The DCLG has finally published their Technical Consultation on Planning. The consultation will run from 31 July and will conclude on 26 September 2014.

The consultation continues the Government’s approach to streamlining the planning system, which started with the revocation of the Regional Strategies, introduction of the Localism Act (2011) and publication of the National Planning Policy Framework (2012).

The Ministerial Foreword to the document states that:

‘This Government has made a priority of reforming a planning system that had become convoluted, confusing, expensive and in many cases ineffective. We have put communities in the driving seat with neighbourhood plans, and sought to unlock vital economic and housing growth while maintaining the environmental protections that help preserve our environment for future generations.’

A number of topics are covered, over six sections, which range from neighbourhood planning to improving planning conditions, but the topic discussed here is the proposed amendments to the Environmental Impact Assessment (EIA) thresholds.

In essence the DCLG are proposing ‘practical improvements that build on earlier reforms’.

The document references that EIA procedures go beyond those normally required for a planning application and increases the workload of local planning authorities (LPA), Statutory Consultees and developers.

The document goes on to state:

‘This can add significantly to the cost of making a planning application and adds time to the decision making process. Therefore subjecting projects, which are not likely to give rise to significant environmental effects, to an environmental impact assessment unnecessarily adds to the time and cost of preparing an application and obtaining planning permission.’

A true reflection?

Technically the EIA process should be independent from the planning application process because it should undertake an independent assessment on the likely significant effects of a development on the environment. Therefore referring to EIA procedures above and beyond those required for a planning application is not directly applicable.

Does an EIA add significant costs and time to a planning application? Yes, of course it can, but the consultation on thresholds is not necessarily on removing schemes from being EIA development, but moving the threshold, which is the fundamental issue here.

So where and what are the changes focused on?

Primarily, urban development and industrial estate development projects which sit within Schedule 2 -10 (a) and (b), both of which currently have a threshold of 0.5 hectare.

The proposed changes will be to raise the indicative threshold for industrial estate development to 20 hectares and raise the screening threshold for the development of dwelling houses of up to 5 hectares, including where there is up to one hectare of non-residential urban development.
What are the implications?

DCLG says that the number of proposals for residential development in England that will be screened will be reduced from around 1600 a year to about 300.

The author has checked through a range of screening opinions from a variety of LPA’s and it is apparent that the majority of the small schemes – such as one particular example for a Class C2 residential accommodation with care comprising 47 apartments for persons aged 60 on a site of 0.68 hectare - are negatively screened. So is the system working? Should we be Screening a development on just 0.68 hectares especially when it is outside of a ‘Sensitive area’? Do we need to ensure the Screening process is simplified and the Scoping stage is where the detail lies?

I think the answer falls down to cost, is issuing a Screening request such a cost burden, especially when EIA practitioners are now frequently ‘assessing’ their own projects and submitting a joint Screening and Scoping report when they believe the scheme is an EIA development from the outset?

Does the definition of Schedule 2 – 10 need defining and not the thresholds?

Do we need to caveat the extended threshold with a cumulative impact reference? Cheshire East Council are a good example, as they have recently positively screened a number of smaller residential schemes because of the cumulative effect of all the residential developments being approved, and the SoS has confirmed this approach (Abbey Road, Sandbach Ref: EIASCR/R0660/73642).

The Planning Practice Guidance already provides direction on size thresholds, but the question is whether these are being interpreted correctly by the LPA and this raises the question again of in-house expertise and funding shortfalls in Councils.

How does this change fit within the forthcoming EU Directive Updates?

The short answer is the Directive allows flexibility, in that it requires compliance with Member States defined thresholds.

There will however be a requirement to strengthen the screening process with a consistent format. An important element here is the option to provide design/mitigation measures related to adverse effects and their ability to be considered at the Screening stage.

Screening decisions based on design and mitigation from the screening reports will have to be retained on the application as it goes forward or else it may make the Screening decision invalid.

So it appears that there may not be the opportunity to simplify the Screening process and there may be more onerous commitments for LPA’s to consider the Screening report in more detail.

Summary

The primary issue is ensuring the threshold levels are sufficient to capture developments that may have a significant effect on the environment, this may be in the form of a stand-alone project or by means of a cumulative effect. We have until the 26 September 2014 to submit comments.

Juan Murray, NJL Consulting, August 2014.

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