### Strategic Local Plan Allocations, EIA and ‘Cookie Cutting’

**Introduction**

There is often a misunderstanding of the relationship between large scale strategic planning allocations within local plans and the nature of the EIA required to support development within such allocations. This article looks at such issues and clarifies the issue of ‘cookie cutting’, expanding on guidance.

**Legislation and Guidance**

Large scale strategic planning allocations will usually be consented under Part III of the Town and Country Planning Act 1990. Development consented in this form is controlled by, amongst other matters, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which govern the process of EIA and apply the EU Directive to the planning system in England.

There is a longstanding understanding in EIA case law and reiterated in the NPPG that "An application should not be considered in isolation if, in reality, it is an integral part of a more substantial development (Judgment in the case of R v Swale BC ex parte RSPB [1991] 1PLR 6). In such cases, the need for Environmental Impact Assessment must be considered in the context of the whole development.” (Paragraph: 025 Reference ID: 4-025-20170728).

Planning policy documents often require that large scale strategic residential development allocations are supported by comprehensive masterplans and other documents to demonstrate a comprehensive approach to their development.

In reality this is often difficult and complicated by matters of land ownership. The preparation of a site-wide masterplan can be undertaken and enables planners to have a clear appreciation of how the development as a whole will come forward and helps justify the allocation; the use of agreed masterplans can ensure that phased delivery does not lead to a fragmented and piecemeal design. However, this requirement for a comprehensive planning approach often then leads planners to a misinterpretation of the Regulations that any application for development within the allocation area must be accompanied by an EIA assessing the whole allocation as the proposed development rather than, where necessary, the development for which consent is sought. Indeed, an independent development within part of an allocation area may not even necessitate EIA and should be screened as appropriate.

In reality the purpose of the EIA, pursuant to the Regulations, is to test the development as proposed. It is to test if that development and its impacts can be mitigated to a sufficient level, and the positive benefits enhanced to the maximum, taking into account cumulative effects arising from a result of other existing and approved developments.

However, and often where land ownership is split within an allocation, there may be parts of these allocations that are, quite feasibly, able to come forward and be progressed in isolation and without any detriment to the remainder of the allocation. The proposals for a part may not require or necessitate the wider elements of the allocation coming forward.
For instance, can the development being applied for be delivered within existing school capacity and roads capacity? Could delivery of the allocation stop at this point without necessitating the delivery of any of the remainder of the allocation, such as open space or play space? In such cases that application can be considered, in EIA terms, in isolation. Planning policy should not influence EIA screening.

The design work helps demonstrate to the planners that this application can come forward and does not prejudice delivery of the wider allocation. The EIA however needs to test the development being applied for and any consequent impacts from that. It needs to test whether the application will necessitate anything else and if so that needs to be assessed as well. If, however there is no wider necessitated development then and the proposal is functionally independent from the wider allocation, that application can be developed and assessed in isolation.

The full wording of the NPPG paragraph is often ignored:

“An application should not be considered in isolation if, in reality, it is an integral part of a more substantial development (Judgment in the case of R v Swale BC ex parte RSPB [1991] 1PLR 6). In such cases, the need for Environmental Impact Assessment must be considered in the context of the whole development. In other cases, it is appropriate to establish whether each of the proposed developments could proceed independently (R(Candlish) v Hastings Borough Council [2005] All ER (D) 178 (Jul); Baker v Bath & North East Somerset Council [2009] All ER (D) (Jul)).”

(Paragraph: 025 Reference ID: 4-025-20170728) [emphasis added].

Indeed, the Guidance also confirms that in strict adherence to its wording the remainder of the allocation does not need tested in cumulative terms if the remainder of the allocation is not built or approved.

“Each application (or request for a screening opinion) should be considered on its own merits. There are occasions, however, when other existing or approved development may be relevant in determining whether significant effects are likely as a consequence of a proposed development. The local planning authorities should always have regard to the possible cumulative effects arising from any existing or approved development.”

(Paragraph: 024 Reference ID: 4-024-20170728) [emphasis added].

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