Environmental Impact Assessment Screening in City Centre Planning Projects

Screening is the process by which it is determined whether a proposed development requires an Environmental Impact Assessment (EIA).

Where a proposed development falls within one of the descriptions contained in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 (as amended) (‘the EIA Regulations’) and:

- it exceeds the relevant thresholds or criteria; or,
- is located in, or partly within, a sensitive area, but does not meet the relevant thresholds or criteria,

it is necessary to obtain an EIA Screening Opinion from the Local Planning Authority (LPA) to determine whether the proposed development is EIA development.

National Planning Practice Guidance (Paragraph 018) makes it clear that development exceeding the thresholds does not necessarily require an EIA, just as development below the thresholds may require an EIA as a result of the sensitivity of the site location; however, only a small proportion of projects falling within Schedule 2 should require an EIA.

Deloitte’s Planning Team provides advice on EIA for complex projects in urban environments, which would be considered as Urban Development Projects within category 10(b) of Schedule 2. The EIA Screening process can play a critical role in shaping the planning strategy for our projects.

This article will explore aspects of the EIA Screening process through case study examples, within the context of the requirement to transpose EIA Directive 2014/52/EU into UK legislation by 16 May 2017 and recent Government consultation on the draft regulations.

Use of Robust Technical Information to Support EIA Screening

When undertaking EIA Screening, our approach is to assess the proposed development against a checklist based on the criteria identified in Schedule 3 of the EIA Regulations (which has been retained in the draft 2017 EIA Regulations) and to include as much technical information as possible in areas where there is potential for a significant effect to demonstrate wherever possible that the proposals do not constitute EIA development.

A recent city centre project involved proposals for delivery of a gallery space through creation of a new entrance hall and works to a Grade I Listed Building within a Conservation Area. Whilst the quantum of new floorspace fell below the screening thresholds for Schedule 2 development, the highly sensitive nature of the site meant that it was important to consider whether the proposals could give rise to significant environmental effects in respect of built heritage.

Inclusion of a detailed heritage appraisal, with comprehensive baseline information, as well as an initial impact assessment of the design proposals prepared by an experienced heritage advisor, demonstrated through the EIA Screening process that the proposed development would not have a significant environmental effect on built heritage. The report showed that the design had been developed to minimise intervention into the Listed fabric and it was therefore possible to secure a negative EIA Screening Opinion.

Consideration of Mitigation Measures through the EIA Screening Process

Regulation 6(e) of the draft 2017 EIA Regulations provides definitive confirmation that any measures proposed within the design to avoid or prevent what might otherwise have been significant adverse environmental effects (i.e. mitigation) can be considered through EIA Screening.
This should encourage design teams to consider possible significant effects and appropriate mitigation at an earlier stage in the design process, with the incentive of potentially screening out the requirement for EIA.

This provision could have had relevance on a project involving a new arts and culture centre, where potential for significant environmental effects in respect of noise were identified and therefore formed part of an EIA of the proposals.

The development was ultimately designed with a highly sophisticated acoustic treatment, to avoid adverse noise impacts and the designed in mitigation could have formed the basis for a negative EIA Screening Opinion.

Regulation 5(7)(b) of the draft 2017 EIA Regulations would require the LPA to state within a negative EIA Screening Opinion any mitigation measures taken into account where these would prevent significant environmental effects.

The implication is that the final design would need to incorporate these measures, or if they were later reduced or removed the proposals would need to be subject to further EIA Screening to avoid the risk of creating a ground for challenge of a Planning Permission.

**EIA Screening for Planning Amendments**

The EIA Regulations, currently through Regulation 5(3) (and retained in modified form through draft Regulation 6(3), require an EIA Screening process in respect of subsequent applications (e.g. Section 73 or minor material amendment applications); the information provided should be limited to explaining effects not identified at the time the original Planning Permission was granted.

Having undertaken an EIA for a new 19 storey office building, and secured Planning Permission, the developer subsequently decided to incorporate an additional floor of office space, taking the building to 20 storeys. This change had broadly been achieved within the height of the consented scheme, through a reduction in floor to ceiling heights.

Our approach was to work with the EIA technical team to demonstrate that the change would not result in any further significant environmental effects over and above those identified in the original EIA. Through completion of an EIA Screening process in advance of a minor material amendment application, we were able to establish that a supplementary EIA was not required.

In this respect, it will be important for the new EIA Regulations to retain the requirement for the LPA to provide an EIA Screening Opinion within 3 weeks of request as currently drafted (rather than the 90 days specified within the 2014 EIA Directive) so as not to delay delivery of sustainable development.

*Laura Feekins, Assistant Director, Deloitte Planning Team, April 2017.*


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