EIA Quality Mark
Article

The impact of the 2017 EIA Regulations from a planning perspective

<table>
<thead>
<tr>
<th>Introduction</th>
<th>It was expected that the changes could place an increased burden on authorities, particularly the requirements for access to sufficient resources to examine the environmental statement report.</th>
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<td>The revised EIA directive came into force in May 2014 after being adopted by the European Parliament. All members of the EU were required to transpose its requirements into domestic law by 16 May 2017, and The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 were introduced on this date.</td>
<td>For applicants, it has been suggested the move to make the screening process more comprehensive, and to frontload the EIA process, could increase the costs of EIA screening.</td>
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<td>Key changes noted within the regulations include decision-makers being required to include information concerning their consideration of environmental impacts; for instance, stating how the likely significant effects of the project can be mitigated and including any monitoring measures required to offset these impacts.</td>
<td>This article takes a look one year on, and examines the impact from the outlook of planning professionals.</td>
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<td>The 2014 EU directive requires member states to have EIAs prepared only by &quot;competent experts&quot;. In the UK, this means authorities must have access to sufficient expertise to examine the environmental statement report. The Environmental Statement must also now be prepared by persons who, in the opinion of the local authority, have sufficient expertise.</td>
<td><strong>Impact on local authority planning teams</strong></td>
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<td>Furthermore, when screening projects to determine whether the regulations apply, the process has been strengthened by requiring more information from applicants. Decision-makers are also required to provide a more detailed explanation of the reasons for a screening decision.</td>
<td>Reports suggest that some local planning authorities are better equipped than others to implement the new requirements, and that familiarity with the new regulations varies between authorities.</td>
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<td>Local planning authorities need sufficient resources and knowledge of the EIA process in order to meet the new procedural requirements. This could prove challenging for some local planning authorities, particularly in the wider context of public sector budget constraints and reported difficulties with recruiting and retaining planners.</td>
<td>We could expect to see more focused recruitment of planners with specific knowledge and experience of EIA, and the recent increase to planning fees could support this. We might also see an increase in the outsourcing of EIA reviews to specialist consultancies.</td>
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Impact on developers

The impact on EIA practice has been somewhat less radical than may have been initially anticipated when the new EIA Directive entered into force in May 2014.

There are some examples of recent Environmental Statements assessing ‘new topics’ referenced in the regulations where perhaps these could be scoped out – an approach which increases costs to the developer. The key test for EIA remains whether significant effects are likely, and in the longer term more proportionate Environmental Statements are expected as familiarity with the new regulations increases.

Developers appointing ‘competent experts’ is both a regulatory requirement, and will ensure developers have knowledgeable professionals managing the EIA process who can agree a proportionate scope with the local planning authority.

Uncertainty remains as to how the transitional provisions apply to Reserved Matters and Section 73 planning applications approved under the 2011 Regulations and for which ‘subsequent consent’ is now sought. Scotland has introduced guidance on this point, however there is as yet no English equivalent. The Institute of Environmental Management and Assessment (IEMA) has emphasised the importance of adopting a proportionate approach in considering such ‘multi-stage’ applications.

Next steps for local authorities

Local planning authorities should ensure they have an understanding of the new procedural requirements in order to ensure that robust decisions are reached and the risk from procedural challenges is minimised.

The EIA regulations are not prescriptive on the technical scope of EIAs, and the likelihood of significant effects remains the key focus throughout the process. A proportionate approach should be adopted, in consultation with stakeholders and developers, to ensure that the substantive aims of the EIA process are implemented and that the Environmental Statement focuses on the key environmental issues related to the development in question.

Next steps for applicants

Appointing suitably experienced advisors on EIA remains important, in particular to comply with the regulations and to ensure an appropriate and cost-effective approach is implemented.

Conclusions

The changes should pave the way for decision-making to result in more environmentally sustainable proposals, particularly with the emphasis on ensuring mitigation and monitoring measures are followed through and implemented.

The new regulations are still in their relative infancy, and many developers submitted scoping requests in May 2017 to benefit from the transitional provisions. Many EIA projects are therefore still progressing under the 2011 Regulations.

It is still a little early to conclude whether the changes have resulted in significantly more environmentally-beneficial proposals. In the longer term it is expected that the quality and proportionality of Environmental Statements should increase, which is a key objective of the new regulations.

Rachel Brown, Senior Planner, Deloitte Real Estate, April 2018.

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