

Impact Assessment Outlook Journal

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Perspectives upon Nationally Significant Infrastructure Projects and Development Consent Orders

Thought pieces from UK practice



Guest Editor

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Perspectives upon Nationally Significant Infrastructure Projects and Development Consent Orders

Further to Volume 1 of the Impact Assessment Outlook Journal, entitled 'Perspectives upon Proportionate EIA', it's a great honour to be asked to guest edit Volume 2.

With so many Q Mark written pieces covering over 70 different themes, the first task was to decide what aspect this volume should focus on. Having personally worked on one of the first Nationally Significant Infrastructure Projects to be accepted by the Infrastructure Planning Commission (now the Planning Inspectorate) and having worked on several since, the theme of 'Nationally Significant Infrastructure' seemed an obvious choice.

It's now a little over 10 years since the Planning Act 2008 (as amended) received royal assent, the regime under which Nationally Significant Infrastructure Projects¹ are consented in conjunction with National Policy Statements for different types of national infrastructure development. The adoption of the Planning Act 2008 (as amended) was shortly followed towards the end of 2009 by the publication of two 'Guidance Notes'^{2/3}. These have since been replaced by a series of 18 Advice Notes (some of which have been republished seven times) and ten Guidance Documents intended to inform applicants, consultees, the public and others about a range of process matters in relation to the Planning Act 2008 (as amended).

The first Development Consent Order application to be accepted (that was not subsequently withdrawn), and also the first Development Consent Order to

be granted (on 13 October 2011), was the 'Rookery South Energy from Waste Generating Station'. The latest application to be accepted is the 'A19 Downhill Lane Junction Improvement' on 22 February 2019, with the latest Development Consent Order to be granted being that of 'Milbrook Power' on 13 March 2019. To date (March 2019), there have been:

- 103 applications made (not including those applications that have been submitted twice)
- 70 Development Consent Orders granted (including one that was initially refused)
- 7 applications not accepted for examination or withdrawn during acceptance
- 4 applications withdrawn after acceptance
- 4 applications not granted development consent

1 In Wales, such projects are called Developments of National Significance, determined by the Planning Inspectorate on behalf of Welsh Government and governed by the Planning (Wales) Act 2015 and The Developments of National Significance (Wales) Regulations 2016

2 IPC Guidance Note 1 on Pre-application Stages (Chapter 2 of the Planning Act 2008) 7 December 2009

3 IPC Guidance Note 2 on Preparation of Application Documents under S37 of the Planning Act 2008 7 December 2009

Those of you who have worked on any of these projects, or are working on such projects that have yet to be submitted, will no doubt agree that we've all been through a steep learning curve, and that we are still learning. For me, the fact that a number of Q Mark pieces relate to such projects and the Development Consent Order process reflects this learning process.

The following Q Mark articles provide a snapshot of the types of challenges applicants and their consultants have faced under the Planning Act 2008 (as amended) regime. Whilst it was a difficult choice, I have attempted to select articles that cover a range of matters, from pre-application to seeking amendments to a Development Consent Order once granted. Whilst some minor elements of the articles may be slightly out of date (but weren't at the time they were written), hopefully you'll find the articles interesting, useful and thought provoking for the challenges that no doubt lie ahead.

Laura's article provides some thoughts on the role and importance of community consultation for Nationally Significant Infrastructure Projects.

Connor provides us with an engaging perspective on the challenges surrounding a parameter based approach to EIA in Development Consent Orders, focussing on the concept of the 'Rochdale Envelope'.

In his piece, Dan sets out the different approaches taken to Preliminary Environmental Information, often a topic of much debate.

Betsabe provides thoughts on the various mechanisms available for securing mitigation measures.

The penultimate piece moves onto Development Consent Order examinations, as Amy draws on her experiences.

For the last piece, I've selected a Royal HaskoningDHV article which focusses on the legal minefield of Development Consent Order amendments.

I hope you enjoy Volume 2 of the new IA Outlook Journal.



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 NSIPs 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).

There are still no hard and fast rules for undertaking consultation with local communities...



SKM Enviro is now part of Jacobs. Laura Day (nee Woods) now works for Avison Young

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 NSIPs 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.

Parameter based EIA in Development Consent Orders

Since the introduction of The Planning Act 2008, the Development Consent Order (DCO) process has become an established method of gaining planning permission for major infrastructure projects. However, recent years have seen progress in applying a parameter based assessment approach to DCO. One such project that has undertaken this approach is the Tilbury2 port development.

This article discusses how this approach has been integrated into the project EIA process and can be better understood by stakeholders. The Tilbury2 project consists of the redevelopment of the former RWE power station site and will comprise the development of a new harbour facility in the form of an operational port. A number of key components are proposed within the port, with the two principal proposed uses being a Roll on-Roll off terminal and a Construction Materials Aggregates Terminal. The application is currently undergoing DCO examination.

The 'Rochdale Envelope' approach was a key factor in the aim to achieve the desired flexibility for the Tilbury2 scheme. The Rochdale Envelope arises from two cases: R. v Rochdale MBC ex parte Milne (No. 1) and R. v Rochdale MBC ex parte Tew [1999] and R. v Rochdale MBC ex parte Milne (No. 2) [2000]. Permission under the Rochdale Envelope must create clearly defined parameters within which future development must be limited to.

The Tilbury2 development as assessed in the Environment Statement¹ adopted a series of parameters related to the location and heights of buildings and operations within approximate areas based around the site masterplan. This parameter based approach is to provide the flexibility that will be needed in recognition of the fact that the primary aim is to authorise a new operational port terminal. The DCO accordingly allows for variation to accommodate detailed design and for changes to the operation of the Port in the long term.

The DCO accordingly allows for variation to accommodate detailed design...



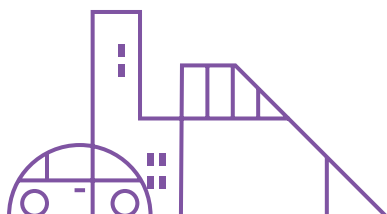
1 <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000213-6.1%20Environmental%20Statement.pdf>

Each topic chapter explains the parameters of this flexibility (for example air quality considers stockpiles being located across the whole of the CMAT area) based on a reasonable worst-case scenario. For example, as a key sensitivity the DCO codifies the key range of heights of structures in different areas of the site, and this defines the Rochdale Envelope for assessment purposes. The EIA therefore includes sensitivity testing for differing heights, masses, uses and layouts within the constraints of the masterplan to allow flexible uses to be introduced to the Tilbury2 site over time, while remaining within the parameters of the masterplan and EIA.

As stated in PINS Advice Note 9 “the process introduced by the 2008 Act, places a duty upon developers to engage meaningfully with affected communities, local authorities and other statutory consultees over their proposals at preapplication stage”². Statutory consultees may be concerned by the variability of the parameters which are required to achieve the amount of flexibility that the applicant is seeking. To address this, the project has consulted extensively from the preapplication stage, throughout the environmental assessment and during the examination period with the local community, landowners and key stakeholders including the Marine Management organisation (MMO), Port of London Authority and the statutory environmental bodies. During the examination period, Statements of Common Ground (SoCG) have also been utilised as a method to identify areas of agreement and to maintain positive dialogue with the statutory bodies and other key stakeholders.



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² <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2011/02/Advice-note-9.-Rochdale-envelope-web.pdf>

PEI in National Infrastructure Planning

Jacobs' Dan Johnston investigates what constitutes preliminary environmental information (PEI) and how it differs from an environmental statement

The Planning Act 2008 sets out a process for obtaining development consent orders for nationally significant infrastructure projects. Consultation of the community plays a central role in the pre-application stages of this process and the applicant is required to publish a statement of how, when and where they will consult with the community.

Under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, the statement must say whether the proposed project is subject to environmental impact assessment (EIA) and, if so, it must state how the applicant intends to publicise "preliminary environmental information" (PEI). This is the only reference to environmental information in connection with the consultation.

The problem

While EIA practitioners are familiar with the standard reports that occur during the EIA process, and know what is expected of them as contributors, for the PEI there is no established body of practice, no published guidance and the definition in the Regulations is open to interpretation. Practitioners can therefore find themselves struggling to understand what is required.

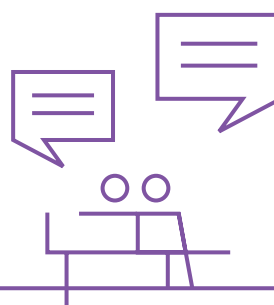
The definition of PEI given in the Regulations refers to part of the statutory definition of an environmental statement. However, the explanatory memorandum that accompanies the Regulations makes it clear that a PEI is not a draft environmental statement.

In these circumstances, different practitioners have taken wildly differing approaches as to what a PEI should be, in particular how detailed and how technical it should be.

A random sample of 10 PEI documents found:

- three multi-volume epics, indistinguishable from large and detailed environmental statements;
- two short text-only documents (one at five pages, the other at 22);
- four tailored documents designed for the PEI purpose (ranging between 41–230 pages of text and 8–76 figures); and
- one comprising a combination of other existing materials – the EIA scoping report, sections of a consultation leaflet and exhibition boards.

Even allowing for the diverse needs of different projects, there is clearly considerable inconsistency in practitioners' and clients' understanding of what is required.



Learning from experience

My view of what a PEI should be has developed in the course of writing one and taking it through consultation.

At the outset, my client was nervous because they were about to embark on a new statutory process and needed to commission a product for which they had no template.

Their initial, cautious reaction was to go beyond compliance and ask for a draft environmental statement to be produced, just to make sure they hadn't undershot the target.

In the end, we produced a comprehensive document that, while following the same basic structure as an environmental statement, was smaller, less detailed and less technical (151 A3 pages, 76 Figures, four larger drawings and a non-technical statement).

During the consultation period, I attended the public exhibitions and spoke to many locals. My impressions were:

- Few people had read more than the non-technical statement and I doubt anyone had read the whole PEI.
- Many were intimidated by the scale and technicality of the document and failed to find the information most relevant to them.
- The drawings contained the most useful, and most used, information.
- People did appreciate the availability of in-depth information, because it enabled us to give clear, authoritative answers backed up by written evidence.
- Most of the questions we received were related to the project's history and alternatives, as well as ecological, air quality, noise, visual and land-take related impacts. The only legislative issue raised was the effect on the green belt.

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Who is the PEI for?

The primary purpose and audience of a PEI are very different from those of an environmental statement. A PEI is aimed explicitly at the local community during a consultation. The client may also wish to send the PEI to technical consultees, but that is not the main target audience, and decision makers never see it.

The PEI document should, therefore, be tailored to the needs and interests of the local community. That means:

- being as concise as possible while still giving enough information to be authoritative – I would recommend 10,000–50,000 words depending on the project;
- maintaining a level of detail and technicality that is appropriate to the audience and that reflects their interests – few will need information on EIA methodology or policy background, it is better to focus on environmental baseline, impacts and mitigation;
- the language used should be as clear and non-technical as possible;
- ensuring the document is well-illustrated – a PEI without figures will be harder to follow and much less useful when answering questions at an exhibition.

The final key difference between the PEI and the environmental statement is that the statement describes the scheme as it is in the application for a development consent order, where the design is essentially fixed. The PEI, however, is a consultation document and its description of the scheme must make it clear what aspects are open to change and can be influenced by the consultation.

Having said all that, there is no reason why the PEI can't form a stepping-stone towards the environmental statement. Most of what is in the PEI should be capable of re-use in the statement, with a little updating and the addition of more detail and supporting information.

The primary purpose and audience of a PEI are very different from those of an environmental statement...



Some details in this article have now become out of date

Securing mitigation measures for Nationally Significant Infrastructure Projects

Mitigation measures identified in an Environmental Statement are designed to avoid, reduce and offset the significant adverse effects of a development.

For mitigation measures to be effective they need to be able to be implemented in practice.

Understanding the mechanisms available for securing the implementation of mitigation measures can help environmental practitioners to better define these measures in the first place, so that they can be readily translated into clear and enforceable controls.

In the case of Nationally Significant Infrastructure Projects (NSIPs), mitigation measures identified in the Environmental Statement and associated documents can be enforced through a number of mechanisms specified in a Development Consent Order (DCO) as well as other consent regimes (e.g. section 106 agreements, or other side agreements).

A DCO grants development consent for NSIPs under the Planning Act 2008. A DCO is intended to provide a unified authorisation process – a “one stop shop” – for the construction of NSIPs. Most of the consents and powers required to construct, use and operate a NSIP are therefore normally contained within the DCO. There may, however, be certain aspects of the development which are not permitted by the DCO and which will require further consent.

Mechanisms available for securing the implementation of mitigation measures under a DCO include the use of Requirements, protective provisions and deemed consents.

Requirements

Requirements are planning obligations attached to a DCO similar to planning conditions under other consenting regimes. Requirements are often used to secure the delivery of mitigation measures and their timely implementation. They can do this by, for example, specifying those matters for which detailed approval is required before the development, or certain parts of it, can commence (e.g. submission of a detailed landscaping scheme including the location, quantity, species, size and density of any proposed planting, may be required in advance of the proposed works). They can also stipulate that the development takes place in accordance with an agreed DCO document setting out mitigation measures, such as a code of construction practice. Requirements may also specify where further investigation is required in advance of certain works, for example by requiring that a detailed archaeological written scheme of investigation is provided in advance of any excavation taking place on an area of archaeological interest.

Requirements should also identify the appropriate bodies from whom approval is required, in most cases this will be the local planning authority, as well as any relevant stakeholders who may need be consulted.

Protective provisions and deemed consents

Another mechanism for securing mitigation measures within a DCO is through the use of 'protective provisions'. Under Section 150 of the Planning Act 2008 and related regulations, a large number of prescribed consents which are required for the construction, use or operation of an NSIP can be included within the DCO with the permission of the body which would otherwise be responsible for granting the consent.

Consent granting bodies may agree to the disapplication of certain consents subject to the agreement of 'protective provisions' safeguarding the statutory responsibilities of those bodies under the legislation being disapplied by the DCO.

In addition to Section 150 consents, the Planning Act 2008 also allows for certain consents such as a Marine Licence, to be deemed by a DCO. The inclusion of such deemed consents within the DCO does not require the previous approval of the relevant consenting body. It is however envisaged that the drafting of a deemed licence or consent will be agreed with the relevant consenting body as it will still be their responsibility to enforce any conditions attached to the licence or consent.

As in the case of Requirements, protective provisions and conditions attached to, for example, a deemed marine licence, can be used to secure mitigation measures, and therefore should be drafted to provide clear and sufficient detail to allow for monitoring and enforcement of these measures.

Mitigation Routemap

In order to help both the Examining Authority and other interested parties understand how mitigation relied on by the Environmental Statement is to be secured, a mitigation routemap may be produced. A mitigation routemap can be particularly useful in the case of major planning applications such as those for NSIPs, where numerous mitigation measures may have been identified across a number of documents.

A mitigation routemap provides an audit trail of the controls and mitigation measures, on which the Environmental Statement and related documents rely to avoid, reduce and/or offset significant impacts of the development. It also sets out the way in which they have been, or will be, translated into clear and enforceable controls; either via DCO Requirements, protective provisions, conditions attached to deemed licences, Section 106 obligations, other consent regimes [such as Section 61 Consents (Control of Pollution Act 1974), or Environmental Permits (Environmental Permitting Regulations 2010)] or side-agreements between the developer and a third party.

...the Planning Act 2008 also allows for certain consents such as a Marine Licence, to be deemed by a DCO...



Examinations in public for orders granting development consent under the planning act 2008

A Development Consent Order (DCO) authorises the development of a Nationally Significant Infrastructure Project (NSIP)¹. Decisions on such applications are made by the Secretary of State (SoS) relevant to that NSIP (e.g. transport or energy and climate change).

Examinations in Public are the process by which an application for Development Consent is assessed so that the SoS can make their decision on whether a DCO will be made.

An Examination is carried out by an Inspector or Panel of Inspectors in a similar way to a planning appeal or Development Plan Examination. The Inspector or Panel is referred to as the 'Examining Authority' (ExA), and are appointed by the SoS. This process is administered by the Planning Inspectorate (PINS).

Before an Examination begins, an applicant will have informed PINS of their intention to submit an application. Immediately after this they will have carried out at least one stage of public consultation. The applicant would then prepare and submit their application. If the application is adequate it will be 'accepted' for Examination by PINS.

The Examination starts the day after the Pre-Examination Meeting at which the ExA discusses the forthcoming process, including the timetable. The Examination lasts for no more than six months following which the ExA has a period of three months to prepare recommendations to the SoS.

Over 40 applications are either currently going through, or have been through, the Examination process and therefore there is an opportunity to learn lessons from these applications.

The Examination is primarily a written process, but if the ExA wants to delve more deeply into a particular topic they may hold one or more hearing sessions. The Applicant and other interested parties, such as statutory consultees (e.g. Natural England, English Heritage, Environment Agency or Highways Agency), will be invited to attend. The topics discussed are decided entirely by the ExA depending on what they consider to be the key issues for the application – this can be informed by the interests and experience of the Inspector or Inspectors making up the ExA.



¹ NSIPs are defined in the Planning Act 2008 as amended.

The principle of the development is rarely the focus of the Examination.

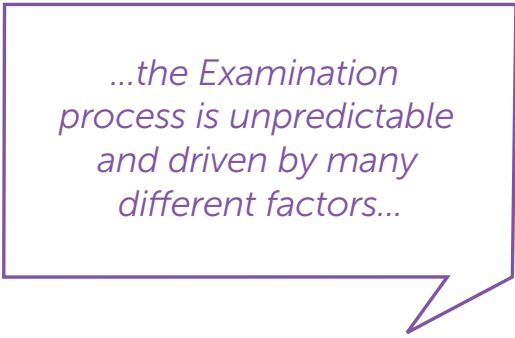
Some examples of experiences of Parsons Brinckerhoff expert witnesses are described below.

During the A30 Temple to Higher Carblake Improvement Scheme Examination, the environmental topic-specific hearings related to ecology and landscape impact. The site was partly within the Cornwall Area of Outstanding Natural Beauty and Bodmin North Site of Special Scientific Interest. There was also a range of European Protected Species which were potentially affected by the Scheme. The ExA (and Natural England) therefore needed to be confident that these issues had been fully explored and that appropriate mitigation was guaranteed.

The Construction Environmental Management Plan (CEMP) was prepared in much more detail than normally required at the application stage to reassure the ExA that appropriate mitigation would be delivered. This included measures to reduce noise and dust impacts on local residents and sensitive ecological receptors. It also included pollution control measures to protect water quality and a variety of other measures.

The main issue in the Examination of the Progress Power Project was the loss of historic field boundaries. The location of the substation in an area of potentially historic hedgerows dominated hearings, with the Council and local parties (Eye Airfield Parishes Working Group) taking the view that the hedges were potentially of national significance and should be preserved in-situ.

The scope of the setting assessment for cultural heritage assets, originally agreed with the Council and County Archaeologist, was limited to individual setting assessments for Grade I and II* assets, and Grade II would be assessed as a group. The setting assessment was re-written prior to the hearings to address various comments. This shows that even though something is agreed at scoping, it can be changed and updated throughout the examination and Statements of Common Ground are invaluable to iron out any points of disagreement.



...the Examination process is unpredictable and driven by many different factors...

A considerable amount of the Progress Power Examination also concentrated on the detailed design (or lack of it, which is usual for this type of project). Driven by a local interested party, a lot of time was spent going over the need for various elements of the design to be agreed. These local parties wanted the design to be clarified so that all unnecessary detail could be removed from the DCO, significantly limiting the options within the Rochdale envelope (the parameters limiting the proposed scheme in terms of size so that it can be properly assessed whilst allowing some flexibility for the designer). This led to a lot of ad hoc design which was then incorporated into the DCO.

From these examples, it is clear that the Examination process is unpredictable and driven by many different factors. Statutory Consultees and Third Parties will also influence which topics become important, and not just the interests of the ExA.

Further details on the process can be found on the National Infrastructure Planning website: <http://infrastructure.planningportal.gov.uk/application-process/the-process/>

Further details on the Planning Inspectorate's role be found here: <http://infrastructure.planningportal.gov.uk/application-process/planning-inspectorate-role/>

Considerations and Implications of DCO Amendments

A Development Consent Order (DCO) grants development consent for Nationally Significant Infrastructure Projects (NSIPs) under the Planning Act 2008. An amendment to the DCO is dealt with under Schedule 6 of the Planning Act 2008 ("the 2008 Act"). Depending on whether a change to a DCO is material or non-material, the procedure for obtaining the amendment differs. This is outlined in Part 2 of the Infrastructure Planning (Changes to, and revocation of, Development Consent Orders) Regulations 2011 (as amended). There are no prescribed timescales for decision making and the timescales for determining a material change could be prohibitive for a project.

There is no statutory definition of what constitutes a material or non-material amendment for the purposes of Schedule 6 to the Planning Act 2008 and Part 1 of the 2015 Regulations. The Government has however confirmed that it will be issuing guidance. Criteria for determining whether an amendment should be material or non-material is outlined in the Department for Communities and Local Government (DCLG's) "Government response to the consultation on making changes to Development Consent Orders".

This document sets out three characteristics which the Government has confirmed will be contained in future guidance to indicate whether a proposed change is material or non-material. The following characteristics are stated to indicate that an amendment is more likely to be considered 'material'.

- At the point where any new or significant effects on the environment as a result of the change mean that an update to the original Environmental Statement (from that at the time the original DCO was made) is required (to take account of those effects);
- When the impact of the development to be undertaken as a result of the proposed change introduces the need for a new Habitats Regulations Assessment (HRA), or the need for a new or additional licence in respect of European Protected Species (EPS) (in addition to those at the time the original DCO was made); or
- Where the change would involve compulsory acquisition of any land that was not authorised through the existing DCO.



The Government indicated in the original consultation document, that it is not possible to set out prescriptive, comprehensive and exhaustive guidance on whether a change is material or non-material, as this will depend on individual circumstances. However an amendment is more likely to be considered material for:

- changes which relate to the red line application boundary;
- changes which require an amendment to the Rochdale parameters/worst case scenario assessment (although not exclusively);
- changes which give rise to new, previously unassessed, impacts in the Impact Assessments.
- changes which result in a requirement for additional or new consents;
- changes which would result in new parties being affected by the project;
- particularly complex or controversial changes which might require examination at a hearing rather than through the written representations procedure (the non-material change process envisages examination by written representations rather than a hearing).

There have been no material amendments to DCOs to date. One example of a recent non-material amendment application pertains to the Galloper Offshore Wind Farm (GOWF). The GOWF applied for a non-material amendment to authorise an increase in the diameter of monopole wind turbine foundations from 7m to 7.5m. Although this was a change to one of the Rochdale parameters, the Secretary of State (SoS) was satisfied that would not give rise to new, previously unassessed LSE and wouldn't affect the Habitats Regulation Assessment previously undertaken. The application was determined within five months.

The Planning Inspectorate (PINS) have advised that applicants consult informally with key stakeholders before submitting their application and to include confirmation of no concern from the stakeholders alongside the application. Pre-application consultation will help reduce timescales for determination, especially where any statutory consultee concerns can be resolved prior to submission. It is also advised that changes to DCOs are limited as far as possible and that clear explanation of the nature of the changes, and the need for them, is provided. A track changes version of DCO and an accompanying explanatory memorandum is useful to include. The formal consultation and publication requirements for non-material amendments now also rest with the applicant, and not PINS.

Changes to DCOs can result in lengthy project delays. Emphasis should be placed upon getting the DCO accurate the first time, through close collaboration with the whole project team, and ensuring sufficient flexibility is included within the worst case parameters assessed. Wherever possible, consider amendments pre-determination of the DCO, when changes can be made as 'minor corrections'.

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Some details in this article have now become out of date

Do you make effective use of ALL of IEMA's IA member resources?

IEMA's website contains a treasure trove of IA related content, as well as information about IEMA's volunteer network groups, from regional groups, through UK impact assessment to ESIA across international finance. But not everyone makes the most of this free member content, including:

- Future events and webinars.
- Recordings of past webinars, with over 24 hours' worth of IA content.
- IA Guidance & advice: From Effective NTS, through climate (GHG and Adaptation), health, influencing design and delivery, to forthcoming documents on material assets and major accidents & disasters.
- The Proportionate EIA Strategy.
- Over 400 EIA articles and 200 case studies related to EIA, developed by Q Mark registrants in recent years.
- Individual and Organisational recognition specific to EIA, through the EIA Register and EIA Quality Mark schemes respectively.

Contact details to engage with the steering group members for the:

- IA Network
- GESA Group (Global Environmental & Social Assessment)
- Geographic/Regional Groups

www.iema.net



Summary

David Hoare - Guest Editor

So what have we learnt in the 10 years of the Planning Act 2008 (as amended)? The six articles presented here reflect some of the key complexities of Development Consent Order applications and the ultimate goal of achieving consent. In my experience (from a consultant's perspective), they are challenging projects to work on and the process is very front-loaded. However, this can bring benefits in that they can afford professionals incredibly valuable and varied experiences. Furthermore, if you put the work in and allow sufficient time pre-application, the post-application process should (in theory at least) be easier, particularly with prescribed timescales for Examination etc.

Despite the publication of a range of advice and the greater level of understanding promoters and consultants have continued to gain, challenges remain. Although there will be similarities, each Nationally Significant Infrastructure Project and Development Consent Order application will have its own nuances and issues.

Therefore, an approach that worked on one project may not necessarily be the most appropriate for another similar project. The challenge of ensuring sufficient detail is provided, whilst still ensuring flexibility in delivery, continues to be a key talking point for promoters, consultants and stakeholders. The next few years should continue to bring increased knowledge, advice and clarity, which will hopefully be of benefit to all.

I hope you enjoyed the second edition of the IA Outlook Journal. If you are interested in contributing to a future edition, please see the information and advice overleaf.

The next few years should continue to bring increased knowledge...



The IA Outlook Journal will return in Summer 2019, featuring:

- Articles from Q Mark registrants, members and guests – see details below;
 - Topic, process and sector related themes and articles; and
 - New Guest Editors – see below for details
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Interested in Contributing?

A key role of the IA Outlook Journal is to enhance the readership and thus impact of articles produced by registrants to the EIA Quality Mark scheme. However, the IA Network Steering Group is keen to see the Journal also provide opportunities for all members who have a useful perspective to share in relation to IA.

As such, once the relaunched Journal has bedded a little in 2019, the intention is to begin highlighting future themes for the Journal on these pages and on IEMA's website, with a date by which any member can contribute an article. All articles submitted will be reviewed for quality, by a small panel from the Steering Group, and all accepted articles will be passed to the relevant issue's Guest Editor for consideration. Any articles that don't make the Guest Editor's selection for inclusion in the relevant Journal issue will be made available as additional resources online.

Articles in IA Outlook must be approximately 800 words in length and provide a perspective on the theme of the issue they are seeking to be included within. Articles will generally be written by a single author and must avoid being directly advertorial of the services provided by the author's organisation.

The Role of the Guest Editor

The initial IA Outlook Guest Editors will be selected from the IA Network Steering Group; however, as the publication becomes more established, we would like to expand this to enable others the opportunity to take the helm.

To help members get a feel for what is involved in the Guest Editor role, they are responsible for:

- Helping define the core theme that runs through that issue of IA Outlook;
- Selecting five or six perspectives articles/ case studies to be included;
- Producing a short Guest Editorial at the front end of their issue, which introduces that edition's theme and presents a narrative across the selected articles and their subject matter, and;
- Provide a summary to draw the issue to a close and provide any concluding remarks on the theme.

If you feel you would make a good Guest Editor - on a specific theme – please contact IEMA's Head of Policy and Practice, **Spencer Clubb** (E: s.clubb@iema.net).

Acknowledgements

IEMA's Impact Assessment Network (IA Network) Steering Group is a group of 15 members that volunteer their time to provide direction to the institute's activities in the field. The Steering Group members play a vital role in ensuring good practice case studies, webinars and guidance are developed and shared across the UK EIA community.

David Hoare, IEMA IA Network Steering Group member, IEMA North West Regional Network member and Associate Director at WSP has acted as the guest editor for this edition of the new IA Outlook Journal. We recognise and appreciate his contribution. We also offer thanks to the editors and reviewers of this edition: **Spencer Clubb** and **Charlotte Lodge** (IEMA), plus members of the IA Network Steering Group in producing this issue of the IA Outlook Journal. We would like to thank the authors of the articles in this second edition of Impact Assessment Outlook: **Laura Woods, Conor Barron, Dan Johnston, Betsabe Sanchez and Amy Hallam**. Alongside the authors we would also like to thank the EIA Quality Mark registrant organisations, who both gave the authors time and encouragement to write the articles, and allowed their publication in this IEMA IA Network publication, they are: **SKM Enviro, Jacobs, Atkins, Aecom, Parsons Brinckerhoff (WSP) and Royal HaskoningDHV**.

IEMA's EIA Quality Mark - a scheme operated by the Institute allowing organisations (both developers and consultancies) that lead the co-ordination of statutory EIAs in the UK to make a commitment to excellence in their EIA activities and have this commitment independently reviewed. The EIA Quality Mark is a voluntary scheme, with organisations free to choose whether they are ready to operate to its seven EIA Commitments: EIA Management; EIA Team Capabilities; EIA Regulatory Compliance; EIA Context & Influence; EIA Content; EIA Presentation; and Improving EIA practice.

Perspectives on Proportionate Environmental Impact Assessment (EIA)

Thought pieces from UK practice

This second edition of the re-launched Impact Assessment Outlook Journal provides a series of thought pieces on how best to approach the consenting regime for Nationally Significant Infrastructure Projects (NSIPs). In this edition, the Guest Editor (David Hoare) has selected six articles produced by EIA professionals from respected organisations registered to IEMA's EIA Quality Mark scheme. The result is a thought-provoking quick read across different aspects of UK practice exploring different ways to approach NSIPs.

About the Guest Editor: David Hoare BSc, MSc, CEnv, MCIEEM, PIEMA

*IEMA IA Network Steering Group member, IEMA North West
Regional Network member, Associate Director at WSP*

David is an Associate Director at WSP, with over 18 years' experience in the environment sector, 17 of which have been spent in environmental consultancy. His main experience relates to the environmental assessment and management of a wide range of projects including energy, road infrastructure, residential/mixed-use developments, pipelines and gas storage facilities.

David's particular areas of expertise include Nationally Significant Infrastructure Projects (from scoping through EIA and consultation to draft Development Consent Order, examination, consent, discharging of Requirements and through to construction) and effective project management of small, medium and large scale EIAs (from screening/scoping to Environmental Statement).

About IEMA

IEMA is the professional body for everyone working in environment and sustainability. We're committed to supporting, encouraging and improving the confidence and performance, profile and recognition of all these professionals. We do this by providing resources and tools, research and knowledge sharing along with high quality formal training and qualifications to meet the real world needs of members from their first steps on the career ladder, right to the very top.

We believe that together we can change perceptions and attitudes about the relevance and vital importance of sustainability as a progressive force for good. Together we're transforming the world to sustainability.

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