



Research Briefing **The Planning Series: 10 - Environmental Impact Assessment**

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National Assembly for Wales
Research Service

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Research Briefing

The Planning Series: 10 - Environmental Impact Assessment

This quick guide gives an overview of Environmental Impact Assessment (EIA). EIA is a procedure that ensures that the environmental implications of developments are taken into account before planning decisions are made. This paper outlines what EIAs are, when they are required, screening, what happens to planning applications without an Environmental Statement, what EIAs have to include, how Environmental Statements are taken into account and the revisions to the EIA Directive.



Contents

1. What are Environmental Impact Assessments?	1
2. When is an EIA required?	1
Procedures for establishing whether or not an EIA is required	1
3. What is Screening?	2
4. What happens to planning applications without an accompanying ES?	2
5. What are the requirements for EIAs?	3
6. How is the Environmental Statement taken into account?	4
7. European Commission revision to the Directive	4
8. Key Sources	5
Welsh Government	5
Planning Aid Wales	5
Planning Portal	5
Research Service	5

1. What are Environmental Impact Assessments?

Environmental assessment is a procedure that ensures that the environmental implications of planning decisions are taken into account before the decisions are made. Environmental assessments for individual projects, such as a dam, motorway, airport or factory, are known as Environmental Impact Assessments (EIAs). EIAs assess the possible impact – positive and negative – that a proposed project may have on the environment. This information is submitted to the local planning authority or the Welsh Government in the form of an Environmental Statement (ES) in order for it to be considered alongside a planning application.

2. When is an EIA required?

An EIA must be prepared for certain types of development to comply with **EU Directive 2011/92/EU**, also known as the EIA Directive. *Directive 2011/92/EU* was amended in 2014 by **Directive 2014/52/EU** and Member States had to apply these rules from 16 May 2017 at the latest (see “European Commission revision to the Directive” section). The requirement to carry out an EIA on certain planning proposals is contained within section 71A of the *Town and Country Planning Act 1990*, and the **Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017** (the 2017 Regulations) implement the EU Directive 2014/52/EU in Wales.

Different regulations apply to projects which may require assessment under the Directive but are exempt from the town and country planning system in Wales. For example land drainage works, forestry works and marine fish farming.

In general an EIA will be needed for projects likely to have significant effects on the environment by virtue of their nature, size or location. An EIA is compulsory for major types of development listed in Schedule 1 of the 2017 Regulations (known as “Schedule 1 developments”), an overview of which is listed in the Appendix at the end of this document.

Schedule 2 indicates the other types of development for which an EIA is required when certain thresholds and criteria are met.

Changes or extensions to Schedule 1 or Schedule 2 developments which may have significant adverse effects on the environment also fall within the scope of the 2017 Regulations.

Procedures for establishing whether or not an EIA is required

The determination of whether or not an EIA is required for a particular development proposal can take place at a number of different stages:

- The developer may decide that an EIA is required and will submit an ES with the planning application;
- The developer may, before submitting any planning application, request a “screening opinion” from the local planning authority (detailed later);
- The local planning authority may determine that an EIA is required following receipt of a planning application;
- The Welsh Ministers may also determine that an EIA is required for an application that has been called in for their determination or is before them on appeal; or

- The Welsh Ministers may direct that an EIA is required at any stage prior to the granting of consent for particular development.

If the need for an EIA only arises after the planning application has been submitted, consideration of the application will be suspended pending submission of an ES.

3. What is Screening?

Determination by the local planning authority of whether a development needs an EIA is known as a “screening opinion” and can be undertaken before or after a planning application is submitted. Developers who are in doubt about whether an EIA would be required can request a screening opinion from the local planning authority prior to submission of their planning application. The request should include a plan indicating the proposed location of the development, a brief description of the nature and purpose of the proposal and its possible environmental effects, giving a broad indication of their likely scale.

On receipt of the request, the local planning authority will consider whether the proposed development is likely to have significant effects on the environment taking into account factors such as nature, size or location, and the selection criteria in Schedule 3 of the 2017 Regulations. Schedule 3 identifies three broad criteria which should be considered:

- The characteristics of the development (size, design, use of natural resources, quantities of pollution, waste generated, risk of accidents and risk to human health);
- The environmental sensitivity of the location; and
- The types and characteristics of the potential impact (magnitude and duration).

The local planning authority must adopt its screening opinion within three weeks of receiving a request. A copy of the relevant documents must be made available for public inspection for two years at the place where the planning register is kept (each local planning authority holds a planning register), or transferred to Part I of the register (Part 1: application forms, plans and supporting information) if a planning application is subsequently made for the development.

Developers may appeal to the Welsh Ministers for a “screening direction” where they disagree with a local planning authority’s decision to adopt a screening opinion that an EIA is required, or where an authority fails to adopt any opinion within the given time.

4. What happens to planning applications without an accompanying ES?

If the local planning authority receives a planning application for what appears to be a Schedule 1 or Schedule 2 development without an accompanying ES, it must first check for any screening opinion it may have adopted. If no screening opinion exists, the local planning authority must adopt “an opinion” explaining whether or not an EIA is required:

- If an EIA is **not required**, a screening opinion explaining this should be adopted and placed on Part I of the planning register with the planning application; or
- If an EIA **is required**, the local planning authority must notify the applicant, giving full reasons for its view, and a copy of the notification must then be placed on Part I of the planning register.

If an applicant wishes to continue with the application they must reply within three weeks. The reply should indicate the applicant's intention either to provide an ES or to ask the Welsh Ministers for a screening direction, in which case the local planning authority should suspend consideration of the planning application. If the applicant does not reply within three weeks, the application will be deemed to have been refused. No appeal to the Welsh Ministers against such a refusal would be possible.

5. What are the requirements for EIAs?

Where an EIA is required, the developer must compile detailed information about the likely main environmental effects of a project. Schedule 4 of the 2017 Regulations sets out the information to be included in the ES. This includes:

- a description of the development including;
 - o a description of the physical characteristics of the whole development;
 - o a description of the main characteristics of the operational phase of the development (in particular any production process);
 - o an estimate, by type and quantity, of expected residues and emissions;
- a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale);
- a description of the relevant aspects of the current state of the environment (baseline scenario);
- a description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage, including architectural and archaeological aspects, and landscape;
- a description of the likely significant effects of the development on the environment resulting from e.g. the use of natural resources, the emission of pollutants and the risks to human health;
- a description of the forecasting methods or evidence used to identify and assess the effects on the environment;
- a description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment;
- a description of the expected significant adverse effects of the development on the environment deriving from risks of major accidents and/or disasters which are relevant to the project concerned;
- a non-technical summary of the above information; and
- a reference list detailing sources used in the ES.

To help the developer, the ***Environmental Information Regulations 2004*** (S.I. 2004/3391) provide for public access to environmental information held by public authorities.

The 2004 Regulations do this in two ways:

- public authorities must make environmental information available proactively; and

- members of the public are entitled to request environmental information from public authorities.

Developers should obtain a formal opinion from the local planning authority as to what should be included in the ES (a “scoping opinion”). This allows the developer to be clear about what the local planning authority considers the main effects of the development are likely to be and, therefore, the topics which the ES should focus on.

The local planning authority must send the planning application and ES to the Welsh Ministers, and also forward the application to any consultation body which has not received a copy directly from the applicant. The ES and the planning application must be publicised and the public given the opportunity to submit their views on the application.

6. How is the Environmental Statement taken into account?

The local planning authority has sixteen weeks from the date of receipt of the ES to determine the planning application, instead of the normal eight weeks from the receipt of the planning application. The local planning authority must seek the views of the consultation bodies, which include Natural Resources Wales and the Welsh Ministers. The local planning authority or the Welsh Ministers must take account of the ES, together with any other information, comments and representations made on it, in deciding whether or not to give consent for the development. Where an ES reveals that a development would have an adverse impact on the environment it does not automatically follow that planning permission will be refused. If permission is granted, conditions may be attached that include mitigation measures that can be based on the ES.

The local planning authority must inform the public and the Welsh Ministers of the outcome of its decision-making and give the main reasons why the decision was made. If the decision has not been made after sixteen weeks, the applicant may appeal to the Welsh Ministers against non-determination.

7. European Commission revision to the Directive

Adopted twenty-five years ago, the EIA Directive has been through several revisions. The most recent amendment is the Environmental Impact Assessment (EIA) Directive (2014/52/EU) which entered into force on 15 May 2014. Member States had to apply these rules from 16 May 2017 at the latest and in Wales the *Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017* implement the Directive.

The European Commission’s amendments, negotiated and agreed by the European Parliament and Council of Ministers, aim to simplify the rules for assessing the potential effects of projects on the environment. In line with the drive for smarter regulation, it aims to reduce the administrative burden. It also aims to improve the level of environmental protection, with a view to making business decisions on public and private investments more sustainable in the longer term. The new approach pays greater attention to threats and challenges that have emerged since the original rules came into force with more attention to areas like resource efficiency, climate change and disaster prevention, which are said to be better reflected in the assessment process.

8. Key Sources

Welsh Government

The [planning section](#) of the Welsh Government's website provides information including:

- [Planning Policy 8](#)
- [Welsh Office Circular, Circular 11/99, Environmental Impact Assessment \(EIA\), 1999](#)

Key Legislation

[EU Directives 2011/92/EU](#) and [2014/52/EU](#)

[Town and Country Planning Act 1990](#)

[Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017](#)

European Commission

European Commission: [Environmental Impact Assessment](#)

Planning Aid Wales

[Planning Aid Wales](#) is a charitable organisation helping **eligible** individuals and communities to participate more effectively in the planning system. It provides advisory services, including a helpline.

Planning Portal

The [Planning Portal](#) is the UK Government's planning and building regulations resource. It includes information on the planning system in Wales, although some of the content only applies to England.

Research Service

Other planning briefings produced by the Research Service are available on our website: [Research Service](#)

Appendix - Overview of Schedule I development descriptions

The following is an overview Schedule I developments, full descriptions of developments can be found in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.

1. Crude oil refineries;
2. Thermal and nuclear power stations and other reactors;
3. Installations for the reprocessing of irradiated nuclear fuel;
4. Integrated works for the initial smelting of cast-iron and steel; and installations for the production of non-ferrous crude metals;
5. Installations for the extraction, processing and transformation of asbestos and products containing asbestos;
6. Integrated chemical installations;
7. Construction of lines for long-distance railway traffic, airports with a runway of 2,100 metres or more, motorways and express roads, a new road with four or more lanes;
8. Inland waterways and ports which permit vessels of over 1,350 tonnes; trading ports, piers and outside ports;
9. Waste disposal installations for incineration, chemical treatment, or landfill of hazardous waste;
10. Waste disposal installations for incineration, chemical treatment, or landfill of non-hazardous waste (capacity greater than 100 tonnes per day);
11. Groundwater abstraction or artificial groundwater recharge schemes;
12. Works for the transfer of water resources, other than piped drinking water, between river basins;
13. Waste water treatment plants;
14. Extraction of petroleum and natural gas for commercial purposes;
15. Dams and other installations designed for the holding back or permanent storage of water;
16. Pipelines for the transport of gas, oil, chemicals and carbon dioxide;
17. Installations for the intensive rearing of poultry or pigs;
18. Industrial plants for the production of pulp from timber or similar fibrous materials; the production of paper and board;
19. Quarries and open-cast mining; and
20. Installations for the storage of petroleum, petrochemical or chemical products;
21. Storage sites pursuant to Directive 2009/31/EC on the geological storage of carbon dioxide;

22. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to Directive 2009/31/EC.

23. Any change to or extension of development listed in this Schedule.