The Reporting of ‘Embedded Mitigation’ measures and ‘Mitigation’ measures in Environmental Statements

David Hoare of Hyder Consulting examines the reporting of ‘embedded mitigation’ measures and ‘mitigation’ measures in Environmental Statements.

The EIA Regulations require an ES to contain “a description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment”. These measures, generally referred to as ‘mitigation’, often provoke much internal debate as to which measures should be classified as ‘embedded mitigation’ (i.e. those measures that have been incorporated into the design of a particular development to prevent, reduce and offset any significant adverse effects), and which measures should be classified as ‘mitigation’ (i.e. those measures to prevent, reduce and offset any remaining significant adverse effects). The opinion of a range of professionals operating in the environmental sector on the reporting of such measures has been sought through the medium of a simple questionnaire. Responses were received from environmental consultants, EIA co-ordinators, lawyers, planners, landscape architects and ecologists.

In response to the question “Do you believe a distinction should be made in EIA / ES reporting between ‘embedded mitigation’ and ‘mitigation’”, over 80% responded “YES”.

In response to the question “What do you believe is the purpose of making that distinction?”, the most common responses related to the ability to demonstrate the purpose of EIA early in the design process and its iterative nature (and to encourage the incorporation of such measures early on in the design process), how the design of a project has evolved, and how the applicant has ‘designed out’ significant effects.

Other responses suggested that making such a distinction allows the ES to differentiate between those mitigation measures that are ‘guaranteed’ with limited or no flexibility in terms of deliverability, and those additional mitigation measures that are not integral to the project and are perhaps less secure in terms of their implementation, less fundamental in terms of whether a project is acceptable, and may also offer a degree of flexibility in how such measures are secured. Other responses suggested that such a distinction allows the ES to focus on the effects of the project in question and those additional mitigation measures required to address potential significant effects, and prevents unrealistic and unlikely effects from being reported.

In terms of where ‘embedded mitigation’ measures should be reported in an ES, 50% of the respondents felt that such measures should be reported in one of the introductory chapters only. Around 43% felt that such measures should be reported in one of the introductory chapters, and within each relevant environmental assessment chapter. The remainder felt that such measures should be reported within each relevant environmental assessment chapter only.

The next question provided a list of commonly used mitigation measures, and asked the respondent to state whether they considered each measure to be ‘embedded mitigation’ or ‘mitigation’. A majority considered the following measures to be ‘embedded mitigation’ - (i) incorporation of appropriate buffer distances from environmental receptors; (ii) SuDS; (iii) ensuring the layout of the project does not directly impact on sensitive receptors; (iv) reducing the size and scale of the development; (v) low noise road surfacing.
Although opinion was more divided, the majority of respondees considered the following measures to be ‘embedded mitigation’ – (i) bunding; (ii) micro-siting; (iii) directional drilling under watercourses. Opinion was divided 50/50 on the following measures (i) noise attenuation barriers; (ii) landscape planting / screening; (iii) certain finishes / colours to structures; (iv) adherence to EA Pollution Prevention Guidelines. Conversely, although opinion was divided, the majority of respondees considered the following measures to be ‘mitigation’ – (i) adherence to a Construction Environmental Management Plan; (ii) provision of compensatory land / features. A clear majority felt that double glazing at properties should be classified as ‘mitigation’.

Additional thoughts suggested that certain measures could be either ‘embedded mitigation’ if they form part of the project for which planning consent is being sought, or ‘mitigation’ if provided in response to an identified impact. Furthermore, the ability to report ‘embedded mitigation’ with any confidence or certainty depends on the status of the project at the time of submission. Lastly, even if certain ‘embedded mitigation’ measures are incorporated into the design of a project, it may be beneficial to demonstrate their effectiveness e.g. describe the effects with a noise barrier in place, but state that without it noise levels are likely to be 10dB higher which would represent a significant effect.

The results of the research suggest that whilst it is generally agreed a distinction should be made between ‘embedded mitigation’ and ‘mitigation’ measures, there is considerable conjecture as to which measures fall into which category and how such measures should be reported. This article was written as a contribution to the EIA Quality Mark’s commitment to improving EIA practice.

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