



RHONDDA CYNON TAF

RECORD OF DELEGATED OFFICER DECISION

WG CONSULTATION DOCUMENT: Proposed changes to the Environmental Impact Assessment Regulations and Local Development Orders.

PURPOSE OF ATTACHED REPORT:

The purpose of the report is to highlight the contents of a Welsh Government consultation on proposed changes to the Environmental Impact Assessment Regulations and Local Development Orders and then agree to the submission of the attached consultation response form to Welsh Government.

DELEGATED DECISION (Date):

The consultation response form is agreed prior to the Service Director Planning submitting the document to the Welsh Government


Chief Officer Signature

CHRISTOPHER LEE
Print Name

12/6/15
Date

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution

Ben

CONSULTEE CABINET MEMBER SIGNATURE

12/06/15

DATE

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OFFICER CONSULTEE SIGNATURE

12/6/15

DATE

Directorate:	Regeneration and Planning
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RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

**MUNICIPAL YEAR 2013 - 2014
REPORT TO ACCOMPANY DECISION OF
CHIEF EXECUTIVE**

Part 1 (Non Confidential)
A WELSH GOVERNMENT CONSULTATION ON PROPOSED CHANGES TO THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS AND LOCAL DEVELOPMENT ORDERS. (Consultation begins: 26th March 2015. Consultation ends: 18th June 2015.)

1. PURPOSE OF THE REPORT

The purpose of the report is

(a) To highlight the contents of the Welsh Government consultation on Proposed changes to the Environmental Impact Assessment Regulations and Local Development Orders.

and

(b) Agree to the submission of the attached consultation response form to Welsh Government.

2. RECOMMENDATION

It is recommended that:

- The consultation response form is agreed prior to the Service Director Planning submitting the document to the Welsh Government.

3. BACKGROUND

Welsh Government have analysed requests made to them for "screening" decisions as part of the EIA Regulations and have found that the majority of these did not require the submission of an ES. It has been determined that the reason for the seemingly disproportionate numbers of referred requests not requiring ES was that the threshold criteria for certain developments was too low (catching too many). It has been concluded that these delays have placed an unnecessary administrative burden on the planning system and have issued this consultation which proposes (amongst other things) to raise the threshold criteria.

The proposed changes are the same as those that will be implemented in England. The consultation also proposes changes to enable LPA's to make Local Development Orders (LDO) on a larger scale that may comprise Schedule 2 EIA development – which would help support economic growth and regeneration.

Further proposed changes include considering whether an extension to an existing operation is EIA development by enabling consideration of the development as a whole and not just to the extended part, giving reasons when the LPA issues a decision that ES is NOT required (currently only by request) and removing the need for consultation on the ES on subsequent stages of a multi-stage development (such as the submission of reserved matters) where the submission of an ES at outline stage still satisfies the requirements of the EIA Regulations at these later stages. It also sets out the proposed approach to the Geological Storage Directive (carbon dioxide storage) as well as asking whether specific provision should be made in the EIA Regulations to address “discontinuance” and “modification” orders.

Proposed Amendments

Screening Thresholds

All Schedule 1 development requires EIA. Schedule 2 development needs to be “screened” if it exceeds certain thresholds or is in a sensitive area.

Welsh Government considers that there is scope to raise the threshold of developments that fall into the “urban development projects” and “industrial estate development” categories. The existing threshold in both of these categories is 0.5 hectares.

It is proposed to raise the screening threshold in “industrial estate development” to 5 hectares. It is proposed to raise the screening threshold of the “urban development projects” to (i) if the development exceeds 1 hectare and does not include the construction of houses (ii) the development includes more than 150 houses or (iii) the overall area of the development exceeds 5 hectares.

RCT Response: It is agreed that this increase in threshold will reduce the administrative burden on the LPA in assessing applications that currently have EIA potential.

Changes or Extensions to Existing Development

Due to a High Court case, changes are proposed to consider extension or changes to existing developments as a whole and not just being limited to the extension or area for change (It is not clear but fairly self evident that this cannot be used to retrospectively ask for EIA on a longstanding site who simply want to extend and would seem to relate to any “in combination” affects).

RCT Response: It is agreed that this is a good idea (to at least have a chance to screen the development to see if there are any wider “in combination” issues)

Negative Screening Decisions

Another change is proposed where a “negative” screening decision is issued (where it is decided one is NOT required). Currently no reasons have to be given in the decision letter but reasons must be given if reasons are requested. The change proposes that reasons should always be given.

RCT Response: It is an additional administrative burden however it is not unreasonable to expect any interested party to see why the LPA has made a (any) decision.

Multi Stage Consents

In respect of "multi-stage" applications (the submission of reserved matters on one or more phases of a development) a 2008 court case held that even if the original outline consent did not require EIA, the subsequent stages may require EIA in their own right. The proposal is that where an ES was submitted at outline stage and the content at the outline stage is still robust at the subsequent phases then (although the stages of the development still needs to be screened for EIA) there is no requirement to carry out another public consultation. This is proposed to reduce the burden on applicants and the LPA.

RCT Response: While not a major factor which has been experienced in RCT, the reduction of any administrative phases of the EIA process is welcomed.

Geological Storage Directive

It is proposed to apply EIA Regulations to projects involving "carbon capture" (literally the collecting and storage of CO2 emissions from certain developments) as proposed under the Geological Storage Directive. New categories for development of this nature are proposed within Schedule 1 & 2 of the Regulations.

RCT Response: Carbon capture is normally only applicable on certain projects where the output is greater than 299MW (which is why Hirwaun Power and Pen Y Cymoedd Wind Farm applied for up to 299MW). The types of development carbon capture may apply to would be limited and there are no issues with adding these categories to the Regulations to reflect the EU Directive.

Local Development Orders

Currently Article 27 of the TCP DMPO 2012 prevents an LDO being made that would grant permission for an EIA Development. As WG wish to encourage LPAs to adopt LDOs to streamline development it is proposed to make changes to the DMPO and the EIA Regulations in order to allow LDO's to grant planning permission for Schedule 2 development subject to consideration of an ES.

RCT Response: Given the proposed Trefforest LDO this removes a potential obstacle to granting quite far reaching powers which are intended to help facilitate development on the Estate. It is considered that this should be supported.

Modification Orders

The Courts have held that a Modification Order on EIA development is a further consent for development and should also be the subject of EIA consideration. The proposal seeks to modify the Regulations to take this into account.

RCT Response: This is simply ratification of a Court decision and asks whether all such cases should be accompanied by ES to be taken into account when making the Order. There is no objection to this.

Discontinuance Orders

Similarly, changes are proposed to the serving of Discontinuance Orders. While the LPA can make a DO it needs to be confirmed by Welsh Ministers. The change involves preventing the Ministers from confirming an Order unless an ES has been prepared and any decision takes account of the ES.

RCT Response: DOs are rare. This decision (as the one above) only relates to development that has significant environmental impacts and it is reasonable

that the decision maker (the Welsh Ministers in this case) have regard to these impacts before making a decision.

4. CONCLUSION

The changes proposed will either streamline some of the more complex issue we become involved with our EIA or otherwise a related to matters that have little impact on the vast majority of what we do. As such it is recommended that the we respond in the manner outlined in the report above.