

Environmental Impact Assessment and Community Energy Projects

Screening

Screening is the first part of the EIA process and the part that most community energy projects will engage with most. The size of most community energy projects will mean that they don't require EIA but to protect the project from challenge in the courts it will be a necessary step in the planning consent process.

Screening is the process by which the LPA determines your project will need EIA. Whether a project requires EIA is set out in the Town and Country Planning (Environmental Impact Assessment)(England Only) Regulations 2011 (the EIA Regs). The EIA Regs have two schedules. Schedule 1 contains all projects that will require EIA. Schedule 2 sets out projects that may require EIA.

To understand whether your project requires EIA you need to see if it meets the thresholds set out in Schedule 2 of the EIA Regs. This can be found [here in table 3](#).

However, just because the threshold is met does not mean that EIA is necessarily required. The local planning authority (**LPA**) can determine whether EIA is required and a screening application should be made to them.

It should also be noted that if planning permission is refused by the LPA and an appeal is made, the planning inspectorate also needs to carry out its own screening process even if a negative screening opinion had been given by the LPA. This is because the planning inspectorate is a separate determining authority. The Planning Inspectorate should carry this out whilst they are validating any appeal.

Why Screen?

If your scheme is caught by the EIA Regs then it is advisable to screen for the following reasons:

1. It reduces the determination time for your scheme. It will be 8 weeks rather than 16 weeks.
2. Under regulation 22 of the EIA Regs, an LPA can formally request further information related to the scheme. The scheme determination time is automatically put on hold until this information is submitted. If it is not an EIA project then a decision as to whether to provide this information is down to the developer.
3. It changes the perception of the scheme. An EIA scheme is one that is likely to cause significant effects. If the scheme is not EIA then these effects will not be expected to arise. This should mean a different approach from case officers and councillors deciding on the application.

Information provided with a non EIA scheme

In reality the reports required to support a non-EIA scheme and an EIA scheme will not be that different. They will still require transport assessments, landscape and visual impact assessments, ecology assessments and other site and technology specific reports. What will differ is level of detail required and the approach and language used by the consultants authoring these reports. The level of detail is likely to be higher for EIA schemes because they are dealing with more sensitive issues such as a protected species or designated sites such as SSSI or National Parks. Non-EIA schemes should avoid language about significant effects and careful review of consultant's methodology is required here.

What information should be included with the Screening Application?

The criteria against which a LPA will carry out the screening is set out in schedule 3 of the EIA Regs.

Below is a table setting out what an LPA will expect to see in a screening opinion application. The application can be made with a letter and should be responded to within three weeks.

<p>Contact details of the developer</p> <ol style="list-style-type: none"> 1. The name of the company that would be delivering and/or operating the project, and any agent acting on their behalf. 2. The main postal address of the company, their main telephone number and fax number, and relevant e-mail details, and any agent acting on their behalf. 3. The name of the main contact person (or persons) at the company and their agents, and their direct postal address, telephone number, and e-mail details
<p>Characteristics of the project</p> <ol style="list-style-type: none"> 1. A brief description of the project and the reasons why it has been proposed. 2. Plans and drawings showing the boundary of the development (including any land need on a temporary basis for the construction phase of the works), and the physical form of the project (including layout, buildings and other structures, main construction materials, etc.). 3. A description of the main processes (if any) to be used during the operational life of the project (including size and capacity of any plant, rates of throughput, volumes of material input and output, etc.). 4. A description of any new access arrangements or changes to the existing road layout that may need to be made. 5. A work programme for the construction, commissioning and operational phases of the project's life, and where appropriate the restoration and after-use of the site. 6. A description of the construction methods to be used. 7. A description of the resources (e.g. materials, energy, water) needed for construction and operation of the project. 8. A description of the relationship of the project with other development (existing and planned) in the area concerned. 9. Information about the main alternatives that are being considered to the proposed project. 10. A description of any ancillary development that may be required as a consequence of the project (e.g. new roads, supplies of minerals, supplies of water or electricity, etc.). 11. A description of any other permits that the project may require (e.g. waste management licence, integrated pollution prevention and control permit, discharge or abstraction licences, etc.).

<p>Location of the project</p> <ol style="list-style-type: none"> 1. Maps, plans, drawings and photographs showing the location of the project relative to the surrounding environment (including physical, natural and built features). 2. A description of and plans showing existing and likely future land uses at the site, in the absence of the project. 3. Details of any adopted and likely future land use policies (at local and regional level) that are relevant to the proposed site. 4. A description of and plans showing the location and extent of any designated or sensitive areas or features (e.g. for landscape, ecology, water resources, flooding, etc.) that are relevant to the proposed site. 5. Details of, and maps and plans showing the location and environmental sensitivity of any alternative locations that have been considered.
<p>Characteristics of the potential impacts</p> <ol style="list-style-type: none"> 1. A brief description of the main impacts that might arise from the project in respect of the following receptors: ecology (plants and animals), air quality, climate, water, soils, landscape, material assets (buildings and infrastructure), archaeology and historic heritage, and the human population. 2. Each impact identified should be described (so far as possible) in terms of its likely extent (including whether it might cross national frontiers), magnitude and complexity, and the likelihood of it occurring, its duration (long, medium or short term), frequency (non-repeating or repeating, regular or erratic) and reversibility (temporary or permanent change), its status (direct, indirect, secondary, cumulative), and its consequence (positive or negative). 3. A brief description of the steps that would be taken to avoid or mitigate the identified impacts

Appeal to the Secretary of State

If you disagree with the decision of the LPA on a screening application you can appeal to the Secretary of State for Communities and Local Government (the SoS).

This is simply a matter of sending your application and the decision of the LPA with a covering letter to the SoS. This covering letter can set out further representations as well.

An EIA Project: Issues to consider

The scheme has either had a positive screening opinion or the developer has decided that it is an EIA scheme. This high level guide assumes that the reader has no past experience with the EIA process. EIA is a complex area of law and practice. This overview is to help your community group get a good understanding of the basics, the right approach for EIA and how to ensure the EIA for the project is robust.

Scoping

Scoping is not a legal requirement of EIA but most EIA schemes go through scoping to ensure that they capture as much information about the right issues before the application is submitted. It can also be used to scope some issues out. It is therefore advisable.

However there is expense associated with scoping and if the scheme is small with perhaps only one or two factors that have tipped it into EIA then scoping may not be necessary.

EIA as Process

The most important thing to remember about EIA is that it is a process. The EIA assessment is carried out by the LPA. The Environmental Statement (ES) is the developer's assessment of potential effects arising from the proposed project. The idea being that the relevant significant effects have been captured so that those making a decision on the application can do so on an informed basis.

An ES does not have to capture every single effect potentially created, just the salient ones. For an ES to be found defective is a high test. However, case officers for the local Planning Authority (LPA) can often be cautious in nature and if a statutory consultee has highlighted a gap in information in the ES then they will often request further environmental information before reaching a decision.

The process of feeding information back and forth and the final decision whether to grant planning permission is the EIA process.

The Scheme

It is important to know the parameters of the scheme you are putting forward. Whilst this may seem an obvious statement, there needs to be an understanding of the scheme that is reflected in the assessments that are carried out. Do you need to build flexibility into the scheme? Will it change over time? What exactly is the scheme? These parameters in full are known as the Rochdale Envelope and will set out what the assessors will assess when they author reports for the ES. By ensuring that you have clearly defined these parameters you will know that your assessors are assessing the right scheme.

A common mistake for energy projects is to leave out any assessment of the likely grid connection cable route. Whilst the consenting process for this part of the scheme is often outside of the control of the developer of the scheme the grid connection is still part of the project. Whilst the exact location of the grid connection route may still be undefined, it is still possible to make an assessment of the grid route even if it is very high level. This can be done either through a few sentences in each specific issue chapter or most commonly a specific grid route connection chapter in the ES.

The ES: These are the main things to address in the ES:

1. Are all the chapters using the right language? For example the Study Area may be different from the Site Area. Is each assessor using the language correctly? A good way to ensure this happens is to have a glossary that is given to the assessors before they start their assessment.
2. Do the results for the assessment align with the methodology proposed by the assessor? This is a rather laborious process of checking each predicted effect with the methodology provided at the beginning of the chapter by the assessor.
3. Has each chapter set out:
 - a. The methodology to be used in assessment?
 - b. The base line that the scheme will be added to i.e. what is the current status of the site?
 - c. The likely effects of the scheme?
 - d. Any mitigation to be applied?
 - e. Any residual effects?
 - f. Any cumulative effects with other similar schemes in the locality?
 - g. A conclusion?
4. Is the methodology used based on up to date guidance? Unless an the client is an expert in this area or the topic areas this is for the lead EIA contractor to advise.
5. Do the chapters follow a coherent logical order with an overall summary at the end of the ES setting out any residual effects of the project?
6. Are the plans correct in their labelling of things like local land marks? Are distances to local properties correct? These are things that local knowledge will be able to identify fairly easily
7. Do you have an expert in the group who can review a relevant chapter? Again local knowledge is important and can help ensure that references are right and provide the assessor with more detail.

Consultation

Key for any energy project is early consultation with the local community. The level of consultation carried out by most developers of energy project goes well beyond what is legally required by the EIA Regs. This bare minimum is public availability of the ES once the planning application has been submitted. However, early consultation on the scheme is advisable to try and bring the local community on board and is an absolute requirement on wind turbines above 15m.

In relation to the ES itself, it is possible to engage with statutory consultees before the ES is submitted. This may incur a cost for pre-application advice but may well be worthwhile in trying to ascertain the position of a statutory consultee if there is an aspect of the scheme which may potentially be problematic for consent. A good example of this is the effects of the project on a protected species or listed building.

And Finally

A key aspect to delivering a competent and robust EIA is a good EIA project manager. They should be doing the hard work and helping the group through what is a complex process. Ask to see their past projects, success rate and the time it takes them to get projects consented. They should be prepared to guide the group through tricky aspects whilst ensuring that the group remains informed and up to date on the progress of the application.

Independent review of the ES before it is submitted to the LPA also helps highlight errors and address potential weaknesses or lack of information in the ES.

Spending money on these aspects of the project will save time and energy later because the ES should be more robust, more focused on the right aspects for the project and contain fewer errors.