with the LPA prior to any application where the EIA Regulations might reasonably apply is considered to be good practice.

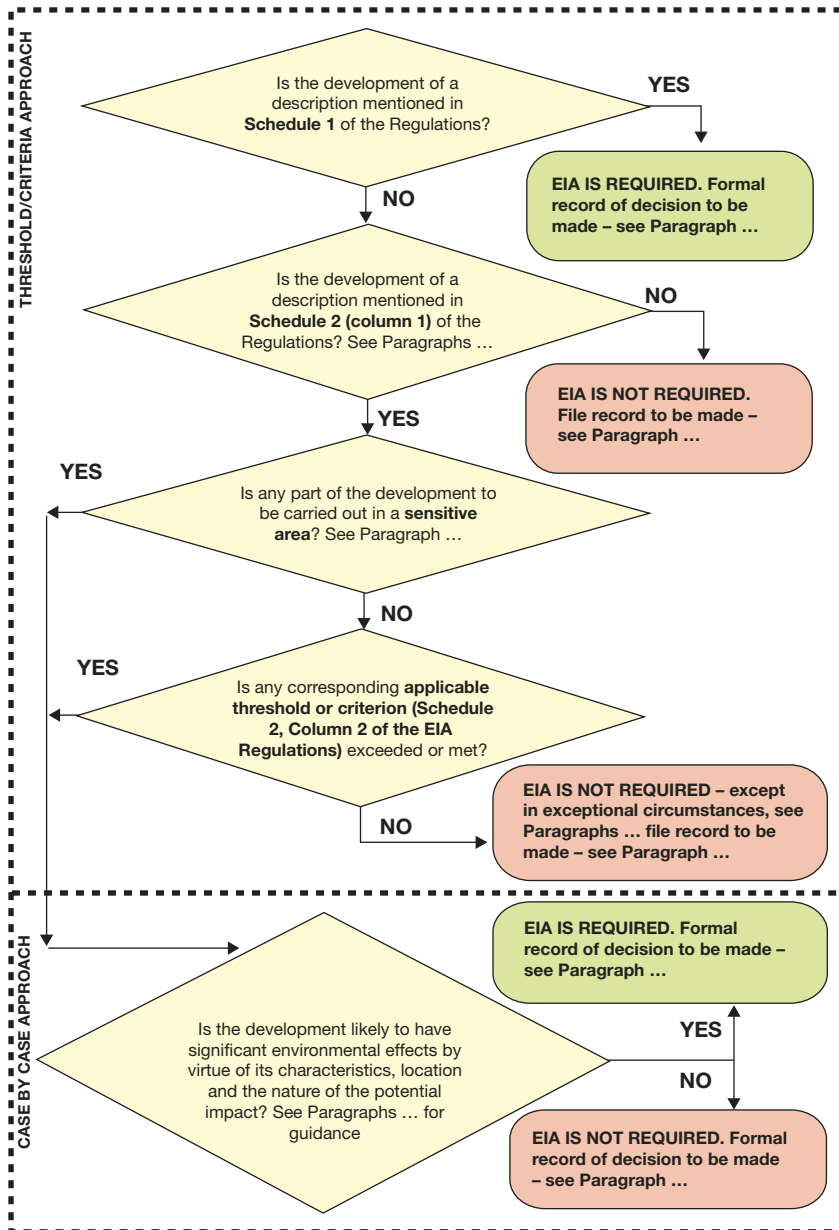


56. The LPA must give its opinion within three weeks, unless the developer agrees in writing to a longer period. The LPA may also request further information from the developer. This in itself does not extend the three-week time limit, and agreement with the developer should be sought for an extension. While developers are under no obligation to agree a time extension and could request a screening direction from the Secretary of State, they may wish to consider whether such a request will result in a speedier decision on the need for EIA.
57. For pre-application screening requests to be effective and useful, developers should ensure that the development described in the application is not significantly different from that for which the screening opinion has been issued, otherwise a new screening opinion will be needed.
58. The developer may, when requesting a screening opinion from the LPA, simultaneously request a 'scoping' opinion on what should be included in the ES (see **Section 3**).

### How the screening decision is made

59. EIA is always required for developments listed in Schedule 1 to the EIA Regulations.
60. For developments listed in Schedule 2 the need for EIA is dependent on the likelihood of significant environmental effects arising from factors including the nature, size and location of the development. This is established through successive tests, sequentially applied, based on
  - (a) location within a sensitive area, or
  - (b) specified thresholds and criteria on the scale of development;
  - (c) case by case consideration of likely significant effects
61. When it is established that development is listed in Schedule 2, is either in/partly in a sensitive area as defined or exceeds its associated threshold/criteria, and is likely to have significant environmental effects, EIA will be required.
62. This process is described in **flow chart 2** overleaf, followed by explanatory text on the descriptors of development, the interpretation of sensitive areas and determining significant environmental effects. The flow chart also shows where a formal record of the decision needs to be made (see paragraph ...) and where a file record describing the process undertaken is sufficient.

Flow chart 2: The screening decision



### Development descriptions (type) within Schedule 2

63. Descriptions of the type of development in Schedule 2 should be interpreted widely (see case law box overleaf). The fact that a particular type of development is not specified within the categories of projects listed does not imply that the EIA Regulations, which generally use the wording of the Directive, are not applicable. As in the Directive, some categories of project are not specific. This is relevant, for example, for projects in category 10(b) (Urban Development Projects). This category of development includes projects that have an urbanising effect as well as those that are located within urban areas. Housing developments, not expressly mentioned in the EIA Regulations, fall into this category.

64. The need for a wide interpretation of Schedule 2 projects is demonstrated in case law below.

**CASE LAW BOX: WIDE SCOPE AND BROAD PURPOSE**

In legal proceedings, domestic Courts must interpret national law in accordance with EU legislation and take account of judgments of the European Court of Justice (ECJ) (Marleasing). So far as the EIA Directive is concerned the ECJ has consistently held that in its application it is to be interpreted as having a “wide scope and broad purpose” (**Kraaijveld (Dutch Dykes) Case C-72/95** – referring to canalization and Flood Relief works). This ruling has also been upheld by the UK courts.

A recent example of how the ‘wide scope and broad purpose’ applies to England and Wales is found in the Court of Appeal judgment relating to a planning proposal by the Big Yellow Property Company Ltd to construct a storage and distribution facility (**Goodman and another v Lewisham London Borough Council [TLR 21/2/03]**) The planning authority took the view that as such development was not specifically described in either the Directive or Regulations, there was no need to consider EIA. Following legal challenge, the Court of Appeal quashed the planning permission on the grounds that this was Schedule 2 development which should have been screened for EIA.

### Sensitive areas

65. Sensitive areas are defined in the EIA Regulations as follows:
- Sites of Special Scientific Interest
  - Land to which sub-section (3) of section 29 (nature conservation orders) of the Wildlife and Countryside Act 1981 applies
  - Areas to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 applies
  - National Parks
  - The Broads
  - Properties appearing on the World Heritage List
  - Scheduled Ancient Monuments
  - Areas of Outstanding Natural Beauty
  - European sites within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994
66. Where development is in, or partly in, a 'sensitive area' as defined, the Schedule 2 thresholds/criteria do not apply. In certain cases other statutory and non-statutory designations which are not included in the definition of ‘sensitive area’, but which are nonetheless environmentally sensitive, may also be relevant in determining whether EIA is required. This could include, for example, County Wildlife Sites, Local Nature Reserves

or conservation sites administered by national or local conservation bodies. Where relevant, Local Biodiversity Action Plans will be of assistance in determining the sensitivity of a location.

67. As identified on **flow chart 2**, just because proposed development is within a sensitive area or exceeds its associated threshold does not mean that EIA is automatically required – just that it passes through the filter and must be to be considered on a case by case basis (see below).

### Determining significance on a case by case basis

68. In determining whether EIA is necessary for an individual project, the selection criteria set out in Schedule 3 to the EIA Regulations which are relevant to the proposed development, must be taken into account. For ease of reference, Schedule 3 is reproduced in this guide at **Appendix D**.
69. In summary, the selection criteria fall under three broad headings:
- Characteristics of development – taking into account aspects such as size, raw material usage, emissions and risk of accidents
  - Location of development – the environmental sensitivity of the areas likely to be affected including existing land uses and the capacity of the existing environment to ‘absorb’ the new development
  - Characteristics of the potential impact – in particular with regard to its extent, complexity, probability, duration and frequency, in relation to the characteristics and location of the development.

### Exceptional circumstances

70. Despite the filter process described above it is possible that, in very exceptional circumstances, development might potentially have significant environmental effects even though the relevant threshold is not exceeded and it is not located in a sensitive area. Such cases should be referred by the LPA to the Secretary of State, who may direct that EIA is required.
71. This provision ensures that there is a mechanism for dealing with development with a small footprint which might have significant impacts, such as tall but slim tower blocks. See also the following Case Study Box.

#### CASE STUDY BOX: THE LONDON EYE

Despite having a small physical footprint, the London Eye development had the potential to have significant environmental effects due to its height, its prominent position within London and its potential to attract high visitor numbers. As such, an EIA was required.

## Screening and Conditions

72. Screening decisions should be based on the likely effects of the development as described. The fact that a planning condition could be applied that is capable of reducing the likely environmental effects to below a significant level, should not lead to a conclusion that EIA is not required. This is demonstrated by the case below.

### CASE LAW BOX: INFLUENCE OF CONDITIONS

**Regina oao Lebus v South Cambridgeshire DC [2003 2PLR5]** involved development for an egg production unit to house 12,000 free range chickens. A local resident had written to the planning authority in 2000 suggesting that EIA was required for this development. After a meeting and discussion with the applicant, the planning officers dealing with the case took the view that the potential adverse impacts of the development would be insignificant with proper conditions and management and that it was not EIA development. On legal challenge the Court held that *“it is not appropriate for a person charged with making a screening decision to start from the premise that although there may be significant impacts, these can be reduced to insignificance by the application of conditions of various kinds. The appropriate course in such a case is to require an environmental statement and the measures which it is said will reduce their significance”*. Planning permission was quashed.

73. It is not prohibited to take proposed mitigation measures into account when screening for EIA – in other cases<sup>8</sup> the Court has held that standard mitigation measures that are modest in scope and plainly and easily achievable can sometimes be taken into account. However, planning authorities and developers should exercise care to ensure that conditions are not inappropriately used as a means of avoiding the requirements of the EIA Directive or regulations.

## Screening Tools

74. Screening checklists can aid in determining whether a proposed development is likely to have significant effects. There is no requirement to use a checklist; but a key element of the screening process is that decisions should be transparent and increasingly there are requests to provide the reasons for “negative” screening decisions. Checklists – locally prepared or another already available one – may help in:
- identifying potentially significant environmental effects
  - assisting applicants in identifying the information to be submitted in support of a screening opinion
  - providing a record of the matters considered in the screening process and an ‘audit trail’ of the reasoning behind the decision that will be important in the event of challenge.

<sup>8</sup> For example, see *British Telecommunications plc v Gloucester City Council* and *Gillespie v First Secretary of State and Bellway Urban Renewal Southern*

75. Whilst checklists are one of the means of achieving this, other methods are available – see Resource Box below.

#### RESOURCE BOX: SCREENING TOOLS

Screening checklists are available from the following sources:

European Commission document ‘Guidance on EIA: Screening’ (June 2001). Available from <http://europa.eu.int/comm/environment/eia/eia-guidelines>

From Surrey County Council: advice on screening and screening tables can be downloaded from <http://www.surreycc.gov.uk>

Alternatively, a simple matrix could be generated with environmental components (e.g. air quality, noise etc) on one axis and project components/stages on the other. Where potentially significant impacts are expected, these can be marked with a cross at the intersection between the environmental and project components.

76. Formal consultation with the statutory bodies is not required during the screening procedure. Planning authorities may voluntarily consult with them (see paragraphs ...) to assist them in reaching their screening opinion. But they also need to bear in mind the time constraints for making screening decisions. LPAs and applicants would be better advised to consult on development proposals – with statutory consultees and others – during the pre-application stage when issues can be discussed more fully and the screening process better informed.

### Recording the decision and notifying relevant parties

77. Where a formal record of the decision is required (see **flow chart 2**), it is to be placed on the public register<sup>9</sup>. These are cases where the development has passed through the initial filters relating to type, location and scale, to be considered on a case by case basis. For projects that do not require a formal record of the decision, a note should be placed on the LPA’s internal planning file recording the process undertaken in reaching that decision.
78. Screening decisions taken by competent authorities are addressed to the developer. The reasons for a ‘positive’ decision must always be given, but there is no similar requirement to provide reasons with a negative screening opinion. Screening decisions must also be made available to the public. This is normally achieved by placing a copy of the screening decision on the planning register. Increasingly, however, there are requests from the public for disclosure of the reasons why EIA is not required. There is no requirement for this in the EIA regulations. But it is arguable that the European Court of Justice, in its judgment in Case C-87/02, considers reasons should be made available.
79. So that they have an ‘audit trail’, competent authorities are strongly advised to make and retain a written record of the matters considered at screening stage. They should also note that such information could be requested under access to environmental information

---

<sup>9</sup> A register kept pursuant to section 69 (registers of applications etc) of the Town and Country Planning Act 1990

legislation. Therefore, whilst it is not a statutory requirement to provide reasons where EIA is deemed unnecessary, a competent authority should consider whether there is practical benefit in choosing not to disclose reasons.

80. In the event of a positive screening opinion for an application submitted without an Environmental Statement the LPA must notify the applicant of any persons or environmental non-governmental organisations (NGOs) whom they are aware may be likely to be affected by or have an interest in the application.
81. Where the LPA or the Secretary of State determine that EIA is required, they will notify the statutory consultees for the project in question and advise the developer that they have done so. The effect of this notification is to remind the consultation bodies that, on request, they are required to provide the applicant with any information in their possession which is likely to be helpful in preparing the ES. An example might be information held by English Nature about the ecology of a particular area, which could be relevant to the assessment of a project's likely effects. Statutory consultees have a great deal of expertise and access to sources of invaluable information. If they have not done so before applicants or their advisers should consider discussing their proposed assessment with the consultation bodies to tap into this valuable resource.

### **Referral to the Secretary of State**

82. An applicant who disagrees with the planning authority's opinion that EIA is required may 'appeal' to the Secretary of State for a screening direction. Such requests should be made to the Government Office for the Region concerned, enclosing copies of relevant papers and adding any representations which are considered to be appropriate in the light of the LPA's statement of reasons. The Secretary of State will aim to give a direction within three weeks. If he directs that EIA is necessary, his decision will be accompanied by a statement of reasons.

### **Changing screening decisions**

83. Once made, local planning authorities rarely change their screening opinions, in part because they only have a three week window in which to adopt them. Within that period, where it is evident that their screening opinion is incorrect – most likely in cases where they have adopted a 'negative' opinion and new information comes to light that was not available at the time the decision was taken – the authority may issue a revised opinion. Where new information comes to light outside this period, the authority has no statutory powers to direct that EIA is required. However, it may wish to discuss the changed circumstances with the applicant to see whether they will agree to undertake an EIA. If they cannot reach agreement, the planning authority should request a screening direction from the Secretary of State, in which case the Secretary of State will seek the views of the applicant before making any decision. See the case law box for details of UK case law. The time taken at this stage to ensure the application is adequately screened will be a good investment and help minimise the risk of a subsequent legal challenge.

**CASE LAW BOX: DETERMINATIVE ROLE OF SOS**

In the case of **Fernback and Others v Harrow LBC(2000)** the claimants challenged a decision made by the Planning Committee of the defendant Council to grant planning permission in the absence of EIA. This case established that, despite a negative screening decision by the LPA, if significant environmental effects come to light during determination, the consent cannot be granted without re-visiting the screening opinion. In this situation the LPA should have asked the Secretary of State to direct on the matter – only if the Secretary of State directs that EIA is not required can the determination of the application progress without an ES being produced.

This endorses the regulations which state that the Secretary of State's decision is determinative.

84. A revised screening opinion may also be necessary when a planning application that is formally submitted varies materially from the information provided for a pre-application screening opinion and on which a negative screening opinion was issued. Local planning authorities need to check that applications do not differ markedly from those screened for EIA at pre-application stage. Applicants can assist either by confirming that the application submitted does not differ from the scheme to which an accompanying screening opinion relates, or alternatively by pointing out areas of change so that these can be assessed for EIA purposes.

## Summary

**SUMMARY BOX: SCREENING**

Key aspects to the screening process are:

- It is a complex process that needs to be undertaken carefully and systematically recorded
- Frameworks and tools are available within the EIA Regulations and externally to assist in undertaking the process
- Overall, however, the key purpose of screening is to identify the likelihood of significant environmental effects



# 3. Scoping

## Introduction to Scoping

85. Scoping is the process of determining the content and extent of matters to be covered by the EIA and in the resulting Environmental Statement (ES). It is a link on the continuum between screening and the subsequent impact assessment.
86. Developers and their advisers will normally carry out scoping automatically as part of their project management when they decide and programme the work that needs to be done to inform decisions about the project – such as location, design, treatments and so on (see **Section 1**). This is all part of the iterative nature of EIA.
87. Whilst scoping is not mandatory for every application, the EIA Regulations provide a mechanism for developers to agree the scope of the EIA formally through the request for a ‘scoping opinion’. This is where the developer asks the Local Planning Authority (LPA) for its view on the information to be included in the ES. This not only helps to focus minds on the submission but may also provide developers and their project teams with a different perspective on the likely environmental effects. The formal process is described below. Although there is no formal requirement to do so, it may sometimes be appropriate to invite views on the scope of the EIA from the wider public likely to be affected by the proposed development. This may identify strictly local concerns and areas of expertise, and minimise future problems.
88. Scoping seeks to ensure that the information provided in an ES addresses the key effects of the proposed development. The benefits are:
  - For LPAs: an opportunity to influence the ES in the early stages of preparation to ensure that specific concerns, based on local understanding, are properly addressed
  - For developers: to identify primary concerns at an early stage in the process that appropriate surveys can be conducted, stakeholders consulted and methods agreed prior to submission of the application
  - For consultees: to ensure that principal concerns appropriate to the local area are addressed comprehensively.
  - For all: a more concise Environmental Statement focusing on the key issues of concern and one that should minimise the need to request further information thereby accelerating the decision-making process.
89. Importantly, the scoping process should seek to discount, or ‘scope out’, those issues where significant effects are unlikely. Where this has been the case, it might still be appropriate to refer to them in the ES and deal with them in general terms, particularly if they are issues that may be of local public interest. Even if they are not addressed the ES should make clear that they were considered, but that no detailed work was carried out on them. In general, the effects considered likely to be significant enough to warrant EIA in the first place will form the initial basis for scoping.

90. For the process to work effectively, it requires:
- An approach which builds on the identification/assessment of potential significant effects during screening; use of screening tools (checklists, matrices etc) at that stage will assist in this
  - Developers to provide sufficient information to inform the consideration of significant effects; this is most useful in the form of a scoping report (see paragraphs ...)
  - Consultees to respond within the time limits agreed with the LPA, with a considered view of the significant effects appropriate to the individual location/development
  - LPAs to respond within the statutory period, with an interpretation of information from statutory consultees and suggestions for a tailored ES content rather than a repetition of Schedule 4
91. This section covers:
- The Statutory Procedures:
    - Overview (including flow chart 3: ‘Scoping Procedures Overview’)
    - Requesting a scoping opinion
    - Consultations
    - The scoping opinion
    - Involvement of the Secretary of State

## The Statutory Procedures

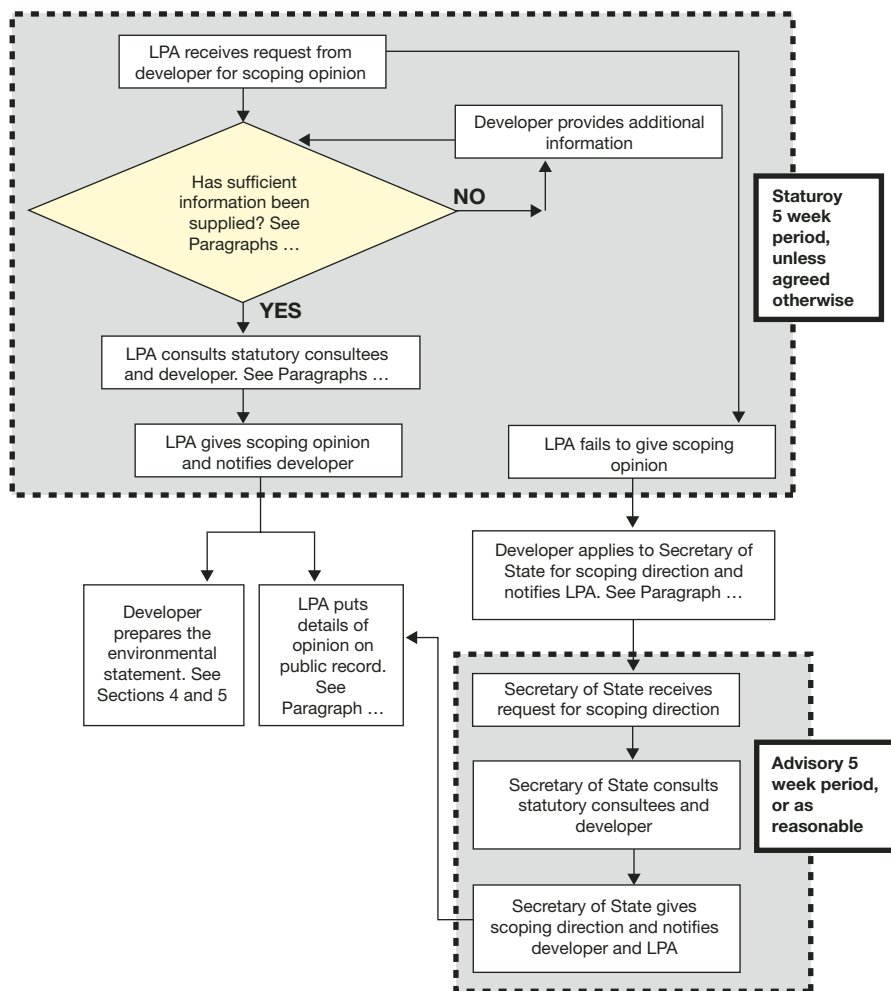
### Overview

92. The statutory procedures relating to the scoping process are set out in **flow chart 3**, followed by explanatory text. Key aspects of the process to be undertaken by the LPA when requested are:
- Determining whether sufficient information has been supplied
  - Undertaking consultation with key parties
  - Adopting an opinion on appropriate content for the ES
  - Making details of the scoping opinion publicly available.
93. Regulations only allow for requests for a scoping opinion to be made before a planning application is submitted. In such cases a time limit of 5 weeks following receipt of the request applies (although this may be extended provided the developer agrees in writing). Procedures are also available for a developer to apply to the Secretary of State for a scoping direction in the event of a failure of the LPA to make a decision within the 5 week time period. Planning authorities should not, however, unreasonably refuse a request for a

scoping opinion made after an application has been submitted if this will improve the quality of the resulting ES. Where a LPA agrees to this the statutory time limits do not apply and there is no appeal to the Secretary of State.

94. All aspects of the procedures as described in the flow charts must be followed and recorded appropriately.

Flow chart 3: Scoping procedures overview



95. Beyond the topic headings specified in Schedule 4 to the EIA Regulations, there is no definitive list of what should be assessed in an ES. **Appendix E**, however, provides an example of a variety of effects that may be considered when preparing a scoping opinion. This list is not exhaustive and it is unlikely that all the items will be relevant to any one project. Guidance on development specific matters are also available in the Environment Agency's 'A handbook for scoping projects' (see **Bibliography** for full reference).
96. As for screening, scoping lists in a checklist or matrix format that can be filled in by LPAs to assist them in considering potential effects and recording the process of decision-making can be useful. The same techniques as described for screening (see paragraph ...) can be adapted for the scoping process; also checklists specific to scoping have been published – see the Resource Box below.

#### RESOURCE BOX: SCOPING CHECKLISTS

Scoping checklists are available from the following source:  
European Commission document 'Guidance on EIA: Scoping' (June 2001). Available from <http://europa.eu.int/comm/environment/eia/eia-guidelines>

### Requesting a scoping opinion

97. The request may be made at the same time as the pre-application screening opinion, and must be accompanied by the same minimum information (see **Section 2**, paragraphs ...). Good practice, however, suggests that the baseline understanding of the project and its location should be more developed than at screening stage.
98. It is good practice for the developer to submit a **Scoping Report** with the scoping request. This provides the LPA with more information in a structured way, and can lead to a more informed scoping opinion and offer a more useful dialogue between the LPA and consultees. It also benefits the developer who can have greater confidence that all the appropriate environmental issues have been considered. The format is not fixed – see Example Box below.

#### EXAMPLE BOX: SCOPING REPORT CONTENTS

- An outline description of the development, providing as much detail as is available at the time of writing
- A summary of the conditions present on the site and its environs, based on information collated to date
- Details of how alternatives are being considered
- Outline methodology and terms of reference for the ES as a whole
- The organisations/people consulted
- A topic by topic assessment of the key impacts of the development; this should include:
  - details (as known) of the baseline conditions;
  - consideration of the potential effects of the development
  - where effects are not considered to be significant, a justification of why they should be 'scoped out' of the ES
  - where effects are considered to be potentially significant, details of the baseline information to be collected (including methods and appropriate study areas), likely sensitive receptors and proposed survey and assessment methodology
- Any other details of supporting material to be submitted with the ES (e.g. figures, visualisations etc)

99. In general, the more information about the proposals and the receiving environment that is provided, the more useful the response will be. As for the final ES, the information supplied should be readable and not overly technical.

## Consultations

100. As stated in **flow chart 3**, consultation is a mandatory part of the scoping process. The input of statutory consultees is a valuable part of the process as they (a) have the specialist knowledge to assist the LPA in confidently scoping issues in and out and, (b) will consider the ES when it is submitted.
101. To facilitate the scoping consultation process, good practice for LPAs is to arrange **Scoping Meetings**. This generally involves gathering together selected consultees, members of the LPA and the developer together to discuss the key issues associated with the proposed scheme. This approach can be time effective, provide a more focused response and alert the LPA to conflicting advice/requirements.
102. The EIA Regulations require consultation only with statutory consultees at this stage in the process, however it may be advantageous to broaden the attendees of a scoping meeting to include other local groups (the ‘public concerned’ – see Paragraphs ...). A developer may also wish to include public consultation (targeting the public concerned and the wider public – see Paragraph ...) within the scoping process, depending on the characteristics, scale and location of the development. It should be noted that the LPA’s statutory consultation process is undertaken independently of (although sometimes at the same time as) the developer’s own consultations.

## The scoping opinion

103. The scoping opinion should be issued to the developer comprising the considered view of the LPA, taking into account the responses received from consultees (rather than merely forwarding consultee replies). The developer should take this advice into account when preparing the ES, although he/she is ultimately responsible for the ES’s content. Failure to provide information requested by the LPA during scoping is likely to result in a request for further information when the application has been submitted (see Section..., Paragraphs...). Therefore, it is advisable to resolve any disagreements regarding the scope of the EIA/ES prior to undertaking the assessments.
104. The scoping opinion is a useful document for all parties to cross check against when the ES is submitted. It must be kept available for public inspection for two years, with the request (including documents submitted by the developer as part of that request), at the place where the planning register is kept.

## Involvement of the Secretary of State

105. There is no provision for an appeal to the Secretary of State if the developer and LPA disagree about the content of an ES (also see paragraph ... above). However, where the LPA fails to issue an opinion within 5 weeks, the developer can seek a scoping direction<sup>10</sup> from the Secretary of State (as set out in **flow chart 3**).

---

<sup>10</sup> Where the developer applies to the Secretary of State for a scoping direction, the application must be accompanied by the previous documents relating to the original request to the LPA, plus any additional representations the developer wished to make. The developer should also send a copy of the request and any representations to the LPA.

## Summary

### **SUMMARY BOX: SCOPING**

- The principal objective for scoping is to tailor/streamline the ES to the individual project, including 'scoping out' issues where significant environmental effects are not expected – this is something that all parties need to bear in mind
- Formal procedures accompany the process which must be followed and recorded diligently
- Involvement of consultees is an important part of the process – as a minimum this includes statutory consultees, but it can be advantageous to extend the opportunity to others
- If done well, significant benefits in the later stages of the process will ensue.

# 4. Assessing the Environmental Impacts

## Introduction to Assessing the Environmental Impacts

106. The effects (positive and negative) of the development on the surrounding environmental features should be identified and evaluated. Provided information is gathered early enough in the project programme it can be fed back into the design (see **Section 1**), so that adverse environmental impacts can be properly addressed.
107. The assessment process has no statutory procedures associated with it but is fundamental to meeting the requirements of the ES (see **Section ...**). This section of the guide describes:
- Methods of prediction
  - Assessment of significance
  - Cumulative effects
108. The environmental effects of a development during its construction should be considered separately from the effects arising when it is operational. Maintenance and emergency periods should be covered as well as normal operating conditions<sup>11</sup>. When the operational life of a development is limited, the effects of decommissioning or reinstating the land should also be considered.

## Methods of prediction

109. A range of methods are available for predicting effects associated with development; the most appropriate ones to use will be a function of the sensitivity of the environment, the nature of the development and its likely effects and the availability of prediction tools. Generally methods can be divided into two types: quantitative and qualitative.
110. Quantitative methods predict measurable changes as a result of development; for example, the concentration of air or water pollutants or changes in noise levels. They rely on an ability to accurately measure baseline conditions and make accurate predictions with the development in place. The benefit of such methods is the ability to predict, and subsequently monitor, tangible effects. Examples of tools to aid quantitative prediction are available in the Example Box below.

---

<sup>11</sup> Subsequent changes to the operational characteristics, once permitted, may prompt the need for further application and assessment

#### EXAMPLE BOX: QUANTITATIVE ASSESSMENT TOOLS

Quantitative assessment tools are routinely used in EIA – two subject areas where their use is commonplace are air quality and noise.

In air quality assessments the generation of key pollutant emissions from plant operation and/or traffic generated by the development is predicted and modelled along with existing concentrations for future scenarios at selected receptor locations. One such modelling tool is the graphical screening method described in the Design Manual for Roads and Bridges which predicts the concentration of road traffic pollutants; others, e.g. ADMS, model the dispersion of plumes of industrial gases.

Noise assessments similarly predict future noise increases associated with a particular development at receptor locations. Assessments broadly take the level of the noise source and apply attenuation over distance and through building envelopes and intervening structures etc to calculate the noise increase at the receptor.

111. Many of the other subjects within an ES rely on qualitative assessment techniques, primarily using expert judgement. Widely used in EIA, such judgement needs to be exercised within a structured and systematic framework to ensure the consistency of the conclusions drawn.
112. In many cases, a combination of the two methods is used, involving a progression from matters of fact, which can be stated with certainty, through appraisal by informed professional judgement, to the expression of opinions on the relative significance of the findings. The ES should provide a clear distinction between matters of fact, judgements and opinions, with all sources identified. Assumptions made, degrees of confidence and areas of uncertainty in the predictions should be clearly stated.

#### EXAMPLE BOX: LANDSCAPE AND VISUAL ASSESSMENT

Landscape assessments comprise a combination of desk study and field survey, usually undertaken by a qualified Landscape Architect, including:

- An assessment of the landscape character of the area in and around the development site, identifying homogenous character units (based on topography and drainage, geology, landcover pattern and grain, historical and cultural associations, ecological value and/or sense of place) and relative quality of that landscape character area. The impact of development on individual character units is assessed in terms of its magnitude, nature and the landscape's sensitivity to change.
- Sensitive viewpoints to the site are identified (usually from properties, amenity/protected landscape areas, rights of way etc) and a zone of visual influence is usually determined. The impact is assessed on the basis of the sensitivity of the receptor and the degree and nature of change to the view.

113. Sources of guidance for assessing the effects of development for individual topic areas are provided in **Appendix C**. Particular methodologies may also be available tailored to specific development types, e.g. wind farms, roads and so on.



## Assessment of Significance

114. As described in **Section 3**, the scoping stage of the EIA process determines which effects are likely to be significant, and ‘scopes out’ those that are not. Within the ES, therefore, the issue is one of *degree*. Effects will be positive or negative.
115. Significance is generally determined on the basis of expert judgement. To minimise the risk of challenge by other experts it is important to ensure that the manner in which significance has been attributed is transparent and repeatable. The most effective way of doing this is to devise significance criteria on which to base the decision.
116. Broadly, significance is a function of:
- The value of the resource (international, national, regional and local level importance)
  - The magnitude of the impact
  - The duration involved
  - The reversibility of the effect
  - The number and sensitivity of receptors
117. Any significance criteria devised should take account of these factors.
118. It is advantageous to devise generic significance criteria that can apply to all ES topics. This ensures that, where possible, effects are assessed in a comparable manner. However, for some subject areas, other references (such as quality standards in air quality and noise) will need to be incorporated as they reflect established thresholds of impact upon sensitive receptors (e.g. human health). Where possible, significance criteria should be agreed with the LPA/stakeholders either during the scoping process (see **Section 3**) or at other appropriate times during the pre-application process.
119. Typically, such criteria are developed from a matrix approach comprising the value of the resource on one axis and the magnitude of the predicted effect on the other. An example of a set of generic significance criteria is provided in the box below.

EXAMPLE BOX: GENERIC SIGNIFICANCE CRITERIA	
Significance	Criteria
Extreme	These effects represent key factors in the decision-making process. They are generally, but not exclusively associated with sites and features of national importance and resources/features which are unique and which, if lost, cannot be replaced or relocated.
Major	These effects are likely to be important considerations at a regional or district scale but, if adverse, are potential concerns to the project, depending upon the relative importance attached to the issue during the decision making process.
Moderate	These effects, if adverse, while important at a local scale, are not likely to be key decision making issues. Nevertheless, the cumulative effect of such issues may lead to an increase in the overall effects on a particular area or on a particular resource.
Minor	These effects may be raised as local issues but are unlikely to be of importance in the decision making process. Nevertheless, they are of relevance in the detailed design of the project.
Negligible	Effects which are beneath levels of perception, within normal bounds of variation or within the margin of forecasting error.

120. Further guidance on significance criteria is provided on the principles/approaches available in general EIA guidance (see **Bibliography**); topic specific guidance is available from relevant Government bodies/professional organisations (see **Appendix C**) and from resources such as WebTAG (see Example Box, Paragraph ...).

### Cumulative Effects

- 121. The EIA Regulations (in Schedule 4) require that cumulative effects of development be considered within an ES. ‘Cumulative’ is not defined in the EIA Directive or regulations – the dictionary definition is *‘increasing by one addition after another’*.
- 122. In the context of EIA, cumulative effects could refer to the combined effects of different development activities within the vicinity or those of different aspects of a single development on a particular receptor. Examples are provided in the Example Box below.

**EXAMPLE BOX: CUMULATIVE EFFECTS****Cumulative effects from different developments**

An individual industrial plant may have relatively low predicted emissions to air, with no exceedances of national air quality standards. However, when the dispersion plume is modelled this may overlap with the dispersion plume of another development under construction over a sensitive habitat. The sensitivity of the habitat to cumulative levels of the pollutant should be assessed.

**Cumulative effects from different environmental features**

Existing residents adjacent to a proposed new development may expect to experience degradation of local air quality, increases in noise level at their properties and a higher volume of traffic that will change the character of local roads. The effects singly may be considered acceptable, however together may create a level of nuisance that is unacceptable.

123. Whichever approach is taken, the key is to focus on the receptor and consider capacity cumulatively to accommodate the changes that are occurring and proposed, rather than just calculating the contribution associated with a particular development and/or environmental aspect.
124. The effects to be considered cumulatively in an ES will be project specific and should be agreed with the LPA during the scoping stage (see **Section 3**). It is important that they are clearly identified in the ES, along with any assumptions made. In most cases, detailed consideration of the combined effects of the development proposed together with other developments will be limited to those others that are already begun or constructed or those that have not been commenced but have a valid planning permission.
125. Often, future developments in the vicinity of a project site will be included in the baseline scenario as 'committed development'. But in the context of EIA the term 'committed development' conventionally refers to development for which consent has been granted.
126. Further guidance/discussion on cumulative effects is available in most general EIA texts (see **Bibliography**).

## Summary

**SUMMARY BOX: ASSESSING THE ENVIRONMENTAL IMPACTS**

- There are a number of methods/approaches available for assessing the environmental impacts of a project – whichever one is chosen must be objective, appropriate to the environmental aspect being assessed and follow through on agreements made during the scoping stage
- It is advantageous to employ generic assessment criteria to provide a structured framework for assessment across topic areas.

# 5. Preparing the Environmental Statement

## Introduction to Preparing the ES

127. The Environmental Statement (ES) is the most visible part of the Environmental Impact Assessment (EIA) process. It draws together the findings of the developer's technical studies undertaken to investigate the potential environmental effects of the project to support the planning application. It is the developer's responsibility to prepare the ES and present the information in a comprehensive, clear and objective manner for review by the planning authority, statutory consultees and members of the public.
128. This chapter covers:
- ES Content
    - Description of Development
    - Alternatives
    - Description of Aspects of the Environment (Baseline)
    - Description of Likely Significant Effects
    - Description of Mitigation Measures
    - Non-technical Summary
  - Writing/Formatting and Coordinating the ES
  - Summary

## ES Content

129. The format and content of individual chapters in the ES will necessarily vary with different types of project, the relative size and complexity of individual developments, and the nature of the significant effects. In practice the level of attention given to individual environmental topics in the ES should reflect the results of the scoping exercise and focus on issues identified as being of concern.
130. This section describes best practice for the ES; basic requirements (from Schedule 4) are provided in **Appendix F**.
131. Further guidance on the content of an ES is provided in most of the general EIA texts (see **Bibliography**). For topic specific advice on survey methods and assessment techniques initial reference should be made to the relevant professional institutions or relevant Government bodies – see **Appendix C** for a list.

## Description of Development

132. In essence, the description provided has to be of sufficient detail to allow an assessment of the likely effects of the development. Thus, the minimum detail likely to be required is typically (but is not limited to):
- height, scale, siting and massing of buildings
  - uses/activities/processes undertaken within buildings, including floorspace by use and projected staff numbers
  - predicted emissions to land, air and water (type, quantity, dispersal patterns and residues)
  - strategic landscaping proposals
  - access/traffic
  - earthworks
133. For full planning applications, details of types of materials/finishes should be included.
134. Additional information may also be required, depending on the nature of the development. Uncertainty in the description of development (construction, operation, and, if relevant, decommissioning) should be clearly stated.
135. It is important to include in the description of development, details of the measures that have been incorporated into the scheme for the purposes of environmental protection/enhancement. These measures are likely to be the result of the iterative process of impact prediction and mitigation that takes place during project preparation and design development. At the point of impact assessment, as recorded in the ES, they are integral, permanent elements of the development and should be assessed as such. See also paragraphs ... to ... on mitigation measures.
136. In addition to text descriptions of the development, illustrations should be included to aid understanding by those reading the ES. Maps, drawings, sketches, photomontages and computer simulations may variously be appropriate.
137. Where possible, the phasing and timescale of the development should be described and assessed. This is particularly important for environmental effects triggered at different phases. The level of accuracy in predicting the effects of environmental change relating to the development is however likely to decline the further into the future the works are planned.
138. It is acknowledged that some projects will develop and evolve over time. The key is to recognise potential change and set parameters within which it can reasonably take place. This permits a degree of flexibility yet also allows EIA to be carried out (see comments on outline planning permission in paragraphs 42 to 44 above).

## Alternatives

139. The number and type of alternatives will depend on the individual project. These are likely to have been considered during project preparation (see **Section 1**). Schedule 4 to the Regulations requires an outline of the main alternatives studied by the applicant to be included in the ES. If no alternatives have been considered then the ES should explain why. In the case of larger developments, alternatives may have been the subject of consultation with the public or relevant organisations, and this should be recorded in the ES. Whatever options have been evaluated, the criteria for assessment should be clearly explained.
140. Full assessment is only undertaken, however, for the proposed scheme.

## Description of Aspects of the Environment (Baseline Conditions)

141. Information on baseline environmental conditions is needed so that possible changes can be predicted and assessed. The scope and depth of baseline studies should be fully considered at the project preparation and scoping stages in consultation with the Local Planning Authority (LPA) and their consultees. This is important, as surveys may be seasonally dependent, and determining their need after submission of the ES can result in severe delays. Further information on environmental surveys is provided in **Section 1**.
142. Studies need to take account not just of the existing baseline, but also as projected forward under a ‘do-nothing’<sup>12</sup> scenario. This essentially takes account of all ‘committed development’<sup>13</sup> and environmental trends taking place over time without specific intervention (e.g. how air quality may change over time due to traffic growth and/or technological advancements). LPAs may also wish other current applications to be considered in a cumulative way as if they were part of the committed baseline.
143. The ES should report on any difficulties encountered in gathering together the baseline data.

## Description of Likely Significant Effects (Assessment of Effects and Significance)

144. The results of the impact assessment for construction, operation and (where appropriate) decommissioning of the development must be reported in the ES. Any difficulties encountered during the assessment should be clearly identified.
145. The effects of development, inclusive of intended/integral environmental treatments and abatements should be described and assigned significance in accordance with defined criteria. In the case of adverse impacts capable of further mitigation (see paragraphs ... below), post-mitigation “residual effects” should be described and their significance reappraised.

---

<sup>12</sup> A similar term, ‘do minimum’, generally refers to the situation where an applicant (usually a Local Authority or other public body) is intending to implement some measures (e.g. traffic calming) in the foreseeable future which does not form part of the proposals but which could nevertheless be seen to be contributing towards achieving environmental benefits.

<sup>13</sup> In the context of EIA, ‘committed development’ conventionally refers to development for which consent has been granted.

146. It may also be helpful to include a summary table of the assessment – see the Example Box below.

<b>EXAMPLE BOX: IMPACT SUMMARY TABLE</b>					
Environmental topic	Description of impact		Description of mitigation measures	Description of residual impact	
	Description in words	Significance:		Description in words	Significance:
AIR QUALITY		Severe, Major, Moderate, Minor, Negligible  +ve, -ve  D, I, P, T  ST, MT, LT			Severe, Major, Moderate, Minor, Negligible  +ve, -ve  D, I, P, T  ST, MT, LT
Construction impacts	Dust nuisance and vehicle and construction plant exhaust emissions	Moderate  -ve  D, T  MT	Various dust and nuisance control measures	No long term residual effects	Minor  -ve  D, T  MT
Operational impacts	Vehicle and operational plant emissions	Negligible	None required	No residual effects	Negligible
<p><b>+ve = Positive; -ve = Negative</b>  <b>D = Direct; I = Indirect; P = Permanent; T = Temporary</b>  <b>ST = Short Term; MT = Medium Term; LT = Long Term</b></p>					

### Description of Mitigation Measures

147. The development of mitigation measures to address the potential adverse effects of a particular development is a process that should begin at the earliest stages of the project with site selection and project design, and continue throughout the EIA – see **Section 1** for details.
148. Mitigation measures should be identified in the ES, indicating clearly the level of commitment to, and mechanism for, their implementation together with an assessment of their likely effectiveness and any further impacts that they may create. Descriptions of the measures envisaged must be precise to allow the LPA to effectively translate them into planning conditions/agreements where appropriate. The preparation and submission with the ES of an Environmental Action Plan (EAP) detailing all mitigation proposed may be appropriate; alternatively the requirement for EAP could be conditioned with approval

from the LPA required before the works can commence. This is discussed further in **Section 7**. However, regardless of the format used, a schedule of commitments with regard to mitigation measures within the ES is desirable.

149. If necessary, risk assessments can be used to determine whether mitigation is necessary, e.g. looking at flood potential.
150. The hierarchy of mitigation is described in **Section 1** (paragraphs...) and measures may be variously referred to in the ES under sections on alternatives, description of development and/or additional mitigation opportunities – see Example Box below.

#### **EXAMPLE BOX: MITIGATION MEASURES IN THE ES**

##### **Alternatives**

- Site selection based on environmental criteria
- Reorientation of buildings within the site to minimise visual intrusion, protect areas of ecological value etc
- Alteration in process/servicing to minimise release of pollutants to land, air, water etc

##### **Description of Development**

- Measures to facilitate passage of protected species (in particular for linear projects), including otter ledges and culverts, bat tunnels
- Measures to safeguard protected species, including creation of badger setts, otter holts, bat boxes etc
- Measures to reduce visual intrusion, including landscape bunds, screening measures (including tree planting, ground profiling)
- Measures to reduce aural intrusion, including noise bunds
- Measures to reduce operational pollution, including installation of oil water interceptors, effluent treatment provisions etc

##### **Further mitigation and/or enhancements**

- Measures to reduce dust emissions during construction, including wheel washing facilities, covering of spoil heaps and vehicles transporting dusty materials
- Measures to reduce noise emissions during construction, including hoarding, hours of operation and other site practices
- Measures such as fencing for protecting trees and habitat areas to be retained
- Measures to provide off-site amenity provision
- Enhancement of off-site land for nature conservation
- Off site planting for landscape purposes or to offset carbon emissions

151. It may be appropriate to identify measures to monitor the effectiveness of the mitigation proposed, or to detect unforeseen environmental consequences. This will be particularly important if the mitigation measures regulate the development to make it acceptable (e.g. with regard to environmental standards etc).



## Non-technical Summary

152. The purpose of the non-technical summary (NTS) is to ensure that the findings of the studies undertaken can more readily be disseminated to the general public, and that the conclusions are easily understood by non-experts as well as decision makers. It is therefore essential that the NTS reflects in an accurate and balanced way the key information contained in the ES, describing all conclusions, and the facts and judgements on which they are based.
153. The NTS is often the most widely circulated part of the ES. It is common practice to prepare it as a separate booklet, to facilitate wide community consultation. When this occurs a copy should still be incorporated into the main document for completeness. The NTS must be written in language that is understandable to the general public. It may be helpful to use diagrams / figures / photographs to relay the principal messages of the ES – a location map identifying the proposed development is particularly useful. The NTS should make clear where the full ES can be viewed and/or purchased.

## Writing/Formatting and Co-ordinating the ES

154. There are no statutory requirements concerning the form of an ES but it must contain information as set out in Schedule 4 to the EIA Regulations as described in the previous section ('ES Content'). As a guide, an example structure is provided in **Appendix G**. The statutory requirement is for the ES to include at least the information referred to in Part II of Schedule 4, and as much of the information in Part I as is reasonably required to assess the environmental effects and which the applicant can reasonably be required to compile (ie. given current knowledge and methods of assessment).
155. The EIA Regulations do not require a discussion of planning policy in the ES, although applicants sometimes include this to provide a useful synopsis for the LPA; any coverage in the ES must be objective and not promotional. Similarly, there is no requirement to include a sustainability appraisal within the ES. If such an assessment is required by the LPA, it should be provided as a separate document supporting the planning application.
156. Ideally the ES should be compiled as a single document. However, where this is not possible and multiple documents are required, the status of each and its relationship to the others should be clearly identified on the cover. They should all be made accessible together.
157. The ES and its appendices should be self contained, with no significant reliance on documentation outside it (with the exception of generally available published material, such as British Standards).

### CASE LAW BOX: ES FORMAT

In the case of **Berkeley v SSETR (2000) [WLR21/7/2000 p420]**, the House of Lords commented that an ES must not be a "paper chase". Lord Hoffman said, "the point about the environmental statement contemplated by the Directive is that it constitutes a single and accessible compilation, produced by the applicant at the very start of the application process, of the relevant environmental information and the summary in non-technical language."

158. The quality of an ES will not be determined by its length. What is needed is a concise, objective analysis which deals with all the significant areas of impact and highlights the key issues relevant to the decision and presents them in a clear, objective and non-promotional way. Use of annexes for technical data and information may be appropriate.
159. All terms (in particular, degrees of significance) used in the ES must be defined to demonstrate a consistent approach and to allow those reviewing the ES to understand the descriptions/judgements made therein. A glossary of technical terms should be provided.
160. It may be helpful to provide a concluding chapter to the ES, where all impacts described and assessed under the separate topic areas are brought together. This allows comparison between the different impacts established throughout the course of the ES. An effective way of presenting this information is to amalgamate the appraisal summary tables from previous assessment chapters.
161. Overall, one of the key factors in producing a good ES is internal consistency, in description of the development, terminology and style/format. Where there are a number of contributors to an ES, consistency can be achieved by employing an ES coordinator/project manager who disseminates information about the development to all contributors and takes an editorial role in finalising the ES. This will ensure that the document is easy to follow and that the messages in the assessments are clear.

## Summary

### **SUMMARY BOX: PREPARING THE ENVIRONMENTAL STATEMENT**

The key aspects to note with regard to preparing the ES are:

- There is no prescribed format (but Schedule 4 Information should be included)
- The ES content needs to follow through from the scoping discussions – if the objectives of scoping have been achieved this should mean that the ES is focused on the significant impacts
- The document should be internally consistent and written in a manner which can be understood by all

# 6. Submission and Evaluation of the Environmental Statement by the Local Planning Authority and the Decision

## Introduction to Submission and Evaluation of the ES and the Decision

162. The challenge facing Local Planning Authorities (LPAs) in particular during this stage of the process is to ensure that the ES is adequate (in terms of decision making and compliance with the EIA Regulations) and that all procedures are followed appropriately and recorded to ensure that the decision making process is robust and transparent.
163. The ‘environmental information’ that the LPAs must consider when reaching their decision comprises the Environmental Statement submitted, any additional information required by the planning authority or voluntarily provided by the applicant, the views of consultees and comments/representations by the public. Within the LPA, various technical specialists will consider the ES.
164. This chapter covers:
- The Statutory Procedures
    - Overview (including flow chart 4: ‘Submission and Evaluation Procedures Overview’)
    - Submitting the ES
    - Publicity and consultation
    - Review of the ES for adequacy
    - Determination of the application
    - Announcement of the decision (including flow chart 5: ‘Procedures for Announcing the Decision’)

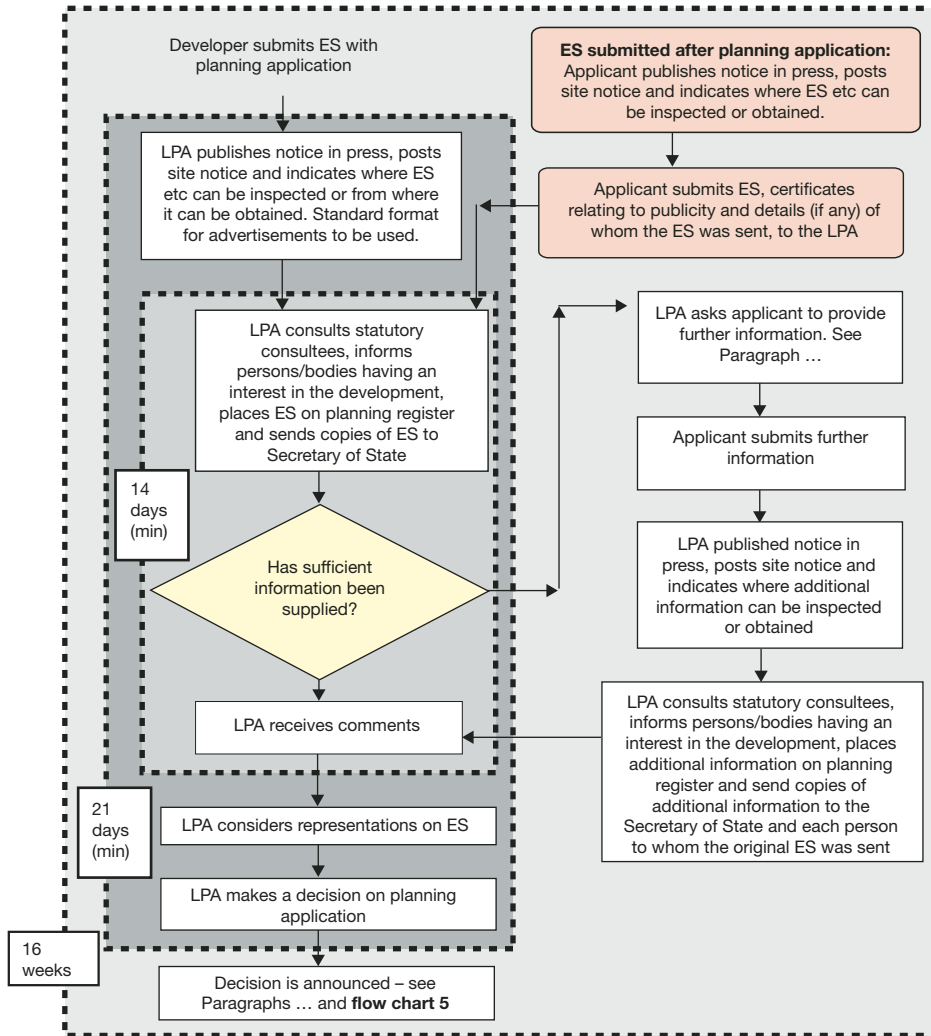
## The Statutory Procedures

### Overview

165. The necessary procedures for submission/receipt of an Environmental Statement (ES) and its review/consideration as part of the planning application are set out in **flow chart 4**. The standard process is shown in white – this is the situation where the ES is submitted at the same time as the planning application. An alternative process is also shown on the diagram, representing instances where the ES is submitted after the submission of the planning application (shown in orange).

166. It is important that the LPA takes a systematic approach to the evaluation process, which can be complex, in particular for larger projects.

**Flow chart 4: Submission and evaluation procedures**



## Submitting the ES

167. When submitting an ES, the developer must provide as a minimum:

- 1 copy for the LPA to accompany the planning application
- 3 copies to be forwarded on to the Secretary of State by the LPA
- Sufficient additional copies to be forwarded to the statutory consultees (see paragraphs 38/39)

168. Developers should liaise with the LPA on the number of additional copies required to avoid any inefficiency or delay in processing. Alternatively developers may send copies of the ES directly to the statutory and other consultees. When submitting the application, the developer must inform the planning authority of the name of every body – whether

or not it is a statutory consultee – to which a copy of the ES has been sent, and the date it was sent.

169. A reasonable number of copies should also be made available for members of the public. A reasonable charge to reflect printing and distribution costs may be made. New formats to facilitate wider dissemination to the public are discussed in paragraph ...

## Publicity and Consultation

170. The responsibility for publicity rests with the LPA where an ES accompanies the planning application, and with the developer where it is submitted later than the original application. Publicity requirements are detailed in **flow chart 4** and include:
- Informing statutory consultees (see paragraphs 38/39)
  - Informing persons/bodies having an interest in the development (the public concerned – see paragraph 38)
  - Informing the wider public through press and site based advertisements
  - Placing information on the planning register.
171. Whilst this is the key stage of the EIA process for consultation, opportunities taken earlier in the process to engage consultees, in particular the public (see **Sections 1** and **3**), can provide beneficial results with few(er) concerns being raised.
172. It should be noted that representations made by the consultees (including the public) are included in the EIA Regulations' definition of "environmental information" which must be taken into account when determining the planning application.
173. Increasingly, new formats for the ES and new places of access are being used to facilitate wider public engagement. This can include publishing the ES on the Internet or in CD Rom format, and making the ES available at post offices, libraries, community halls, schools etc. Use of such methods, which should be selected according to their appropriateness to the local community, is considered best practice. The case study below shows how the Internet was used to facilitate access to the ES for locally important projects in Bristol.

#### CASE STUDY BOX: HARTCLIFFE CAMPUS AND HENGROVE PARK

Applications for Hartcliffe Campus and Hengrove Park, both mixed use schemes being developed by Bristol City Council and partners, were submitted in 2005. The two schemes are located in South Bristol, on opposite sides of a main road.

The Hartcliffe Campus project comprises the rebuilding of an existing school with additional residential, commercial and community development surrounding it. As the largest regeneration site in Bristol, the development of Hengrove Park, creating a mixed use scheme comprising a local hospital, residential and commercial land whilst still maintaining a large (and improved) city park, has attracted great public interest.

Extensive consultation on both proposals, from an early stage, included direct contact with a large number of statutory and non-statutory consultees, regular meetings with groups representing community views, and workshops with local residents and organisations. Environmental Statements and other details for both Hartcliffe Campus and Hengrove were placed, respectively, on the Bristol City Council website and the dedicated Hengrove Park website.

### Review of the ES for Adequacy

174. The ES should be reviewed as soon as the application is registered or when the ES is received. In reviewing the ES for adequacy, the main points that the LPA must assess are:
- whether it meets the requirements of the EIA Regulations (see **Appendix F**);
  - whether it provides decision makers with all the necessary environmental information for their decision; and
  - whether it communicates effectively with consultees and the general public so that they can comment in a useful manner on the project and its environmental impacts.
175. The review process will also provide an opportunity for the LPA to identify whether there are any particular points on which a consultees view should be sought and establish an initial view on the key environmental issues. The scoping report and resulting opinion can be used as a basis for the review process.
176. A number of review checklists are available, the advantages of a checklist being:
- it assists officers in providing a framework for the review, thus ensuring that all relevant issues are addressed;
  - it provides evidence that the review process has taken place;

#### RESOURCE BOX: REVIEW CHECKLISTS

Review checklists are available from the following sources.

European Commission document 'Guidance on EIA: EIS Review' (June 2001). Available from <http://europa.eu.int/comm/environment/eia>

From Surrey County Council's website, a review checklists is available from: <http://www.surreycc.gov.uk>

Lee, N., R. Colley, J. Bonde and J. Simpson (1999) Reviewing the quality of Environmental Statements and Environmental Appraisals. Occasional Paper 55 (EIA Centre, University of Manchester) 72 pages – available for purchase from the EIA Centre, University of Manchester

Institute of Environmental Management and Assessment Review Criteria  
<http://www.iema.net/download.php/reviewcrit.pdf>

Scottish Executive document 'Planning Advice Note (PAN) 58'; the checklist is contained within Annex 5. This annex is available from <http://www.scotland.gov.uk>

Impact Assessment Unit (Oxford Brookes University) Package – available in Glasson, J., R. Therivel and A. Chadwick (2005), Introduction to Environmental Impact Assessment. Principles and procedures, process, practice and prospects. 3rd Edition. UCL Press, London

177. Where an authority considers that it does not have the necessary expertise to evaluate the information contained in an ES, it may decide to seek advice from consultants or other suitably qualified persons or organizations (for example the Institute of Environmental Management and Assessment (IEMA)).

### Determination of the Application

178. Consideration of information provided in the ES will be an important part of the decision making process for an application for EIA development<sup>14</sup>.
179. The statutory period for determining an EIA application is 16 weeks from the date of receipt of the ES, unless the developer agrees in writing to a longer period. Furthermore, a decision cannot be made on the planning application before a specified time has elapsed following notification/advertisement of the availability of the ES<sup>15</sup>. The applicant can, if he/she wishes appeal against non-decision after the 16 week period has elapsed.

---

<sup>14</sup> For developments of the scale/sensitivity requiring EIA, the decision is invariably made by planning Committee Members on a vote at a planning committee meeting. LPA officers make a recommendation to Members regarding the application, which they can accept or reject. Representations at the planning committee meeting (subject to local protocols) can often be made by prior arrangement to support or object to the application; where the latter occurs the applicant is usually given the opportunity to respond.

<sup>15</sup> A decision cannot be made until at least 21 days has elapsed since the LPA posted a notice at or near the site or 21 days since it published a notice in the press indicating where the ES can be inspected or obtained.

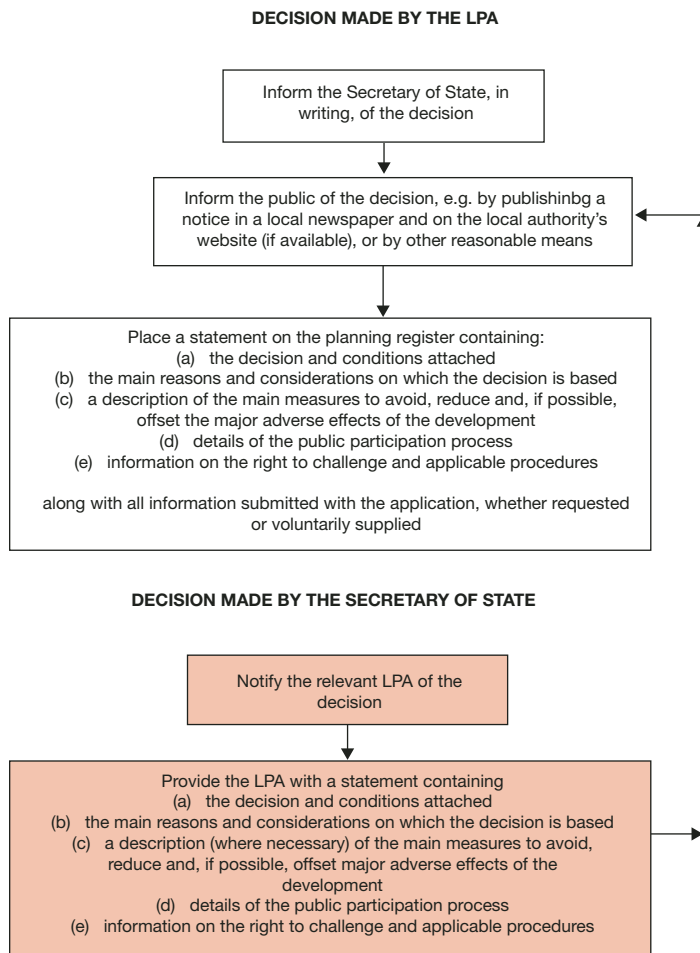
180. Should the LPA consider that insufficient information has been provided, it can require the applicant to submit further information. Until this is provided, the planning application cannot be determined, although the 16-week period of determination still continues to run. The same requirements and time limits for notification/advertisement of the further information apply as for the original ES. Failure to supply information when requested by the LPA will lead to the application being refused.
181. Additional information relating to an ES and provided voluntarily by the applicant will, if it is substantive information, be subject to the same publicity requirements as the original ES and any further information required by the LPA. Any further or additional information submitted should be (as for the original ES) presented in a clear and readable way.
182. The LPA may also in writing require an applicant to produce evidence to verify any information in an ES.
183. To ensure that the development is delivered in accordance with that described in the ES, the decision will be subject to conditions or planning agreements – see **Section 7**.

### **Announcement of the Decision**

184. This is the final stage of the EIA process to which statutory procedures apply. However, important work continues after this to ensure that commitments made in the ES are implemented – this is discussed in the following chapter.
185. The procedures described in **flow chart 5** below (based on the EIA Regulations) represent the final stage of the EIA process: informing relevant parties of where information on the decision can be obtained. Different procedures apply depending on whether the planning decision was made by the planning authority or the Secretary of State.



Flow chart 5: Procedures for announcing the decision



## Summary

### SUMMARY BOX: SUBMISSION AND EVALUATION OF THE ES BY THE LOCAL PLANNING AUTHORITY AND THE DECISION

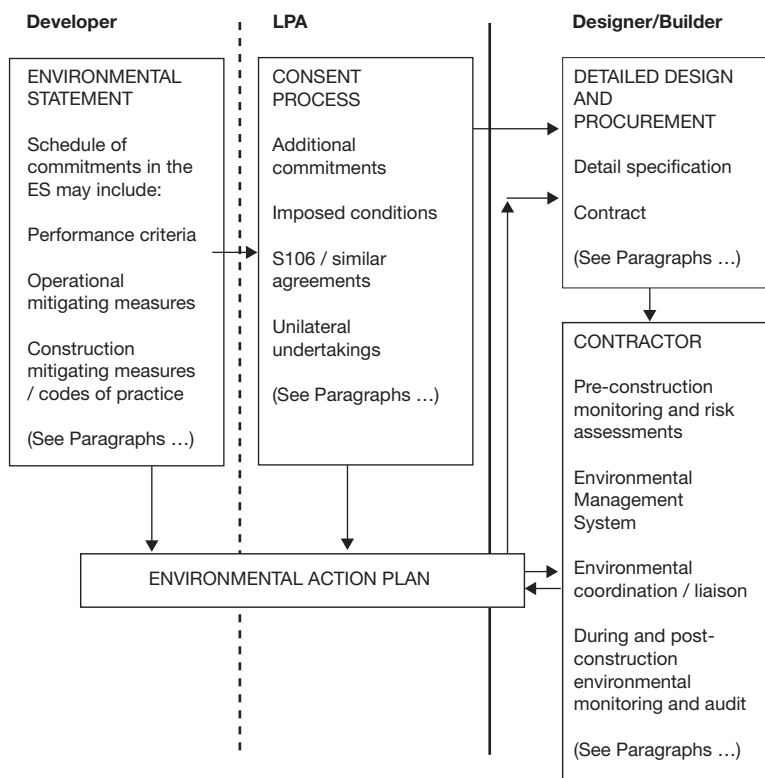
- There are procedural steps that must be followed and recorded appropriately to ensure that the determination process is robust and auditable.
- This stage includes formal consultation requirements, extending to the wider public.
- A systematic review of the ES is an important aspect of this stage and tools/mechanisms are available to assist in this.

# 7. Post-Decision Practices

## Introduction to Post-Decision Practices

186. Whilst there are no regulatory requirements on Environmental Impact Assessment (EIA) following the making of a decision it is implicit in the identification of “measures to prevent, reduce and where possible offset any significant adverse effects on the environment” that there should be some follow through to see whether commitments made in the Environmental Statement (ES) have been delivered and to monitor predicted environmental effects. This stage is necessary to demonstrate that the time and money invested in EIA has been worthwhile and to trigger corrective actions. This chapter, therefore, considers:
- the use of Environmental Action Plans and related tools
  - the role and implementation of planning conditions (or obligations under Section 106 of the Town and Country Planning Act 1990) in delivering mitigating measures
187. Whilst the focus is on delivery, the measures described in this chapter are also essential to accountability and demonstrating to the public that ES commitments have been implemented.
188. Once an EIA application has received development consent, post-decision activity by Local Planning Authorities (LPAs) comprises the lawful consideration of any “reserved matters” arising from outline consents and enforcement. Much depends on the framing of planning conditions/obligations. Other agencies e.g. Environment Agency have a role in environmental enforcement but the development consent remains a principal mechanism for regulatory control.
189. Developers should follow good practice techniques, such as Environmental Action Plans (see paragraphs 191 to 194 below) to ensure that ES commitments are delivered.
190. **Flow chart 6** is a generalised schematic of the transition stages from ES and LPA decision-making through building procurement to project delivery, identifying the players involved and putting the role of conditions/agreements and the use of Environmental Action Plans into context.

Flow chart 6: Post-Decision delivery of commitments



## Environmental Action Plans

191. Complex developments benefit from the preparation of Environmental Action Plans (EAP) to facilitate delivery of environmental design and construction commitments, through the sequential stages of development and involving different players. It is good practice on the part of the developer's team to establish the EAP as part of the ES through identification of a Schedule of Environmental Commitments – augmenting it through the consent process and using it to underpin design specifications and contractual requirements; it is often at this stage, where the development passes from one player to the next that commitments are lost, diluted or their purpose is mislaid or misunderstood. The EAP provides a tool for updating and constant audit.
192. For construction related phases the use of risk assessments and the adoption of construction codes, environmental management systems (to ISO 14001 or similar) and the appointment of environmental co-ordinators can all serve to control and minimise potentially adverse environmental impacts.
193. At all times the objective of environmental actions should be explicit – this is particularly true of monitoring regimes where the collection of data has a purpose beyond information for its own sake and is intended to trigger corrective action.

194. Subject to the scale and nature of development, LPAs should request the incorporation of a preliminary schedule/framework EAP in the ES (during formal/informal scoping where this is undertaken (see **Sections 1** and **3**)). This will, *inter alia*, specify:
- the effects to be mitigated
  - the location, design and timing of mitigation measures
  - the predicted effectiveness of the measures
  - the monitoring arrangements

## Planning Conditions/Obligations

195. An LPA will use conditions to:
- “tie” the consent to the environmental information provided in the ES (which in the case of an outline permission is intended to prevent the development from taking a form, and having effects, different from what was considered during EIA – see **Section 1**, including ‘Rochdale’ case law); and
  - address the implementation of mitigating measures, including the monitoring of performance.
196. As indicated in **flow chart 6**, mechanisms to achieve delivery of anticipated outcomes/measures may go beyond conditions into formal obligations under Section 106 of the Town and Country Planning Act 1990.
197. The wording of conditions is key to ensuring that predicted outcomes are enforceable, so time taken in careful composition is well spent. Framing of conditions/obligations should be clear and explicit. This includes taking the time to ensure that compliance is not impossible (an example would be a condition requiring control of surface water flows, where there is no room on the site for a suitable retention pond/tank). A feedback loop, necessitating reporting on the completion of mitigation/monitoring works/tasks covered in conditions or obligations, is a useful inclusion which encourages self-policing.
198. Time spent in reviewing the ES and in formulating suitable conditions may be wasted if LPAs do not check on implementation of mitigating measures or fail to act on information intended to alert the LPA to non conformity or non performance (e.g. monitoring data).
199. Any conditions concerning monitoring should specify:
- what is to be monitored
  - the standard to be achieved
  - who is responsible for carrying it out
  - how the results will be used to effect necessary action.

200. Guidance on planning conditions can be found in Circular 11/95 and on planning obligations in Circular 05/2005.
201. In monitoring and enforcing planning conditions/obligations during construction and operation (and decommissioning if applicable) of a development LPAs should consider how the results will be communicated to third parties.

## Summary

### **SUMMARY BOX: POST-DECISION PRACTICES**

- This final stage is a non-statutory but important part of EIA
- It contains the mechanisms for delivery of commitments and as such is key to the credibility and usefulness of EIA

## 8. Bibliography and References

Below are some of the main texts providing general guidance on Environmental Impact Assessment (EIA), and texts specific to different parts of the process as identified in the relevant sections. References for topic specific guidance on assessment of effects are provided in **Appendix C** of this guide.

Carroll, B. and Turpin, T. (2003) *Environmental Impact Assessment Handbook: A practical guide for planners, developers and communities*. Thomas Telford.

Environment Agency (2002). *Environmental Impact Assessment: A handbook for scoping projects*. Environment Agency

Essex Planning Officers Association (2005) *The Essex Guide to Environmental Impact Assessment*

European Commission (2001) *Guidance on Environmental Impact Assessment: Screening*. The European Commission

European Commission (2001) *Guidance on Environmental Impact Assessment: Scoping*. The European Commission

European Commission (2001) *Guidance on Environmental Impact Assessment: Review Checklist*. The European Commission

European Commission (1999) *Guidelines on Assessment of Indirect and Cumulative Impacts*. The European Commission

Glasson, J., Therivel, R. and Chadwick, A. (1999) *Introduction to Environmental Impact Assessment. 2nd Edition*. Spon Press

Institute of Environmental Management and Assessment (2004) *Guidelines for Environmental Impact Assessment*. IEMA

Morris, P. and Therivel, R. (ed) (2001) *Methods of Environmental Impact Assessment. 2nd Edition*. UCL Press

Royal Town Planning Institute (2001) *Planning Practice Standard: Environmental Impact Assessment*. RTPI

Tromans, S. and K. Fuller (2003) *Environmental Impact Assessment – Law and Practice*. LexisNexis, London

# Appendix A: EIA Directive – Consolidated

## Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC

Consolidated version with no legal status

### Article 1

1. This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.
2. For the purposes of this Directive:
  - 'project' means:
    - the execution of construction works or of other installations or schemes,
    - other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;
  - 'developer' means:
    - the applicant for authorisation for a private project or the public authority which initiates a project;
  - 'development consent' means:
    - the decision of the competent authority or authorities which entitles the developer to proceed with the project;
  - 'the public' means:
    - one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups;
  - 'the public concerned' means:
    - the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures referred to in Article 2(2); for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.
3. The competent authority or authorities shall be that or those which the Member States designate as responsible for performing the duties arising from this Directive.
4. Member States may decide, on a case-by-case basis if so provided under national law, not to apply this Directive to projects serving national defence purposes, if they deem that such application would have an adverse effect on these purposes.

5. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process.

## Article 2

1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. These projects are defined in Article 4.
2. The environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive.
  - 2a. Member States may provide for a single procedure in order to fulfil the requirements of this Directive and the requirements of Council Directive 96/61/EC of 24 September 1996 on integrated pollution prevention and control.
3. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.

In this event, the Member States shall:

- (a) consider whether another form of assessment would be appropriate;
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the exemption decision and the reasons for granting it;
- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States. The Commission shall report annually to the Council on the application of this paragraph.

## Article 3

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of a project on the following factors:

- human beings, fauna and flora;
- soil, water, air, climate and the landscape;
- material assets and the cultural heritage;
- the interaction between the factors mentioned in the first, second and third indents.



## Article 4

1. Subject to Article 2 (3), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.
2. Subject to Article 2 (3), for projects listed in Annex II, the Member States shall determine through:
  - (a) a case-by-case examination, or
  - (b) thresholds or criteria set by the Member State whether the project shall be made subject to an assessment in accordance with Articles 5 to 10.

Member States may decide to apply both procedures referred to in (a) and (b).
3. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account.
4. Member States shall ensure that the determination made by the competent authorities under paragraph 2 is made available to the public.

## Article 5

1. In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV inasmuch as:
  - (a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;
  - (b) the Member States consider that a developer may reasonably be required to compile this information having regard *inter alia* to current knowledge and methods of assessment.
2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be supplied by the developer in accordance with paragraph 1. The competent authority shall consult the developer and authorities referred to in Article 6 (1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.

Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.

3. The information to be provided by the developer in accordance with paragraph 1 shall include at least:
  - a description of the project comprising information on the site, design and size of the project,
  - a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,
  - the data required to identify and assess the main effects which the project is likely to have on the environment,
  - an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects,
  - a non-technical summary of the information mentioned in the previous indents.
4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer.

## Article 6

1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To this end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.
2. The public shall be informed, whether by public notices or other appropriate means such as electronic media where available, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided;
  - (a) the request for development consent;
  - (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;
  - (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
  - (d) the nature of possible decisions or, where there is one, the draft decision;
  - (e) an indication of the availability of the information gathered pursuant to Article 5;
  - (f) an indication of the times and places where and means by which the relevant information will be made available;

- (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.
3. Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned:
    - (a) any information gathered pursuant to Article 5;
    - (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;
    - (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.
  4. The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for that purpose, be entitled to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken.
  5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States.
  6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.

## Article 7

1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, *inter alia*:
  - (a) a description of the project, together with any available information on its possible transboundary impact;
  - (b) information on the nature of the decision which may be taken,
 and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the environmental decision-making procedures referred to in Article 2, and may include the information referred to in paragraph 2 of this Article.

2. If a Member State which receives information pursuant to paragraph 1 indicates that it intends to participate in the environmental decision-making procedures referred to in Article 2(2), the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information required to be given pursuant to Article 6(2) and made available pursuant to Article 6(3)(a) and (b).
3. The Member States concerned, each insofar as it is concerned, shall also:
  - (a) arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6 (1) and the public concerned in the territory of the Member State likely to be significantly affected; and
  - (b) ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.
4. The Member States concerned shall enter into consultations regarding, *inter alia*, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time frame for the duration of the consultation period.
5. The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.

## Article 8

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 must be taken into consideration in the development consent procedure.

## Article 9

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:
  - the content of the decision and any conditions attached thereto,
  - having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process,
  - a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

2. The competent authority or authorities shall inform any Member State which has been consulted pursuant to Article 7, forwarding to it the information referred to in paragraph 1 of this Article.

The consulted member States shall ensure that that information is made available in an appropriate manner to the public concerned in their own territory.

## Article 10

The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

Where Article 7 applies, the transmission of information to another Member State and the receipt of information by another Member State shall be subject to the limitations in force in the Member State in which the project is proposed.

## Article 10a

Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:

- (a) having a sufficient interest, or alternatively,
- (b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition, have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.

Member States shall determine at what stage the decisions, acts or omissions may be challenged.

What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2), shall be deemed sufficient for the purpose of subparagraph (a) of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) of this Article.

The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive.

In order to further the effectiveness of the provision of this article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

## Article 11

1. The Member States and the Commission shall exchange information on the experience gained in applying this Directive.
2. In particular, Member States shall inform the Commission of any criteria and/or thresholds adopted for the selection of the projects in question, in accordance with Article 4 (2).
3. Five years after notification of this Directive, the Commission shall send the European Parliament and the Council a report on its application and effectiveness. The report shall be based on the aforementioned exchange of information.
4. On the basis of this exchange of information, the Commission shall submit to the Council additional proposals, should this be necessary, with a view to this Directive's being applied in a sufficiently coordinated manner.

## Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 March 1999 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. If a request for development consent is submitted to a competent authority before the end of the time limit laid down in paragraph 1, the provisions of Directive 85/337/EEC prior to these amendments shall continue to apply.

## Article 13

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

## Article 14

This Directive is addressed to the Member States.

## ANNEX I

### PROJECTS SUBJECT TO ARTICLE 4 (1)

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more, and nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors\* (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. (a) Installations for the reprocessing of irradiated nuclear fuel.  
(b) Installations designed:
  - for the production or enrichment of nuclear fuel,
  - for the processing of irradiated nuclear fuel or high-level radioactive waste,
  - for the final disposal of irradiated nuclear fuel,
  - solely for the final disposal of radioactive waste,
  - solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
4.
  - Integrated works for the initial smelting of cast-iron and steel;
  - Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilization of more than 200 tonnes per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:
  - (i) for the production of basic organic chemicals;
  - (ii) for the production of basic inorganic chemicals;
  - (iii) for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
  - (iv) for the production of basic plant health products and of biocides;

- (v) for the production of basic pharmaceutical products using a chemical or biological process;
  - (vi) for the production of explosives.
7. (a) Construction of lines for long-distance railway traffic and of airports<sup>1</sup> with a basic runway length of 2,100 m or more;
  - (b) Construction of motorways and express roads<sup>2</sup>;
  - (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 0 km or more in a continuous length.
8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 350 tonnes;
  - (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex IIA to Directive 75/442/EEC<sup>3</sup> under heading D9, or landfill of hazardous waste (i.e. waste to which Directive 91/689/EEC<sup>4</sup> applies).
  10. Waste disposal installations for the incineration or chemical treatment as defined in Annex IIA to Directive 75/442/EEC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day.
  11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
  12. (a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
  - (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5% of this flow. In both cases transfers of piped drinking water are excluded.
13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC<sup>5</sup>.

---

1 For the purposes of this Directive, 'airport' means airports which comply with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

2 For the purposes of the Directive, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

3 OJ No L 194, 25.7.1975, p.39. Directive as last amended by Commission Decision 94/3/EC (OJ No L 5,7.1994, p.15)

4 OJ No L 377, 31.12.1991, p.20. Directive as last amended by Directive 94/31/EC (OJ No L 168, 2.7.1994, p.28).

5 OJ No L 135, 30.5.1991, p.40. Directive as last amended by the 1994 Act of Accession.



14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 m<sup>3</sup>/day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.
17. Installations for the intensive rearing of poultry or pigs with more than:
  - (a) 85,000 places for broilers, 60,000 places for hens;
  - (b) 3,000 places for production pigs (over 30 kg); or
  - (c) 900 places for sows.
18. Industrial plants for the
  - (a) production of pulp from timber or similar fibrous materials;
  - (b) production of paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.
22. *Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.*

## ANNEX II

### PROJECTS SUBJECT TO ARTICLE 4 (2)

#### 1. Agriculture, silviculture and aquaculture

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea.

#### 2. Extractive industry

- (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
  - geothermal drilling,
  - drilling for the storage of nuclear waste material,
  - drilling for water supplies,with the exception of drillings for investigating the stability of the soil;
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

#### 3. Energy industry

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);
- (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);

- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms).

#### **4. Production and processing of metals**

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
  - (i) hot-rolling mills;
  - (ii) smitheries with hammers;
  - (iii) application of protective fused metal coats;
- (c) Ferrous metalfoundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

## **5. Mineral industry**

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos products (projects not included in Annex I);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

## **6. Chemical industry (Projects not included in Annex I)**

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

## **7. Food industry**

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

## **8. Textile, leather, wood and paper industries**

- (a) Industrial plants for the production of paper and board (projects not included in Annex I);
- (b) Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles;

- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

## **9. Rubber industry**

Manufacture and treatment of elastomer-based products.

## **10. Infrastructure projects**

- (a) Industrial estate development projects;
- (b) Urban development projects, including the construction of shopping centres and car parks;
- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
- (d) Construction of airfields (projects not included in Annex I);
- (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);
- (f) Inland-waterway construction not included in Annex I, canalization and flood-relief works;
- (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);
- (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
- (i) Oil and gas pipeline installations (projects not included in Annex I);
- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
- (m) Works for the transfer of water resources between river basins not included in Annex I.

## **11. Other projects**

- (a) Permanent racing and test tracks for motorized vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex I);
- (c) Waste-water treatment plants (projects not included in Annex I);

- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

## **12. Tourism and leisure**

- (a) Ski-runs, ski-lifts and cable-cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent camp sites and caravan sites;
- (e) Theme parks.

- 13.**
- Any change or extension of projects listed in Annex I or Annex II, already authorized, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex 1);
  - Projects in Annex I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

## ANNEX III

### SELECTION CRITERIA REFERRED TO IN ARTICLE 4 (3)

#### 1. Characteristics of projects

The characteristics of projects must be considered having regard, in particular, to:

- the size of the project,
- the cumulation with other projects,
- the use of natural resources,
- the production of waste,
- pollution and nuisances,
- the risk of accidents, having regard in particular to substances or technologies used.

#### 2. Location of projects

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:

- the existing land use,
- the relative abundance, quality and regenerative capacity of natural resources in the area,
- the absorption capacity of the natural environment, paying particular attention to the following areas:
  - (a) wetlands;
  - (b) coastal zones;
  - (c) mountain and forest areas;
  - (d) nature reserves and parks;
  - (e) areas classified or protected under Member States 'legislation; special protection areas designated by Member States pursuant to Directive 79/409/EEC and 92/43/EEC;
  - (f) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  - (g) densely populated areas;
  - (h) landscapes of historical, cultural or archaeological significance.

### **3. Characteristics of the potential impact**

The potential significant effects of projects must be considered in relation to criteria set out under 1 and 2 above, and having regard in particular to:

- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.



## ANNEX IV

### INFORMATION REFERRED TO IN ARTICLE 5 (1)

1. Description of the project, including in particular:
  - a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases,
  - a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used,
  - an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description<sup>6</sup> of the likely significant effects of the proposed project on the environment resulting from:
  - the existence of the project,
  - the use of natural resources,
  - the emission of pollutants, the creation of nuisances and the elimination of waste, and the description by the developer of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under the above headings.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

---

<sup>6</sup> This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.

# Appendix B: Relevant Regulations for Projects Outside the Town and Country Planning System

Electricity Works (Environmental Impact Assessment)(England and Wales) Regulations 2000 No 1927

Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 No 376

Environmental Impact Assessment (Forestry)(England and Wales) Regulations 1999 No 2228

Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999 No 1783

Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas)(England) Regulations 2001 No 3966

Harbour Works (Environmental Impact Assessment) Regulations 1999 No 3445, amended by 2000/2391

Highways (Assessment of Environmental Effects) Regulations 1999 No 369

Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 No 2892

Pipe-line Works (Environmental Impact Assessment) Regulations 2000 No 1928 (onshore pipelines)

Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 No 1672

Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 No 360

Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000 No 2190

Water Resources (Environmental Impact Assessment)(England and Wales) Regulations 2003 No 164

# Appendix C: Professional institutions/Government bodies with advice on EIA

Guidance on the content of an ES is provided in most of the general EIA texts (see **Bibliography**). For topic specific guidance on survey methods and assessment techniques, initial reference should be made to the professional institutions or relevant Government agencies<sup>16</sup>.

- Cadw (Welsh Historic Monuments)
- Chartered Institute of Environmental Health (CIEH)
- Chartered Institute of Wastes Management (IWM)
- Chartered Institute of Water and Environmental Management (CIWEM)
- Chartered Landscape Institute (CLI)
- English Heritage (EH)
- Environment Agency (EA)
- Environment and Heritage Service Northern Ireland (EHSNI)
- Historic Scotland (HS)
- Institute of Acoustics (IOA)
- Institute of Ecology and Environmental Management (IEEM)
- Institute of Environmental Management and Assessment (IEMA)
- Institute of Field Archaeologists (IFA)
- Institution of Highways and Transportation (IHT)
- Institute of Leisure and Amenity Management (ILAM)
- International Association for Impact Assessment (IAIA)
- National Society for Clean Air and Environmental Protection (NSCA)
- Natural England (NE; previously English Nature and the Countryside Agency)
- Royal Town Planning Institute (RTPI)
- Scottish Environmental Protection Agency (SEPA)
- Scottish Natural Heritage (SNH)

---

<sup>16</sup> Organisations from the devolved administrations have also been included on this list as guidance on survey assessment techniques will be easily interchangeable and sometimes one particular administration will lead the way with regard to a particular topic area.

# Appendix D: Schedule 3 of the EIA Regulations

## Selection Criteria for Screening Schedule 2 Development

### 1. Characteristics of development (nature and size)

The characteristics of development must be considered having regard, in particular, to:

- (a) the size of the development;
- (b) the cumulation with other development;
- (c) the use of natural resources;
- (d) the production of waste
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used

### 2. Location of development

The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to:

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) absorption capacity of the natural environment, paying particular attention to the following areas:
  - (i) wetlands;
  - (ii) coastal zones;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;
  - (v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;
  - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  - (vii) densely populated areas;
  - (viii) landscapes of historical, cultural or archaeological significance.

### **3. Characteristics of the potential impact**

The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having particular regard to:

- (a) The extent of the impact (geographical area and size of the affected population);
- (b) The transfrontier nature of the impact;
- (c) The magnitude and complexity of the impact;
- (d) The probability of the impact;
- (e) The duration frequency and reversibility of the impact.

# Appendix E: Scoping List

This list is intended as a guide to the subjects that need to be considered in the course of scoping and preparing an Environmental Statement (ES). It is by no means exhaustive and it is unlikely that all the items will be relevant to any one project.

The list is arranged under the principal headings described within the EIA Regulations of *“population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors”*

## Population

- Change in population size, age, structure, etc
- Effects of emissions, noise, etc on health
- Effects on commuter travelling patterns
- Changes to the routes or facilities used by the public for access to recreation and other facilities
- Effects on tourism
- Existing types of land use that might be affected, eg. industrial, commercial, recreation, public open space

## Fauna and flora

- Loss of, and damage to, habitats and plant and animal species
- Introduction of alien species
- Loss of native species or genetic diversity
- Presence of designated areas of ecological value at international, national, regional or local level
- Presence of other sensitive habitats including wetlands, watercourses or other waterbodies, the coastal zone, mountains, forests or woodlands
- Presence of areas used by protected, important or sensitive species of fauna or flora, e.g. for breeding, nesting, foraging, resting, overwintering, migration, which could be affected by the project

## Soil

- Loss of, and damage to, geological, palaeontological and physiographic features
- Physical effects of the development, e.g. change in land use, landcover, local topography, effect of earth-moving on stability, soil erosion etc
- Effects of chemical emissions and deposits on soil of site and surrounding land, including acidification
- Land use/resource effects:
  - a) quality and quantity of agricultural land to be taken
  - b) sterilisation of mineral resources
  - c) effect on surrounding land uses including agriculture, homes, industry, commerce, recreation, public open space, community facilities, forestry, tourism, mining or quarrying
  - d) waste disposal
  - e) use of/effects on mineral, aggregate, forestry etc resources
  - f) loss of greenfield land

## Water

- Levels and effects of emissions to water from the development
- Abstractions of/effects on surface- or ground-water resources
- Effects of development on drainage or run-off pattern in the area
- Changes to other hydrographic characteristics, e.g. groundwater level, watercourses, flow of underground water
- Crossings of watercourses
- Effects on coastal or estuarine hydrology, including coastal or offshore structures
- Effects of pollutants, waste, etc. on water quality, including nutrient status, eutrophication or acidification of surface waters
- Effects on fisheries resources

## Air and climatic factors

- Level and concentration of chemical emissions and their environmental effects
- Level and concentration of particulate matter emissions and their environmental effects
- Level and concentration of offensive odours and their environmental effects

- Effects on the atmospheric environment including the microclimate and local and larger scale climatic conditions
- Local and global level effects on air quality

### **Material assets**

- Effects of the development on the architectural and historic heritage, archaeological features, and other human artefacts, e.g. through pollutants, visual intrusion, vibration
- Effects of the development on local roads and transport (e.g. through transport of personnel, materials etc)
- Presence of designated areas of archaeological/cultural heritage value at national, regional or local level

### **Landscape**

- Visual effects of the development on the surrounding area, visitor and resident populations and landscape
- Presence of designated areas of landscape value at national, regional or local level
- Presence of other areas of landscape value/scenic quality

### **Other**

- Use of energy, including electricity and fuels
- Potential for electromagnetic radiation
- Effects from traffic (road, rail, air, water) related to the development
- Effects arising from the extraction and consumption of materials, water, energy or other resources by the development
- Effects of other development associated with the project, e.g. new or alterations to transport infrastructure (roads, rail, stations, ports, airports etc), sewers, housing, power lines, pipelines, telecommunications, etc.
- Effects of association of the development with other existing or consented development, and/or increased pressure for consequential development (e.g. new housing, infrastructure, industries, utilities etc)
- Accident risks associated with the development, including susceptibility to adverse/extreme climatic conditions
- Secondary effects resulting from the interaction of separate direct effects listed above



# Appendix F: Basic requirements for the content of an ES

“environmental statement” means a statement –

- (a) that includes such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but
- (b) that includes at least the information referred to in Part II of Schedule 4 (*Regulation 2(1) of the 1999 Regulations*)

## Part 1 of Schedule 4

1. Description of the development, including in particular
  - a. a description of the physical characteristics of the whole development and the land use requirements during the construction and operational phases;
  - b. a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
  - c. an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:
  - a. the existence of the development;
  - b. the use of natural resources;
  - c. the emission of pollutants, the creation of nuisances and the elimination of waste,and the description by the applicant of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

## **Part II of Schedule 4**

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

# Appendix G: Example Structure of an Environmental Statement

## **PREFACE**

Detailing where the ES can be viewed/purchased.

## **NON-TECHNICAL SUMMARY**

Bound into the report at the beginning and also available as a separate document.

## **PART A: CONTEXT**

Including the following chapters:

- Introduction – setting out the context of the development: the background to the proposals and the application, the methodological framework for the ES, its author and contributors, consultations undertaken and results of any scoping exercise
- Description of Development – details of the development, in line with the requirements set out in Section 4 of this guide. Where environmental treatments have been incorporated into the site's design as a result of an iterative assessment, mitigation and design process, these should be clearly identified.
- Site and Environs – a summary of the environmental features of the site and its surroundings; more detailed information on baseline characteristics follow in the individual assessment chapters (see below).

## **PART B: ASSESSMENT**

Including individual assessment chapters which may include, inter alia, land; water resources; ecology and nature conservation; landscape and visual amenity; archaeology and cultural heritage; transport, accessibility and movement; air quality; noise, etc.

Each chapter to include:

- Introduction – briefly setting out the context for the assessment. There is no repetition of the description of the development or the context to the proposals as a whole.
- Assessment methodology – the methodology to be employed for the assessment including details of refined significance criteria where used
- Baseline Conditions – detailed topic-specific baseline conditions

- Assessment of Effects and Significance: Construction Phase
  - Predicted Impacts – setting out the potential impacts associated with the development, with significance criteria described in accordance with defined the criteria. Impacts should be assessed with any mitigation that has been incorporated into the design in place.
  - Additional Mitigation Opportunities – these measures include the management measures that cannot be incorporated into the design but if employed could reduce adverse effects.
  - Residual Impacts – assesses the impact of the development should all identified mitigation measures be put in place.
- Assessment of Effects and Significance: Operational Phase
  - Predicted Impacts – as above
  - Additional Mitigation Opportunities – as above
  - Residual Impacts – as above

## **PART C: CONCLUSIONS**

Comprising a single chapter, bringing together the conclusions of the ES in suitable format.







