Construction Environmental Management Plans in Scoping Proportionate EIA

As identified by Institute of Environmental Management and Assessment (‘IEMA’) in ‘Delivering Proportionate EIA’—and the Environmental Impact Assessment (EIA) industry within the United Kingdom (‘UK’), disproportionately large Environmental Statements (‘ESs’) are all too common with current scoping practices often leading to broad assessments that lack appropriate focus. This is turn leads to cumbersome ESs that burden all parties involved in EIA process.

The aim of the EIA is to protect the environment by ensuring that the consenting authority, when deciding whether to grant planning permission, does so in the full knowledge of the likely significant effects, and takes this into account in the decision-making process. The ES, which reports the findings of an EIA process, should not contain every feasible environmental issue under the sun, as highlighted within paragraph 2 of the online Planning Practice Guidance on EIA, where considering the scope of EIAs, local planning authorities "should limit the scope of the assessment to those aspects of the environment that are likely to be significantly affected".

The assessment of the effects within an ES Chapter is often divided into construction and operational assessment effects. It is required under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017—the ‘EIA Regs’ to define the methodology used to assess the construction and operational effects, and report on the assessment of the construction and operational effects (these sections include mitigation measures).

As a result, these sections can account for the majority of text found within the technical ES Chapters, with construction methodology and assessment of effects accounting for over half of the word count. If one was to successfully scope out construction effects within individual environmental topics from assessment, the length of the ES would reduce dramatically and contribute to proportionality within the assessment.

While the changes contained within the EIA Regs have now put greater emphasis on mitigation measures during the screening stage as outlined within Schedule 3, paragraph 3(h) to screen out development from EIA, and, as a result, it is now common for screening opinion requests to the consenting body to screen out adverse construction effects on the basis of implementing a Construction Environmental Management Plans (CEMP) and Construction Logics Plans/Construction Traffic Management Plans. In contrast, no supportive text has been included within Part 4, Preparation of Environmental Statements, paragraph 15 of the EIA Regs to include the same emphasis on mitigation measures during the preparation of EIA scoping reports to help scope out significant effects and deliver proportionate EIAs.

CEMPs have long been used to provide a documented commitment by developers, contractors and EIA practitioners globally in the management and mitigation of the temporary effects that are associated with the construction of developments. This is in part due to the CEMP being ‘tertiary’ mitigation.
IEMA guidance in ‘Delivering Quality Development’\(^{iv}\) defines tertiary migration as that which will be required regardless of any EIA assessment, as it is imposed, for example, as a result of legislative requirements and/or standard sectoral practices. A great example is the UK considerate contractors’ practices that manage activities which have the potential cause nuisance effects associated with construction sites.

Given the drive for proportionate EIA within the industry and that CEMPs are a tried and tested standard mitigation measure to address temporary effects associated with construction, the question arises should EIA Development not be required to deliver a CEMP as part of the ES submitted in support of the planning application as a standard requirement. If this were the case, the CEMP would form part of the project description during the scoping stage and taken as read in assessing the potential likely significant effects of the development. On that basis, this form of mitigation would be delivered, thus, any construction effects that might have arisen without this form of mitigation would not need to be assessed within the EIA and presented in the ES as there should be no potential for them to arise. In addition, the delivery of a CEMP at the planning application stage would also provide the local planning authority, statutory and non-statutory stakeholders the opportunity to comment on and provide input into the CEMP prior to determination of the application and the CEMP being secured for implementation and monitoring by condition.

In summary, CEMPs can be a key component in delivering proportionate EIAs by informing the scoping process and providing tried and trusted mitigation measures that have been implemented on construction sites across the UK for decades.


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