Stephenson Halliday was recently instructed to prepare a residential led, planning approval in principle application for a sustainable extension to the settlement of Castletown, in the south of the Isle of Man. The Proposal was deemed to be a type of development that required an Environmental Impact Assessment (EIA). This process highlighted the differences in approach to EIA between the Isle of Man and United Kingdom.

The process of EIA in the context of town and country planning in England is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs 2017). These regulations apply the amended EU directive “on the assessment of the effects of certain public and private projects on the environment” (usually referred to as the ‘EIA Directive’) to the planning system.

The Isle of Man is a self-governing British Crown dependency in the Irish Sea, between Great Britain and Ireland, it does not form part of the United Kingdom or of the European Union. Planning Applications are determined by the Department of Environment, Food and Agriculture (the Department) rather than local planning authorities. Therefore, there is no specific legislation for EIA for projects on the Isle of Man.

The Isle of Man has its own Planning Legislation, with primary legislation being set out within the Town & Country Planning Act 1999 and subordinate supporting legislation contained within a number of Orders and Regulations including the Town and Country Planning (Development Procedure) Order (No.2) 2013.

However, one of the key points of note is that EIA is dealt with explicitly within Planning Policy rather than within any formal legislation like England, for example.

The requirement for an EIA is prescribed within the Isle of Man Strategic Plan 2016 (the Strategic Plan). The Strategic Plan outlines that a Planning Policy Statement was to be issued specifying the manner in which the Department intends to deal with applications that are subject to EIA. This has not yet been produced and in the interim the Department adopts current practice from the UK, the EIA Regs 2017.

Strategic Plan Environment Policy 24 states that development which is likely to have a significant effect on the environment will be required to be accompanied by an EIA in certain cases. The need for EIA is set out within Appendix 5 of the Strategic Plan which sets out the types of development that would require EIA in every case. In comparison to the EIA Regs 2017, there is no relative Schedule 2 development type and no opportunity for the Department to decide whether Schedule 2 development is EIA development. Indeed, there is a single schedule of development, akin to Schedule 1, which requires EIA and the meeting of the relevant threshold will trigger this requirement.

Whilst EIA should be informed by the UK Regulations, the Strategic Plan simply sets out the definitions as to when EIA is required. It does not state explicitly how EIA should be prepared and this is more aligned to UK Regulations, in the absence of the Planning Policy Statement.
The information to be contained as part of an ES is set out within Provision 18 and Schedule 4 of the EIA Regs 2017 and these should be taken into consideration during the preparation of any ES.

Given the Policy, rather than legislative background to EIA, in theory a planning application could be submitted without an EIA for a type of development listed within Appendix 5 and still be validated. However, in this circumstance it would be for the Department to determine whether they were willing to proceed on the basis of no EIA. If they were minded to not accept this approach, a “21 day” letter would be served on the applicant requiring an ES to be produced. Failure to provide an ES would see the application be treated as withdrawn.

Furthermore, should the Department be willing to determine the application for a type of development listed within Appendix 5 without an EIA, consideration would need to be given as to whether the Proposal’s non-compliance with Strategic Plan Environment Policy 24 would be sufficient to warrant refusal.

The approach to EIA on the Castletown Proposal was to follow a UK compliant process which took into consideration any relevant planning policy and Isle of Man specific factors.

*Sarah Lapsley, Associate Director (Planning), Stephenson Halliday, December 2018.*

For access to more EIA articles, case studies and hundreds of non-technical summaries of Environmental Statements visit: [http://www.iema.net/eia-quality-mark/](http://www.iema.net/eia-quality-mark/)