

DLP BRIEFING NOTE 67

Prepared by
DLP Planning Ltd

August 2011





DLP Planning Ltd

Bedford
Sheffield
London
Bristol
Cardiff

Disclaimer

DLP Consulting Group Ltd, and its constituent companies disclaims any responsibility to the client and others in respect of matters outside the scope of this Report. This Report has been prepared with reasonable skill, care and diligence, is the property of DLP Consulting Group, and is confidential to the client, DLP Consulting Group Ltd accepts no responsibility of whatsoever nature to third parties, to whom this report has been provided.

Town and Country Planning (Environmental Impact Assessment) Regulations 2011

The new Town and Country Planning (Environmental Impact Assessment) Regulations 2011 came into force on 24 August 2011. These new Regulations replace the parts of the Town and Country Planning (EIA) (England & Wales) Regulations 1999 which relate to England. The 2011 Regulations therefore apply to **England only** (apart from provisions relating to projects serving national defence purposes in Scotland, Wales and Northern Ireland).

The misapplication of the EIA regime has for many years resulted in legal challenges to planning permissions. These challenges most often result from the failure of the LPA, development or Secretary of State to properly comply with the regime, but a number have resulted from the incorrect incorporation of the original EU legislation into English law. The latter has been compounded by the number of times the 1999 Regulations have been amended.

The new Regulations are essentially consolidated Regulations, following the numerous amendments that have been made to the 1999 Regulations. The 2011 Regulations also feature some key changes, which are summarised below:

- Addition of new descriptions of development;
- Any applicable screening threshold applies to the development as a whole once modified, and not just to the change or extension;
- All LPA screening opinions (including those that indicate that EIA is not required) must now have reasons behind the authority's decision, which must be made available as part of the public record;
- The definition of statutory consultation bodies is amended to include the Marine Management Organisation, in certain circumstances;
- The obligation to re-consult on environmental information at reserved matters or condition approval stage when that information has already been consulted upon at an earlier stage in the process;
- The consolidated 2011 Regulations are renumbered.

It is unlikely that the new Regulations will eliminate the misapplication of the EIA regime and legal challenges to planning permissions on these grounds are likely to continue. It is therefore very important that local planning authorities ensure that they have clear policies and procedures in place to ensure that they are complying with the regulations at every stage. However, it is equally important that developers do not assume that LPAs are handling the EIA regime correctly, as the consequences may be a legal challenge which results in the revocation of your planning permission.

Implications for Wales

As stated, the 2011 Regulations are applicable in England only. In Wales, the 1999 Regulations will still need to be followed until the Welsh Assembly Government has consulted on and amended their own EIA regime – consultation is planned for late summer with the new Regulations anticipated by the end of 2011. DLP will advise you of this consultation as it comes forward.

If you would like to hear more about the changes to the EIA Regulations, or to receive advice on how to minimise the chance of your planning permission being challenged on EIA related grounds, please do not hesitate to contact us.

Bedford (Design)

3rd Floor
8 Goldington Road
Bedford
MK40 3LG
T 01234 261 266
F 01234 347 413

Bristol

2A High Street
Thornbury
Bristol
BS35 2AQ
T 01454 410 380
F 01454 410 389

Cardiff

Sophia House
28 Cathedral Road
Cardiff
CF11 9LJ
T 029 2064 6810

Bedford (Planning)

4 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK44 3WH
T 01234 832 740
F 01234 831 266

London

1st Floor Holborn Gate
330 High Holborn
London
WC1V 7QT
T 020 7849 6979
F 020 7203 6701

Sheffield

11 Paradise Square
Sheffield
S1 2DE
T 0114 228 9190
F 0114 272 1947

BEDFORD

DLP Planning Ltd
4 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK44 3WH

t 01234 832 740

f 01234 831 266

bedford@dlpconsultants.co.uk

DLP Design Ltd
8 Goldingtond Road
Bedford
MK40 3LG

t 01234 261 266

f 01234 347 413

bedford@dlp-design.co.uk

BRISTOL

DLP Planning Ltd
DLP Transportation Ltd
2A High Street
Thornbury
Bristol
BS35 2AQ

t 01454 410 380

f 01454 410 389

bristol@dlpconsultants.co.uk

CARDIFF

DLP Planning Ltd
28 Cathedral Road
Cardiff
CF11 9LJ

t 029 2064 6810

cardiff@dlpconsultants.co.uk

LONDON

1st Floor
Holborn Gate
330 Holborn Gate
London
WC1C 7QT

t 020 7849 6979

f 020 7203 6701

London@dlpconsultants.co.uk

SHEFFIELD

11 Paradise Square
Sheffield
S1 2DE

t 0114 228 9190

f 0114 272 1947

sheffield@dlpconsultants.co.uk

briefings

