The role of community consultation on Major Infrastructure Projects

The use of community consultation in environmental impact assessment (EIA) projects has, until recently, been best practice but not obligatory. It was largely used to inform the local community in closest proximity to a proposed development. However, there were no hard and fast rules for how it was to be undertaken, who it was to be undertaken with and how it was to be used to benefit the project it was linked to.

There are still no hard and fast rules for undertaking consultation with local communities, but there have been quite significant moves forward in how it is approached in EIA projects, initiated by guidance and regulation surrounding the consent process for Nationally Significant Infrastructure Projects (NSIPs). The obligation to undertake community consultation in NSIP projects has the potential to rub off on EIAs for other projects in the planning system, not least in increasing the expectations of best practice.

The Planning Act 2008 (PA2008) has obligated the need to undertake community consultation with the aim of developing a fairer and faster development consent process for NSIPs. Although the methods and exact detail of consultation is not specified, PA2008 defines the local community as a definitive consultee (Section 47 consultee) and outlines a process to ensure they are consulted during the EIA and pre-application phase for a NSIP. The onus is on the developer, or promoter, to ensure this process is followed and instigate meaningful consultation to benefit the project. Other key policies, regulations and guidance documents have since been published which provide further context to how community consultation should be undertaken in such projects.

These have included Infrastructure Planning (EIA) Regulations 2009 and as amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012, Community Benefit Protocol, National Policy Statements and guidance notes issued by the Planning Inspectorate (PINS) (previously Infrastructure Planning Commission, IPC).

As outlined in these regulations and policies, process requirements for community consultation in NSIPs includes (but is not limited to):

- Identification of the necessary people to include in the community consultation target areas;
- Agreement of a strategy for undertaking community consultation with input from the relevant local authority;
- Notification of the strategy, including where information will be made available, methods of contact with the developer, and timescales for consultation in the press;
- Presentation of environmental information with regard to the proposed development to enable the community to give an informed opinion; and
- Iterative process for addressing comments and ensuring the community remains fully involved throughout the process.

There are currently 94 NSIP projects registered with PINS. There is no one size fits all approach to consultation and the approach often reflects the nature of the development, location and the characteristics of the community groups affected.
The common thread with the majority of these projects is that they clearly demonstrate that there is potentially great value in undertaking consultation with the community. Effective engagement rather than just communication of information can foster a genuine rapport with the community in which the project would be located. However, this can only happen if the developer, working with their consultants, is prepared to engage with the community very early in the process, be transparent in what is presented to them, be available to engage with them in the most convenient ways to the community in question, and ensure an iterative process for addressing issues raised and feeding back information to the community throughout the project.

In summary, despite the regulations giving an outline of the process needed to be undertaken by developers, the interpretation of how community consultation is undertaken and the understanding and recognition of its value continues to vary. Nevertheless, there seems to be increasing acknowledgement that community consultation is valued as a potentially positive influence on gaining development consent for proposed developments. Crucially, consultation with the community provides the opportunity to legitimise the project from three perspectives.

Firstly, in the eyes of the community, they have the chance to be involved in the evolution of the project and know that they are making meaningful input to its design and impact assessment. Secondly, in the eyes of the developer, they have the opportunity to make a meaningful relationship with the local community and have a greater chance of development consent, and lastly there is greater legitimacy for the democratically accountable decision makers if there is demonstrable evidence of effective community consultation.

Prepared by: Laura Woods; SKM Enviros

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