### Making Amendments to Large Scale EIA Developments

Large scale residential, mixed-use and commercial developments (e.g. 1,000+ residential units) are typically the subject of outline planning applications with the majority of matters reserved for future determination. Such applications are often the subject of EIA with both the application and EIA made on the basis of a series of parameters to which any future detailed reserved matters application must comply (e.g. land use, building heights, density etc.).

These parameters are established at the time of submission based upon the applicant’s understanding and intentions of the way in which the development will come forward, often over a period of many years. It is therefore common that as time progresses there is a desire, or need, to deliver development that is not in accordance with the consented and assessed parameters. Often such changes relate to one or more parcels of development at the point of detailed design.

This article considers the various routes for making amendments to consented large scale developments and the relationship these have with the EIA accompanying the outline consent.

There are three primary routes for amending the development proposals (the assessed parameters) subject to an outline planning consent (assuming a new outline application is not made):

1. **Non-Material Amendment (NMA)**
   - Whether a change to a planning consent can be made via a NMA (or S.96a application) is at the discretion of the relevant Local Planning Authority (LPA) and is based upon whether the proposed amendment is material in the context of the development as a whole. There is no requirement for the LPA to consult upon a NMA.
   
   Whilst a NMA can be made to an EIA development, a key consideration is whether the amendment would need to be re-assessed. If the proposed amendment would require material changes to the Environmental Statement (ES) accompanying the outline consent, then it is unlikely that a NMA can be pursued.
   
   Taking this into account, a key initial action is for the proposed amendment to be reviewed by the technical consultant team with regard to whether the amendment would materially alter the assessment or conclusions presented in the ES. Provided that each consultant can confirm that no material change would occur, the EIA process would not prevent the proposed amendment being made subject to a NMA.

2. **Minor Material Amendment (MMA)**
   - A MMA (or S.73 application) is made when the proposed amendments are not substantially different from the consented development but are such that they must be considered to be material. A S.73 application is consulted upon by the LPA and, if consented, results in a new planning consent.
A S.73 application relating to an EIA development must be accompanied by an ES. Should the nature of the proposed amendment not require any material changes to the assessment or conclusions presented in the original ES then the original ES can be resubmitted. In this case the application would typically include a statement of conformity to confirm that the conclusions presented in the ES remain valid.

However, it is usually the case that a S.73 application requires the original ES to be updated in respect of the proposed amendment in order to provide sufficient environmental information to the LPA. This can usually be achieved by way of an ES Addendum to update the original ES in respect of the change to the previously assessed parameters (rather than the preparation of a new ES). As is the case for a NMA, a key initial action is for the updated parameters to be reviewed by the technical consultant team to establish the extent of updated or additional information required.

3. Full Planning Application
An alternative to pursuing an amendment via a S.73 application to amend the outline consent prior to submitting a reserved matters application is to seek full planning consent for development in the relevant parcel.

Such an application would require to be screened for EIA (Schedule 2 Part 13 b for an Urban Development Project) and would almost certainly constitute Schedule 2 Development, given that the outline consent was EIA development. However, whether it constitutes EIA development would be dependent upon whether it is likely to result in significant effects. As such, it may be screened out from requiring EIA.

However, typically this type of application would be supported by an ES in the same manner as discussed in relation to a S.73 application, with the original ES updated by way of an ES Addendum.

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