# EIA Quality Mark Article

## The Best Laid Plans – the role of an EIA coordinator in developing the realistic worst case for design and construction.

When a development gets built, it probably won't be quite the same as what was assessed and applied for at the planning and consenting stage; at the very least, precisely how it is built is likely to differ. In reality, at the detailed design or construction stage, the client or their contractors will, in all likelihood, identify new, better and cheaper designs for the development, or more efficient ways to construct it. On the other hand, it may prove to be impossible to construct the original design or to use the anticipated construction methods – for example ground conditions may not be as expected, or the presence of previously unrecorded utilities may be identified after consent is gained and their diversion would result in prohibitive costs.

This might seem contrary to the purpose of Schedule 4 of the EIA Regulations, which requires project details to be reported in the ES; however, for reasons of commercial and/or technical necessity, changes are likely on all major projects. To deal with this from an assessment and consenting perspective, during the detailed design stage the project team is likely to be required by the decision maker to demonstrate that any changes to the design or construction methods do not exceed what was originally assessed – or as the lawyers would put it, that there will be no ‘materi ally new or materially different significant effects’. And herein lies the key to effective EIA work that will be of value during the post planning stages rather than just informing the initial consenting process. The basis of the assessment used in the EIA can play a key role in helping to reduce the risk of reapplication and consequent effects on the wider project programme and budget by ensuring that the effects reported in the ES will not be materially different from those resulting from the final scheme; this is achieved by helping to develop a ‘realistic worst case’ for assessment.

An example of why it is beneficial to pin down the realistic worst case at the application stage is that it is becoming commonplace for Transport and Works Act conditions/DCO requirements to include a requirement that the local authority approve any substantial changes to approved projects – and that evidence be provided to show that no materially new or materially different significant environmental effects are likely. If there are numerous post-consent changes required, this presents a risk, as the fate of a project may rest with the Local Planning Authority (LPA), a position which, to some extent, defeats the purpose of having a national infrastructure consenting regimes.

It is therefore clear that the greater the level of certainty regarding project constructability at the pre-application stage, the greater the confidence that it can be delivered to programme and without the expense of additional consenting hurdles and mitigation. This emphasises the importance of baseline information at the early planning stages - information relevant both to the environmental assessment and design work. It also emphasises the value of early contractor involvement – either as project partners (as is emerging, even as project leads) or on a consultancy basis, to help inform the design. Contractor input will be invaluable in ensuring that what has been designed can be built, how sites will be accessed, what techniques and plant will be used, how long construction will take and whether phases of construction will be contiguous or will overlap etc. Whilst the pre-application stage can be a relatively high level design stage, early contractor involvement will support the development of a robust, realistic worst case suitable for assessment. The critical role of the EIA coordinator is to be the counterbalance to the optimism of the applicant, the designers and even the ECI (Early Contractor Involvement) contractor, typically by asking one key question: “Would you be happy to be held to that?”.
When challenged with this question (which may relate to the programme, the number of HGVs per day or the method of piling etc.) the result is usually agreement to a slightly more pessimistic case, and therefore a more robust EIA, which is less likely to need to be revisited post consent.

Hopefully this short piece conveys the important role the EIA coordinator plays in helping the designer and ECI contractor to identify a realistic worst case for assessment. The benefits of this approach are in de-risking the post consent stages by minimising the potential for re-submission, the need for more costly techniques/mitigation to be deployed, or the risk of potential delays. Sometimes pessimism is the best option.

*This article was written as a contribution to the EIA Quality Mark’s commitment to improving EIA practice.*

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