**Setting EIA parameters – allowing flexibility for the future?**

| Terence O’Rourke Ltd has found over the past few years that the issue of setting parameters for EIA is becoming more complex. In the immediate aftermath of the Rochdale judgement, setting EIA parameters for outline planning applications became a reasonably straightforward affair. It was generally understood that a series of issues, typically including land uses (e.g. maximum numbers of units, floorspaces, areas, distribution across the site), maximum building heights, densities, access and movement and landscaping, would be fixed through plans and text to enable the EIA to be undertaken. This allowed a degree of flexibility to be retained in how the site would be developed, while providing local authorities with sufficient certainty that the environmental impacts of the development had been fully assessed.  

The tying of assessments to a series of parameters is a fundamental cornerstone of the EIA process. However, recent experience suggests that more flexibility is required than is allowed by the standard use of parameters. Changes to the description of development or the masterplan during determination often require an addendum to be produced to the submitted ES setting out how the proposed changes affect the conclusions of the original ES, with associated consultation requirements and potential for delay.  

It is not uncommon for medium to large scale development schemes to be built out over 10 years or more. This gives ample opportunity for changes in circumstances, policy and local requirements to mean that the development originally consented no longer meets the needs of the council and/or the developer. Where a development is tied to prescriptive parameters, this can mean that a section 73 application may be required to vary one or more planning conditions, or a new application is needed.  

This naturally entails significant additional work, costs and delay to a project that may already be in the process of being built-out, including the need for a new or updated EIA to support the application. We experienced this issue on a project in Bicester, where a new ES was required to support an application for 100 dwellings beyond the maximum number consented and considered in the first ES, although none of the original parameter plans needed to be altered. The new EIA was complicated by the fact that the consented development was already partially built-out, meaning the baseline environments and impacts of the proposals needed to be carefully defined.  

In order to avoid these issues, it is becoming more common for developers to require greater flexibility when setting parameters. The aim is to allow the development to adapt to changing needs and circumstances as it is brought forward, while still enabling a robust assessment. This approach removes the need to revise or revisit an ES for what could be a relatively minor change to the proposed development. However, in order to ensure the EIA examines all the potential significant environmental effects of the development, a range of assessment scenarios need to be considered. Care is needed to ensure that the ES does not become unnecessarily long, complicated or confusing, and it can be particularly tricky to explain the use of various assessment scenarios clearly and succinctly in the NTS. It is important that the council understands fully what is being proposed and how the significant environmental effects may vary between scenarios.  

We recently undertook an EIA for a mixed use development in Bury St Edmunds where the need for flexibility meant that eight assessment scenarios needed to be examined, relating to variations in the number of dwellings, provision of a school and access arrangements.  

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Key elements of the process were clear parameter plans and descriptions of the proposals, a detailed explanation of the various scenarios in the methodology chapter, and ensuring that all the ES chapters and technical reports explained clearly the significant environmental effects of each scenario and, where appropriate, why it was not necessary to assess every scenario in detail. Given the complexity of the assessment, it was important that the ES was subject to a rigorous legal review.

It is not possible to guarantee that this approach will avoid the need for revisions to an ES or subsequent new applications. New variations may arise in the future that were not considered at the original application stage. However, the use of more open descriptions of development and variable parameter plans, coupled with the clear definition of assessment scenarios for the EIA, provides one way to satisfy the requirements of the EIA process while allowing greater flexibility to meet the challenges of evolving development requirements.

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