### Multi-Stage Projects: Practical Considerations in Reserved Matters Applications

#### Abstract
Both Regulation and Case Law has made plain the need to consider the environmental effects of projects not simply at the outset of the project but at subsequent stages where decision making is involved. One such common circumstance is where EIA development obtains outline planning permission and is then followed up over a number of years by subsequent approval of more detailed aspects of the development. This article seeks to highlight some of the key issues to be aware of, and some practical considerations to assist in the proper and also proportionate assessment of significant environmental effects at subsequent stages to the initial consent.

#### Issues Arising

**1. Passage of Time**

The longer the passage of time between the original and subsequent consent, the greater the prospect an “update” of the “Environmental Statement” will be sought by decision makers.

There are human factors involved. With the passage of time knowledge of key long term projects ebbs as personnel change. Understanding and confidence is lost. If the original ES is written with care and precision to document the assessments made and the basis upon which mitigation was agreed, then knowledge drift is slower but full documentation can never be perfect as mitigation is often formalised after and outside the original ES.

It is also sometimes said that baseline conditions have changed and need to be updated although this is often driven more by convention. Rarely will the baseline transport position be revisited in a reserved matters approval. Often update Ecological surveys will be sought.

It does not follow that dated baseline data should necessarily result in a formal update or the submission of additional environmental information. Indeed a well constructed original ES with clearly articulated mitigation strategy should take account of potential for change and avoid the need for wholesale new information or assessment. It is good practice therefore for the original mitigation strategy to draw specifically and narrowly those matters which will need resurvey at some future date, thereby avoid the need for a start from scratch approach subsequently.

**2. Updated Standards**

More recent standards or benchmarks for monitoring the impacts of development – which tend to be more onerous over time – can give rise to expectations from decision makers for updated environmental information to support applications for subsequent or detailed approvals in multi-stage projects.

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**Introduction**

The circumstances which have, in practice, led to the need to undertake further environmental assessment work and or the submission of Further Environmental information primarily relate to when, in the view of the decision maker, the subsequent detailed stage approval is sought when the original baseline assessment or assessment of impacts has become outdated or that the proposed subsequent approval raises issues either not considered at the time of the original approval or potential impacts in excess of those originally assessed.

For applicants the need for further information to be produced may be deemed necessary to assist in securing detail consent for elements of the proposals which vary to some degree from the original proposals. Whilst radical departures from outline approvals would not be appropriate some applications may include conditions which allow for minor variation subject to assessment e.g.: “the development shall be carried out in accordance with the Parameters Plan xxxx and no variation shall be made if the proposed variation creates new environmental impacts which exceed the range and scale of those measured in the original ES”. Whilst old style in construction, such conditions continue to reflect common practice.
However this is rarely employed in practice and, where critical, will be addressed in the update of statutory standards rather than a revisiting of a consent for which only the more detailed aspects are now under consideration.

3. Wider Range of Cumulative Assessments

Similarly the passage of time may result in new related or other developments being approved on nearby sites potentially resulting in requests for previous cumulative assessments to be updated to reflect new permission and commitments. Again approval at the outset of the outline planning permission will have been obtained on the basis of the best information that can reasonably provided at that time with a comprehensive package of mitigation based on that assessment.

It should rarely be the case that nearby permissions, granted subsequent to the initial approvals, should or even could be properly taken into account in subsequent permissions.

4. Wider Range or Deeper Scale of Impacts

In granting outline consent for a development, a comprehensive assessment of significant environmental effects will have been carried out on the basis of the parameters included within that application. Often the task will have been carried out on the basis of a worst case assessment of the impacts rather than a likely assessment of the impacts based on more detailed parameters.

It is possible therefore that minor variations to the parameters may emerge through the detailed and subsequent stage process BUT that they would not lead to any more significant environmental impacts. It is also possible that additional parameters (details) will merge which may require assessments. Generally speaking it will be the case that no additional or significantly larger impacts will arise.

Way Forward and Good Practice

The need for a second or updated EIA is only likely to be required if new information becomes known or there has been a change in circumstance.

The need for comprehensive updated or additional EIA will be reduced but putting in place appropriate and specific mitigation measures in the original consent which define, as part of the original mitigation, the timing and specific nature of update surveys.

The extent to which the scope of the subsequent application exceeds or develops the original consent parameters would be minimised and specifically identified as the initial scoping stage.

The scope of any updated baseline reports should be focussed specifically on the topic areas relevant to the subsequent permission and should not be updated as a matter of course.

The reporting of updated information should directly relate to significant changes in the baseline assessment and significant changes in the parameters of the development and be capable of ready and easy comparison with the original assessment. They should be succinct. It is suggested that the following structure is adopted:

- Nature and Parameters of Subsequent Application;
- Possible additional significant effects of subsequent application
- Update of relevant baseline (insofar as this is not already provided for in mitigation of initial assessments)
- Review (exceptionally) updated new standards to be employed in impact assessments
- Focussed assessment of additional or new impacts (not generalised update of previous impact assessment).

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