



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Developments of National Significance

Appendix 3: Environmental Impact Assessment



Appendix 3: Environmental Impact Assessment

- 3.1 Under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended) ('the 2017 Regulations'), the Welsh Ministers have the power to direct when an application is EIA development. Applicants may also decide to undertake a voluntary EIA without requesting a direction from the Welsh Ministers.
- 3.2 Applications which are 'EIA development' must be accompanied by an ES that reports on the likely impacts on the environment.
- 3.3 Even where a DNS is not EIA development, certain environmental information may still be required with the application, for example a flood risk assessment, a landscape and visual impact assessment, or information on the historic environment.

DNS Applications and EIA

Pre-Application Stage

- 3.4 An applicant intending to submit a DNS application must first notify the Inspectorate of the proposed application, this must include either a negative screening direction or a statement confirming that an ES will be provided¹. Prospective applicants are therefore encouraged to consider whether their application will require EIA at an early stage.
- 3.5 Applicants may choose to request an EIA screening or scoping direction from the Inspectorate in relation to DNS applications. There is no charge for statutory EIA screening or scoping directions.

EIA Screening

- 3.6 Advance notification by the applicant of a formal screening direction request is welcomed. A red line boundary submitted in advance would also assist the screening exercise.
- 3.7 The Inspectorate must issue a screening direction within 21 days of receiving a request, unless circumstances dictate otherwise.

Information to be provided with EIA Screening Requests

- 3.8 The minimum information that applicants must provide with a screening request for a DNS is set out in the 2017 Regulations². This includes a plan, a brief description of the nature and purpose of the development, a description of its

¹ Article 5 of the Developments of National Significance (Procedure) (Wales) Order 2016

² Regulation 31 of the 2017 Regulations.

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possible effects on the environment, and a statement that the request is made in relation to a DNS.

3.9 In dealing with the description of the development and its possible effects on the environment, applicants should:

- set out the information using the headings in Schedule 3 to the 2017 Regulations, being:
 - characteristics of the development;
 - location of the development; and
 - characteristics of the potential impacts;
- ensure that all aspects of the environment likely to be significantly affected by the development are addressed.

EIA Scoping

3.10 An applicant may request a formal scoping direction³ on the information to be included in the ES. The Inspectorate must issue a scoping direction within 5 weeks of receiving a scoping request, or such longer period as may be reasonably required.

3.11 There is no requirement for an applicant to request a scoping direction. In order to gain the most benefit from the process, applicants should request a scoping direction once there is:

- sufficient certainty about the description of the proposed development, and
- sufficient understanding of the main elements of the proposed development likely to have a significant environmental effect.

3.12 Applicants should be aware that the Inspectorate and statutory consultees will only be able to provide high level comments where multiple and varied design and layout options remain under consideration.

3.13 The scoping direction will include any consultation responses received in relation to the scoping request, comments on the scope of the ES, and comments on the methodology proposed (including suggested consultation).

Information to be provided with a scoping request

3.14 The minimum information that the applicant must provide with a scoping request is the same minimum information that must be provided with a screening request⁴.

3.15 Applicants should provide their scoping request in the form of a scoping report. This document should contain all information required by the 2017 Regulations, plus the following additional information:

³ Regulation 33 of the 2017 Regulations.

⁴ Regulation 33(2) of the 2017 Regulations.

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- an outline of the main alternatives considered and the reasons for selecting a preferred option;
- results of desktop and baseline studies where available;
- a record of consultation undertaken with relevant bodies (including any public engagement) to date;
- referenced plans presented at an appropriate scale to convey clearly the information and all known aspects associated with the proposal;
- guidance and best practice to be relied upon, and whether this has been agreed with the relevant bodies (for example the statutory nature conservation bodies or local authorities) together with copies of correspondence to support these agreements;
- methods used or proposed to be used to assess impacts and the significance criteria framework used;
- any mitigation proposed and the extent to which these are likely to reduce impacts;
- where impacts from consequential or cumulative development have been identified, how applicants intend to assess these impacts in the ES (for example, a high level assessment of the grid connection where this does not form part of the proposed development for a power station);
- an indication of any European designated nature conservation sites that are likely to be significantly affected by the proposed development and the nature of the likely significant impacts on these sites;
- key topics covered as part of applicants' scoping exercise; and
- an outline of the structure of the proposed ES.

3.16 The elements of the proposed development likely to have a significant environmental effect should also be identified. Where uncertainty remains, the applicant should provide as much detail as possible or assume the worst case.

Content of Scoping Request

3.17 Where the applicant wishes to scope out matters, justification should be provided.

3.18 The Inspectorate will determine whether matters may be scoped out, having taken into consideration the information provided in the applicant's scoping report and the comments provided by any consultees.

3.19 Applicants should note that matters are not scoped out unless specifically confirmed by the Inspectorate in the scoping direction.

3.20 The scoping direction can only respond to the information available at that time. Therefore, it will be reasonable for applicants to refine topics within the ES. This should result in a more focussed ES. To support with this, the Inspectorate can provide ongoing pre-application advice. Where necessary, the Inspectorate can issue updates to Scoping Directions.

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Requests for Additional Information

- 3.21 If sufficient information has not been provided with a screening or scoping request, the Inspectorate may request additional information⁵.
- 3.22 Where additional information is requested, the relevant statutory time periods are suspended until the additional information is received to the satisfaction of the Inspectorate.

Consultation Stage

- 3.23 Applicants should use this stage of the process to give consultees, including members of the public, an opportunity to comment on a draft ES.
- 3.24 Applicants should allow enough time to consider and respond to comments received on the draft ES, including, if necessary, undertaking additional surveys and analysis. Any adjustments or changes to the ES as a result of the consultation should be recorded in the Consultation Report.

Submission Stage

- 3.25 Where the DNS is an EIA development, the Inspectorate will have 42 days to determine whether an application is valid. During the validation stage, the Inspectorate will check the ES for adequacy.
- 3.26 To be considered valid, an application for a DNS that is EIA development must also include an adequate ES.
- 3.27 Where the Inspectorate is of the opinion that the ES should contain additional information, the applicant will be notified and must provide that additional information⁶.

Re-screening

- 3.28 Prior to submission of the DNS application, if new information becomes available that may affect whether the proposal is EIA development, or where the proposed development itself changes to an extent that may affect the screening direction, applicants should submit a new screening request.
- 3.29 Similarly, if a DNS is submitted and it is apparent that subsequent information material to the screening decision has become available, the Inspectorate will re-screen the proposed development before the application is validated.
- 3.30 If the re-screening determines that the application is EIA development, an ES will be required. Consequently, the Inspectorate will not validate the DNS application until an ES is provided by the applicant.

⁵ Regulations 7(3) and 33(4) of the 2017 Regulations for screening and scoping requests respectively.

⁶ Regulation 24(1) of the 2017 Regulations.

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Examination Stage

3.31 The ES will be considered carefully during a DNS examination. If at any stage of the process the ES is found not to be adequate the process will be suspended and further information will be requested.