**The role of mitigation in the design process**

Adrian Keal explores the complex relationship between design amendments and mitigation as part of environmental impact assessment (EIA)

Broadway Malyan is a design-led practice. As planners we coordinate and prepare planning applications for major development schemes that frequently require EIA. These large-scale projects require engineering, masterplanning and architectural teams to have interlinking roles within the design process.

The process of preparing and submitting major planning applications involves constant design changes in response to client aspirations and consultation responses. These changes are a form of mitigation because they are in response to consultation, but at what stage should they be considered within the EIA assessment?

**Design freeze**

The early involvement of the sub-consultant team enables them to inform the design process through the baseline assessment and to make a positive contribution to the design.

The design process usually takes place over a prolonged period of time, but in order to undertake the report stage of the EIA a “design freeze” must occur. This is the point at which the development description, schedule of accommodation and supporting design information is firmed up sufficiently to allow the assessment to be undertaken.

The EIA process requires proposals to be reviewed, impacts assessed and where necessary, mitigation proposed.

Part II of Schedule 4 to the EIA Regulations 2011 states that an environmental statement should approach mitigation as: “a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.”

The following simplified example illustrates the result of incorporating the design freeze at different stages of project evolution.

1) **Early design freeze**

Mitigation has not yet had time to be fully considered and included in scheme design. The assessment is undertaken and effects are shown to be “major adverse”. Mitigation is then proposed and as a result the residual impacts are assessed as “negligible”.

2) **Late design freeze**

Early drafts of the proposal have been reviewed and changes undertaken in response to feedback from the design team that are incorporated. Design freeze occurs and assessment is undertaken. Effects are shown to be “negligible”. Mitigation is not necessary as it had already been included in the scheme prior to the design freeze.

In both cases the residual impacts are deemed to be the same. But if the design freeze occurs later in the design process the EIA is simplified. This represents good practice.
Appropriate timing of the design freeze is a key management function that requires the EIA manager to be aware of all inputs from the design team.

**Implications of premature design freeze**

If the EIA is undertaken at an early stage within the design process it will assess a proposal which may not have been sufficiently considered by the project team and the relevant technical disciplines. This means that at the point of assessment many significant adverse impacts may be identified for which mitigation would be required.

If the mitigation requires a fundamental change in the scheme, for example by reducing the height of the building and reducing the proposed schedule of accommodation, then the scheme should be revised and EIA reviewed and amended.

This could significantly increase the technical work to be undertaken and delay submission of the planning application.

Mitigation is frequently a prompt for the planning officer to identify appropriate conditions or Section 106 contributions. For example, strategic landscaping relies on a landscaping condition and checks made by the local planning authority to ensure that the proposed landscaping is implemented to a satisfactory standard.

Similarly, the role of Section 106 agreements covering items such as offsite highway works should be identified at an early stage in the design process.

**Appropriate timing**

A later design freeze ensures that the project team has considered the need to incorporate mitigation as part of the design and not simply add it on afterwards.

Not only will this approach make administration of the EIA process more streamlined, it will also result in less mitigation following the assessment and enable the local planning authority to exercise more control over its implementation.

Barbara Carroll and Trevor Turpin in their *EIA Handbook*, state that it is crucial that local authorities are able to include all necessary mitigation in planning conditions or Section 106 agreements.

Avoiding a premature design freeze allows for necessary mitigation to be incorporated prior to the report stage the assessment. Where further mitigation is then identified it will usually be less complex and the local planning authority will be better able to exercise control over its implementation.

This approach gives greater creditability to the EIA process and is in accordance with the “avoid, reduce, remedy” criteria of the Regulations.

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