



The Essex Guide to Environmental Impact Assessment



EPOA
Essex Planning
Officers Association

THE ESSEX GUIDE TO ENVIRONMENTAL IMPACT ASSESSMENT

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**PRODUCED FOR THE ESSEX DEVELOPMENT CONTROL FORUM and
THE ESSEX PLANNING OFFICERS' ASSOCIATION
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This Guide was originally prepared by a Working Group of the Essex Development Control Forum. It is now reviewed and updated for the Essex Planning Officers' Association by Peter Hakes, Chartered Town Planner and Environmental Consultant. It offers good practice based on experience gained over the years by those involved with the EA process – planners, developers, environmental groups and consultants. It also draws upon other published sources of information about environmental assessment, both official and unofficial. **However, it must be emphasised that this Guide is not, and does not purport to be, an authoritative interpretation of the law. Where this is required, reference should be made to the relevant Acts, Regulations and Orders.**

THE INFORMATION IN THIS DOCUMENT WAS, AS FAR AS IS KNOWN, CORRECT ON THE DATE OF PUBLICATION. NEITHER PETER HAKES NOR, THE ESSEX PLANNING OFFICERS' ASSOCIATION CAN ACCEPT RESPONSIBILITY FOR ANY ERROR OR OMISSION.

EGEABGN

FOREWORD

In the beginning there were four local authority guides to environmental assessment. These were prepared by Cheshire County Council, Kent County Council, the Greater Manchester Metropolitan Authorities and the Essex Planning Officers' Association. Now there is only one: the Essex Guide to Environmental Impact Assessment. This guide was very good when it appeared in 1992. Since then, it has improved substantially with each update. Not only is it even better than it was but it is currently the ONLY comprehensive up-to-date guide to environmental assessment in the United Kingdom.

The Royal Town Planning Institute applauds the initiative of the Essex Planning Officers' Association in producing and updating the Guide and is delighted to be associated with this most recent edition which reflects the changes brought about by the introduction of the new environmental impact assessment regulations in March 1999. This Guide deserves to be read not just in Essex but throughout England and Wales (and indeed in Scotland and Northern Ireland despite differences in the regulatory detail). The new Essex Guide to Environmental Impact Assessment should be invaluable to local authorities, to planning consultants, to developers, to environmental consultees, to non-governmental organisations, to the public at large, to researchers and to those involved in training in environmental impact assessment.

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INTRODUCTION

This original Guide and subsequent updates were produced by a Working Group of the Essex Development Control Forum for the Essex Planning Officers' Association following extensive consultation with other bodies.

The Working Party saw Environmental Impact Assessment as having the potential for being an extremely useful tool in the development process, enabling environmentally sustainable development and good quality design. The Environmental Impact Assessment process can review alternative possibilities, encourage appropriate modifications to design and permit the opportunity for wide consultation and a more open approach to both project design and decision making. This should reduce the possibility of serious conflict between the various parties which can otherwise be very costly to both public and private interests.

In 1991 the Working Party became aware, however, of "widespread lack of familiarity with Environmental Assessment procedures among developers, consultants and planning authorities and other participants in the Environmental Assessment process and a generally perceived requirement for further training and guidance". (See Report on Monitoring Environmental Assessment and Planning, The Stationery Office, 1991).

This lack of familiarity with procedures and processes of Environmental Impact Assessment was highlighted by the fact that at the time of producing the first edition of this Guide in 1992, eight of the fourteen District Councils in Essex had had no direct experience of Environmental Impact Assessment.

The Guide therefore seeks to promote a consistent approach to Environmental Impact Assessment in Essex and help meet the need for guidance for all those involved in the development process.

It assembles in one document information from the Statutory Regulations, the relevant Government Circulars and other guidance as well as providing a local Essex context in terms of sources of information on particular local environmental and planning features of the County.

It is intended that the Guide will help to provide assistance not only to developers and their consultants, but also to planning officers and Council Members in local authorities, statutory consultees and other public bodies and the general public - and not forgetting our future professionals - students.

In May 1999 the Regulations were revised by the UK Government in accordance with a revised European Directive and this has resulted in the procedures becoming even more complex than before; thus underlining the need for this Guide. The Regulations have also increased the range of projects that require or may require EIA.

In the 1999 edition the opportunity was taken to explain more fully the relationship between EIA and the Town and Country Planning system and more was also included on the other (non-planning) EIA regimes that operate in this Country.

At the end of each of the main Chapters good practice/key points have been highlighted and information on the various elements of the environment are included topic by topic in a separate appendix.

In 2004 following staff changes at Essex County Council the Essex Planning Officers' Association (EPOA) appointed Peter Hakes, Chartered Town Planner and Environmental Consultant (previously Chair of the EIA Working Party), to keep under review and update the Guide as necessary.

The 2005 update sought to take account of those changes to the Planning system following the enactment of the Planning and Compulsory Purchase Act 2004, which had been made at the time of publication. It also included a new section on legal challenges.

The current 2007 edition takes account of further legislative changes and the publication of relevant documents, including in particular, the EIA regime as applied to the new Local Development Orders.

The author and publishers acknowledge the considerable help and advice given by colleagues from planning departments throughout Essex, statutory consultees, and other specialist bodies. The response to earlier editions of the guide has been particularly positive and encouraging.

Although more comprehensive than the original edition, it is hoped that this edition will prove to be as, or even more, user friendly. Comments on the content, layout and any other aspects will be welcomed.

It is hoped that the revised and updated Guide will be of benefit to all those involved in seeking to balance development needs against the protection of the Environment, and perhaps also encourage the voluntary use of EIA in those cases where although not statutorily required, a major proposal might still have potentially significant environmental impacts.

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This Guide was Highly Commended by the East of England Branch of the Royal Town Planning Institute in the 1999 Branch Planning Achievements Awards.

PART 1,

WHAT IS ENVIRONMENTAL IMPACT ASSESSMENT?

1.1 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Environmental Impact Assessment (EIA) is a **process** by which information about the likely environmental effects of certain projects is collected, assessed and taken into account both by the applicant, as part of project design, and by the decision making body in deciding whether permission should be granted. Thus EIA has **two roles – improving decision making and project planning**.

- 1.2 The **environmental information** used to influence these two activities comes from various sources – the applicant collects information which is presented in an **Environmental Statement** (see below). Specialist public bodies also provide information and guidance to both the applicant and the decision making body.

The **public** should also have a role in the process and can make an input at the decision making stage; and will be informed of the final decision and reasons for it.

- 1.3 The analysis of the environmental information enables an assessment to be made of possible **effects** of the project on the environment and the scope for **modifying or mitigating these effects** during project design and later before a decision is made.

- 1.4 The **4 BASIC STAGES**, therefore, are:-

- The applicant undertakes and pays for **studies investigating the environmental impacts** of the project
- The results are collated and analysed and presented in an **Environmental Statement**
- The Environmental Statement is made available for **comment by specialists** and other bodies and for **public scrutiny**
- The **determining body** takes the Environmental Statement and comments into account when making a **decision** about whether the project should go ahead.

- 1.5 This guide primarily deals with those projects which require planning permission and where the “decision making body” is the planning authority. There are projects, however, which do not require planning permission, and therefore have different decision making bodies, but which nevertheless still require Environmental Impact Assessment. These are referred to in **1.18** and **Figure 2 on page 7** ➤.

1.6 THE ENVIRONMENTAL STATEMENT (ES)

The **Environmental Statement** is a **document (or documents)** which accompanies the planning application. It is prepared by the applicant (or the applicants’ consultants) and should be presented in an understandable form for public scrutiny. Since the **ES** should be impartial, it is best for it to be carried out by an independent firm of consultants. **The Institute of Environmental Management and Assessment** (see **Appendix C** for address) can provide a list of firms accredited by that body.

- 1.7 Briefly, the **ES** should describe:-
- the proposed development, processes involved etc.,
 - the main alternatives studied and reasons for final choice,
 - the aspects of the environment likely to be affected by the development,
 - the likely impact the development will have on the environment,
 - the measures proposed to prevent, reduce or offset any adverse environmental effects (i.e. mitigating measures), and
 - proposals to monitor the actual effects if permission is granted. (Highly desirable but not a legal requirement).

The **ES** must include a **Non-Technical Summary**.

Part 9 ➤ of this Guide expands on the content, preparation and presentation of the **ES**.

- 1.8 Government **Environment Circular 02/99** (paragraph 51) strongly advises applicants to approach planning authorities and pollution control agencies at an early stage of project planning, since up-to-date information thus obtained will be invaluable in the preparation of the **ES**.

The EPOA wish to emphasise that early consultation is a vital element of the EIA process and is crucial to the production of a good quality **ES** which in turn will facilitate the decision making process.

- 1.9 **Figure 1** opposite shows how the **Environmental Statement** fits into the **Environmental Impact Assessment process**.

1.10 GLOSSARY OF TERMS

Environmental Impact Assessment (EIA) and **Environmental Statement (ES)** have already been defined (**paragraphs 1.1** and **1.6**↵).

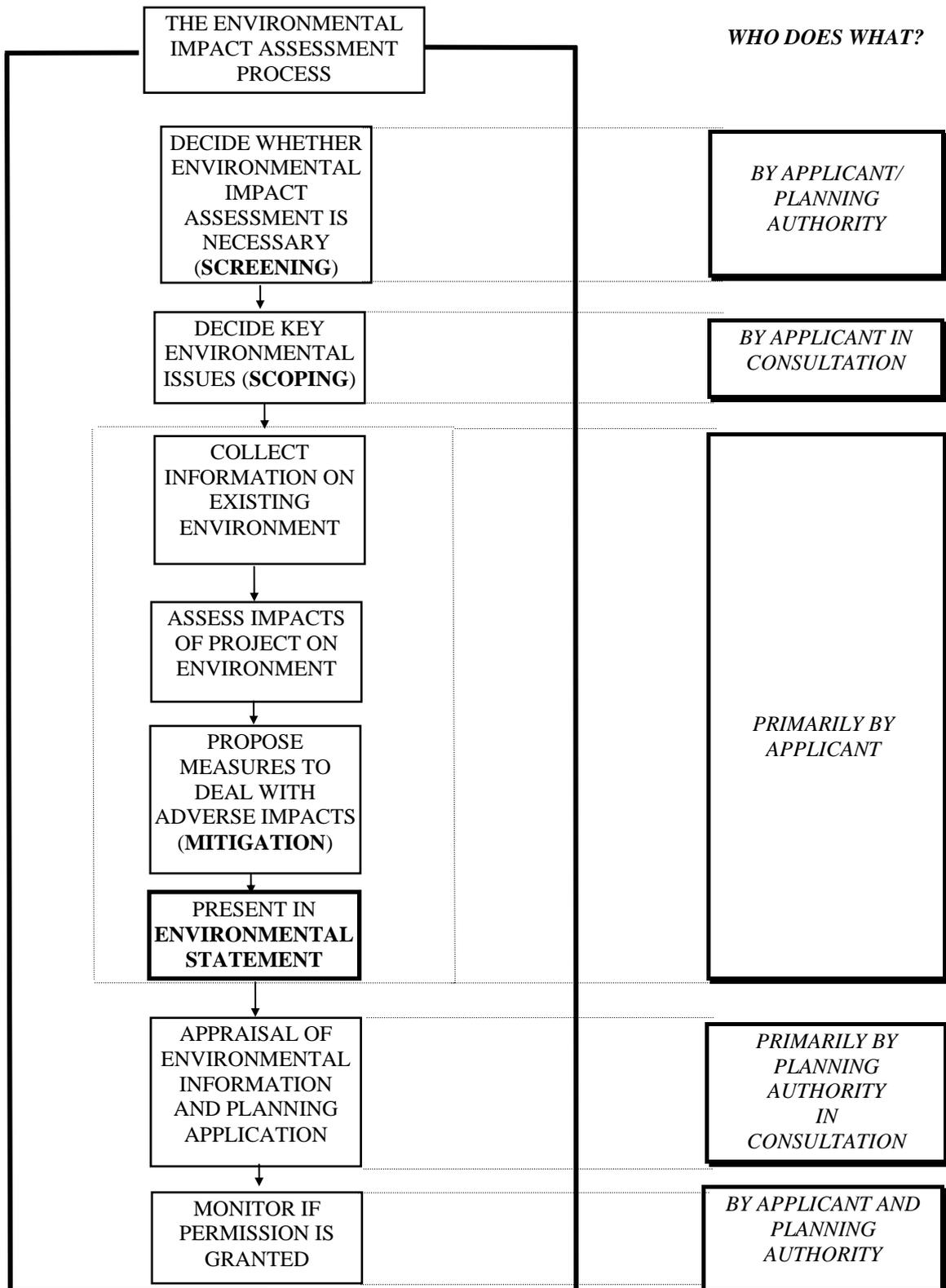
It should be noted that EIA is sometimes referred to as Environmental Assessment (EA); and an ES may in some circumstances be called an Environmental Impact Statement (EIS).

The diagram opposite highlights three further technical terms which require some explanation:-

- **Screening**; This is the process of deciding whether EIA is required for a particular project. See **PARTS 3,4,5,6 and 7** ➤
- **Scoping**; This is the process of identifying the key environmental impacts which are to be investigated in any particular case. See **PART 8** ➤
- **Mitigation**; This comprises actions, or operations, methods of management etc. which are designed to prevent, reduce or offset the adverse effects of particular impacts. See **PART 8** ➤

Note: Secretary of State is shorthand for the **Secretary of State for Communities and Local Government or, in Wales, The Welsh Ministers**.

FIGURE 1 – THE EIA PROCESS – A SIMPLE DIAGRAM



1.11 This is a **very simplified diagram** showing how the main stages of the **EIA process** are linked and which bodies are primarily responsible for these stages.

In practice the process should involve consultation with other bodies and the public etc.; it is also intended to be an iterative or cyclical process.

A more comprehensive diagram of this process can be found on **page72** in **Part 8**➤.

1.12 APPRAISAL OF THE PLANNING APPLICATION

A planning application accompanied by an **ES** is appraised in much the same way as any other planning application except that more extensive consultation with statutory and other interested bodies may be undertaken in order to establish that all the main issues have been adequately covered and to verify information contained in the **ES**. There is also a specific requirement to re-consult these bodies if further environmental information is provided to supplement the **ES**.

1.13 The period by which a planning application accompanied by an **ES** should be considered is **16 weeks** (although this can be extended by agreement), compared with 8 weeks for most planning applications and 13 weeks for a major application.

1.14 The appraisal process i.e. for considering the planning application and the **ES**, is explained from **Part 10** ➤ of this Guide, onwards.

1.15 LEGAL CONTEXT

A **Directive** of the European Community on the “**assessment of the effects of certain public and private projects on the environment**” was adopted in 1985 (85/337/EEC) and was subsequently amended by Directive 97/11/EC.

1.16 PROJECTS REQUIRING PLANNING PERMISSION

In order to implement these Directives, the UK Government has made a series of Regulations. The relevant Regulations for those projects that require planning permission, in England and Wales are the **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to 2006** (The Regulations) (SI 1999/293, 2000/2867 and 2006/3295 [for England] and 2006/3099(W.283) [for Wales]). There are separate Regulations for Scotland and Northern Ireland.

1.17 This Guide relates primarily to the EIA system as it operates in **England**. The main differences between the EIA systems applying in different parts of the UK concern the identity of the statutory and other consultees (see **paras 10.18 to 10.23** in **Part 10** ➤) The relevant regulations should be consulted for details.

It should be noted that the Regulations and thus this Guide also relate to applications under **Section 73 of the Town and Country Planning Act to vary planning conditions previously attached to planning permissions**.

1.18 OTHER PROJECTS

About 20% of those projects which require EIA do not require planning permission as such. These projects which are identified in **Figure 2** opposite involve different decision making processes and have their own EIA Regulations.

FIGURE 2 - PROJECTS NOT REQUIRING PLANNING PERMISSION FROM A LOCAL PLANNING AUTHORITY

TYPE OF PROJECT	DETERMINING BODY
Motorways, trunk roads	Secretary of State for Transport (1, 2, 3) [See Key below]
Forestry and Forestry works etc.	Forestry Commission (4)
Most overhead power lines. Power stations (including wind power) over 50 megawatts.	Secretary of State for Trade and Industry (3) Otherwise local planning authority
Long distance private oil and gas pipelines	Secretary of State for Trade and Industry
Pipelines of Public Gas Transporters	Secretary of State for Trade and Industry
Offshore Petroleum Production and Pipelines	Secretary of State for Trade and Industry
Offshore Wind Farms	Secretary of State for Trade and Industry
Improvements to Land Drainage by a drainage authority or the Environment Agency	Secretary of State for Environment, Food and Rural Affairs (3, 4, 5)
Fish Farming in marine waters	Local authorities in Scotland (4)
Harbour Works and Harbour Works below low tide level. Works for Navigational Safety. Deposits on the sea bed.	Secretary of State for Environment, Food and Rural Affairs (Marine and Fisheries Agency) (1,2,3) In NI the powers regarding Navigational Safety do not apply.
Marine Dredging for Minerals	Secretary of State for Environment Food and Rural Affairs (Marine and Fisheries Agency) (1,2,3)
Railways, tramways, inland waterways etc.	Secretary of State for Transport (1)
Use of uncultivated or semi-natural areas for intensive agricultural purposes and restructuring of rural land holdings.	Natural England (1, 3, 4)
Water Resource Projects e.g. groundwater abstraction, impounding etc.	The Environment Agency In Scotland, these require planning permission
Decommissioning of Nuclear Reactors	The Health and Safety Commission
Projects promoted by private bill	Parliament (by Standing Order)

Key: For different parts of the UK there are different determining bodies as indicated in the table, as follows:-

- | | |
|--|--|
| 1. The Welsh Ministers | 4. Department of Agriculture & Rural Development (NI) |
| 2. Department of the Environment (NI) | 5. Department of Culture, Arts & Leisure (NI re Canals) |
| 3. The Scottish Ministers | 6. Department for Regional Development (NI) |

- 1.19 Although the planning authority is not the decision making body in these cases, it is likely that it will nevertheless be an important consultee and be able to make a contribution to the formulation of the final decision. The EIA procedures for those “other projects”, although very similar in concept (and all involve the preparation of environmental statements) they do vary in detail and the individual regulations should be consulted. A list of the Regulations and of relevant explanatory documents is contained in **Appendix D**.
- 1.20 Often the time available for the planning authority to comment on these “other projects” will be very limited. Early consultation by the promoter of the project, with the planning authority, prior to formal consultation may allow any problems identified by the planning authority, to be resolved prior to the formal stage. It may also avoid the need for a planning authority to lodge a formal objection because of inadequate information etc. being available because of the very short timescales. A formal objection by the planning authority may result in a public inquiry being held; this can be costly and time consuming – but may be avoided by early consultation and discussion.
-

1.21 CROWN DEVELOPMENT

- 1.22 From 7 June 2006 the planning acts, including the EIA regime, became applicable to the Crown. In other words government departments etc. now, in general have to apply for planning permission in a similar manner to other applicants. There are some special arrangements mainly concerned with national security and defence, urgency and enforcement, together with new **permitted development rights** (see **Part 13**➤) and **use classes**. **Circular 02/2006** contains details of the particular arrangements.
-

1.23 OFFICIAL GUIDANCE

The following official guidance is produced by the **Department for Communities and Local Government (DCLG)** (see note below) and is available from the Stationery Office.

Environment Circular 02/99 “Environmental Impact Assessment”, explains the Regulations. This documents plus a booklet “*Environmental Impact Assessment, A Guide to Procedures*” have been used in the compilation of this Guide. Guidance on how the EIA regime relates to *Old Minerals Permissions* has also been issued. In addition the “*Good Practice Guide on Preparation of Environmental Statements for Planning Projects that require Environmental Assessment*” provides very useful advice.

See also *ODPM letter dated May 2004* (see paragraphs 5.21-5.24, 7.20, 10.41 and 10.51➤) and *DCLG letter dated 30 June 2006 giving interim guidance on outline planning permissions and reserved matters in relation to EIA* (see paragraphs 7.1, 7.23, 9.11, 10.40 and 11.21➤).

NOTE: The DCLG was previously The Office of the Deputy Prime Minister (ODPM) which had been part of the Department for Transport, Local Government and the Regions (DTLR). Prior to that it was the, Department of the Environment, Transport and the Regions (DETR) and before that the Department of the Environment (DOE).

A guide has also been produced to help planning authorities to deal with Environmental Information: - *“Evaluation of Environmental Information for Planning Projects: A Good Practice Guide.”*

It is recommended that those involved in the EIA process should read these documents.

In addition **Appendix D** contains a list of publications relating to EIA in general.

Publications relating to specific environmental topics are listed in **Appendix A**.

1.24 SPECIAL CASES

The regulations also deal with six special situations:

- **Old Minerals Permissions** – see **Part 12**.
- **Permitted Development, The General Permitted Development Order and Local Development Orders**. These provisions are explained in **Part 13** of this Guide.
- **Unauthorised Development and Enforcement Appeals**. **Part 14** of this Guide explains these provisions.
- **Local Authorities’ own proposals** – see **Part 15** of this Guide.
- **Simplified Planning and Enterprise Zones** are dealt with in **Part 16**.
- **Environmental Effects across National Borders** – referred to in **Part 17** of this Guide.

KEY POINTS/GOOD PRACTICE

- An **ES** is best prepared by an **independent** firm of consultants.
- **Consult planning authority** (even when the planning authority is not the decision making body), **consultation bodies, other expert bodies** and the **public** at an **early stage**.
- Check out latest **DCLG Circulars** and **“Good Practice Guides”**.

PART 2, HOW TO USE THIS GUIDE: EIA AT A GLANCE!

- Applicants/Consultants should consult with the relevant planning authority to establish, at an early stage, whether EIA is required for the project; - the **screening** process. (See 3.6 ➤ to find out which is the relevant planning authority.)

Parts 3, 4 & 5 ➤ of this Guide explain when EIA is likely to be required - the **screening** process.

Part 6 ➤ explains the **procedures prior to making a planning application**.

Part 7 ➤ explains what happens when a planning application is *not* accompanied by an ES.

- If EIA is required the applicant/consultant should define the **scope** of information required i.e. identifying the key issues – again in consultation with the planning authority and statutory consultees (see **para 10.18** etc. ➤), other bodies (**para 10.21** etc. ➤) and the public. **Scoping procedures** are explained in **Part 8** ➤.
- The EIA process can often identify problems which can be fed back to alter the design of the project at an early stage; it is an iterative or cyclical process.

Part 8 ➤ of this Guide describes the **EIA process** leading to the production of an **Environmental Statement** – including the **scoping stage**.

- Producing the **Environmental Statement** involves collecting information
 - about the project, its construction, operation, decommissioning and afteruse as appropriate and
 - baseline data about the environment as it currently exists

Planning Authorities and Statutory Consultees are required to provide **existing information** that they may hold, if so requested (but may charge for this). Many planning authorities have produced useful **Environmental Audits** or **State of the Environment Reports** and will produce **Sustainability Appraisal Reports on Local Development Documents**.

- Investigating **alternatives** i.e. processes, and sites etc., at an early stage to prevent irreversible decisions being made.
- Identifying **impacts** on the environment.
- Assessing magnitude and **significance** of the impacts on the environment.
- Investigating and proposing **mitigating** measures and **alternatives** to help overcome adverse impacts.
- As a result of the above it may be necessary to modify proposals; i.e. the preparation of the ES is an **iterative process**.

Part 9 ➤ provides advice on preparation and content of the **ES**, and also on presentation.

- Submit planning application with the **ES** – which **must** include a **non-technical summary**.

Part 10 ➤ explains the procedures involved in **dealing with a planning application accompanied by an ES**, including advice on **supporting information, publicity, reviewing the ES, planning conditions, appeals and monitoring**.

Part 11 ➤ describes the procedures when an **Appeal** or **Called-In** application is being considered by the **Secretary of State, when no ES has been submitted.**

Parts 12, 13, 14, 15, 16 and 17 ➤ deal with special cases – i.e. **Old Minerals Permissions, “Permitted Development”, Enforcement Appeals, Local Authorities’ Own Development, Simplified Planning and Enterprise Zones and Environmental effects across National Borders.**

Part 18 ➤ deals with **Failure to comply with the EIA Regulations, relevant Court Cases and Legal Challenges.**

Appendix A provides information and advice on typical environmental topics.

Appendix C contains addresses of the bodies referred to in this guide and other useful contacts.

Appendix D gives details of general useful publications. (**Appendix A** above includes details of publications relating to the typical environmental topics.)

Appendix E gives a list of abbreviations referred to in the Guide.

2.1 ADVANTAGES OF ENVIRONMENTAL IMPACT ASSESSMENT

Ideally the EIA process reviews alternative possibilities, encourages appropriate modifications to design and approach and permits the opportunity for wider consultation and a more open approach to project design and decision making. This should reduce the likelihood of serious conflict between parties which can be very costly for both private and public interests.

- 2.2 Thus if the environmental issues which are likely to be raised are identified at an early stage, within the EIA procedure, it is more likely that the proposal can be modified to take account of any objections received, thus smoothing the progress of the application and possibly obviating the need for a Public Inquiry and saving costs by avoiding the necessity to back-track at a later date. If the objections are insurmountable the project can be abandoned at an early stage when there will be least abortive cost to the applicant.

EIA thus seeks to minimise environmental damage and maximise environmental benefit.

KEY POINT

- Whether the **EIA** process actually fulfils its potential depends on **how it is carried out.**

PART 3

WHEN IS AN ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REQUIRED?

The aim of the Regulations is to ensure that **major projects** that are clearly likely to have impacts on the environment are **always** subject to EIA, and that **minor projects** and those outside sensitive areas which are extremely unlikely to have significant environmental impacts are automatically **excluded** from the EIA requirements. **To this end, projects have been included in lists, known as Schedule 1 and Schedule 2 of the Regulations.**

3.1 **EIA is required** in the following circumstances:-

■ **DEFINITELY REQUIRED – SCHEDULE 1**

Major developments of a type listed in **Schedule 1** of the Regulations always require EIA (see **pages 21 to 24** on **GREEN PAPER** in **Part 4**➤).

■ **REQUIRED IF SIGNIFICANT ENVIRONMENTAL EFFECTS ARE LIKELY – SCHEDULE 2**

- Where the proposal is identified in the first column of **Schedule 2** of the Regulations,
and
- where it meets one of the relevant criteria or exceeds one of the relevant thresholds in the **second column** of **Schedule 2** (see **pages 27 to 41** on **BLUE PAPER** in **Part 5**➤)
or
- if it is located in a specific **sensitive area** i.e.
 - Sites of Special Scientific Interest (SSSIs) (These include International Wetlands i.e. Ramsar Sites and National Nature Reserves)
 - Land subject to a Nature Conservation Order
 - Land within 2 kilometres of an SSSI, notified by English Nature to the planning authority
 - National Parks, The Broads, The New Forest Heritage Area
 - World Heritage Sites
 - Scheduled Ancient Monuments
 - Areas of Outstanding Natural Beauty
 - Potential or classified Special Protection Areas and candidate, agreed or designated Special Areas of Conservation

and

Where the planning authority considers that the proposal would have **significant environmental effects**, by virtue of such factors as **nature, size or location**; taking into account **selection criteria in Schedule 3** of the regulations – **YELLOW PAGE - page 43** in **Part 5**➤

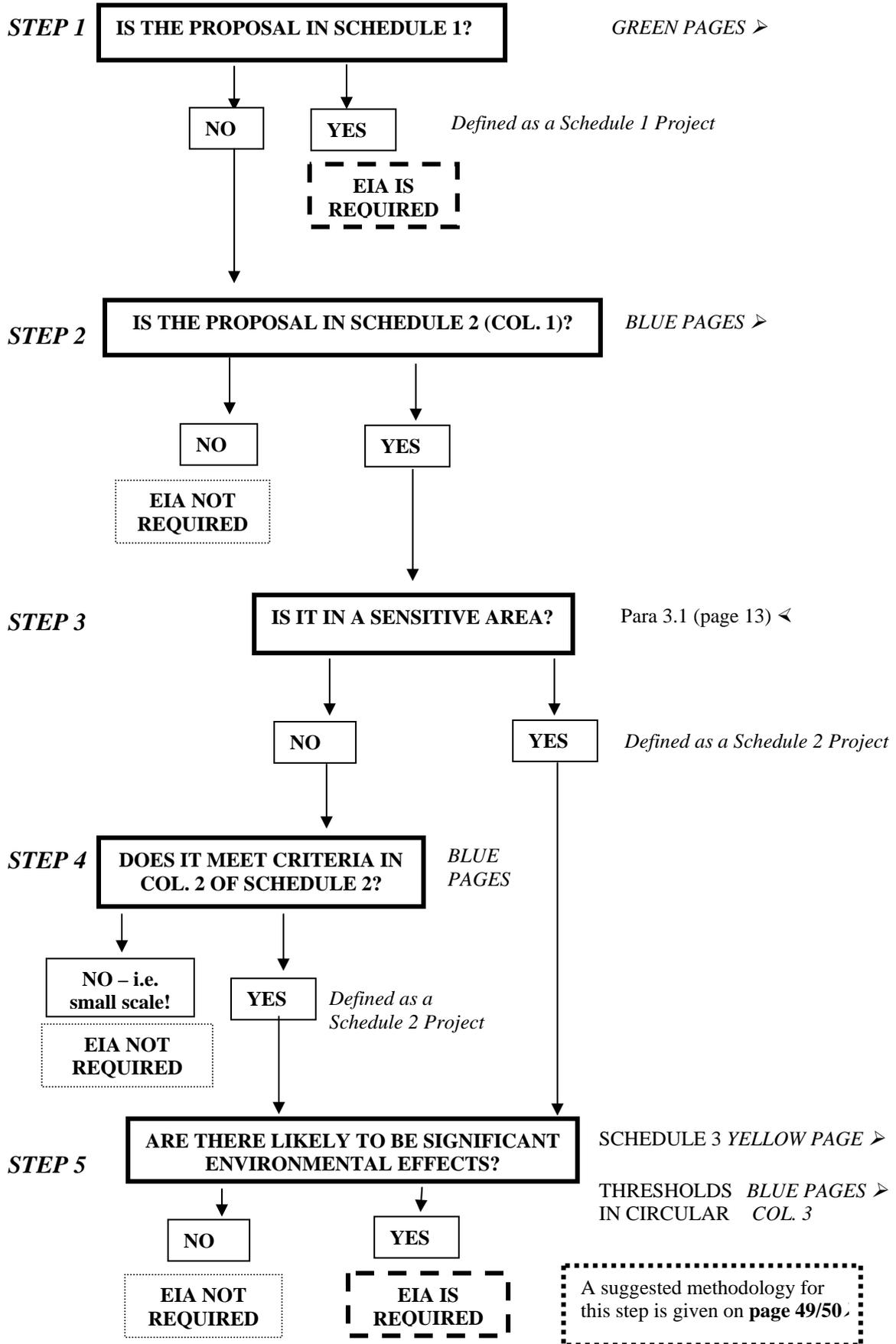
The consideration of whether EIA is required is known as the **screening process** – further amplification of the procedures is given in **Part 5**. ➤

Figure 3 on **page 14** ➤ also seeks to clarify screening in terms of a **5 STEP PROCESS**.

Note: If a project in Column 1 of Schedule 2 is not in a sensitive area, and below the criteria in Column 2 of Schedule 2 (i.e. it is small scale), then it is automatically excluded from the EIA requirements (unless exceptionally it is the subject of a Direction from the Secretary of State).

FIGURE 3 – WHEN IS EIA REQUIRED? : SCREENING PROCESS

THE FIVE STEPS:



- 3.2 Thus **EIA** will be required if:-
- the planning authority has **adopted a Screening Opinion** that EIA is required i.e. having gone through the 5 step procedure. - see **6.11**➤ onwards.
 - But **EIA** will also be required if the applicant or appellant **voluntarily submits** an Environmental Statement and expressly states that it is an ES for the purpose of the regulations.
- But a **Direction** by the **Secretary of State** can ultimately determine whether or not **EIA** is required. – see **6.28**➤ onwards.
- 3.3 It should be noted that the Secretary of State has the power to direct that particular proposed development is **exempt** from the Regulations. This can include development serving **national defence** purposes. The local planning authority will be sent a copy of the **Direction**. For **non-national defence Directions** there are provisions to ensure the public are made aware of the Direction and reasons, and also for the Secretary of State to consider whether another form of assessment would be appropriate and to bring the information obtained, to the attention of the public.
- 3.4 In order to ascertain whether EIA is required the applicant should consult the appropriate planning authority see **3.6**∇. This can be done either formally, under the Regulations, by seeking a **Screening Opinion** (see **6.11** etc. in **Part 6**➤), or informally (see **paragraph 6.6** etc.➤).

3.5 WHEN CAN THE NEED FOR EIA BE ESTABLISHED?

- the applicant may decide that EIA is required and **voluntarily** submit an Environmental Statement with the planning application (see **10.4**)➤
- the prospective applicant may, before submitting a planning application, request a formal **Screening Opinion** in writing from the planning authority on the need for EIA (see **6.11**.)➤
- the **planning authority** may adopt a **Screening Opinion** on the need for EIA following **receipt of a planning application** (see **7.1** etc.)➤
- the **Secretary of State** may make a **Screening Direction** on the need for EIA for an application that has been **called-in** for decision; or is under **appeal** (see **Part 11**)➤
- the **Secretary of State** may make a **Screening Direction** on the need for EIA at any stage prior to permission being granted, irrespective of a request being received for a direction.

3.6 WHICH IS THE APPROPRIATE PLANNING AUTHORITY?

In Essex where the proposal involves development by the **County Council** for its **own development** (see **Part 15** of this Guide➤); or **Mineral Extraction or Waste Disposal** (i.e. known as County Matters), the Essex County Council is the planning authority. (**Appendix B** provides some further clarification of “County Matters”). For all other proposals, including District/Borough Councils’ own development (again see **Part 15**➤), the District/Borough Council is the planning authority.

- 3.7 It should be noted that where a planning application is made on a previously operated minerals or waste site and the proposal conflicts with an existing restoration or aftercare condition, then two applications would need to be submitted—one to the District Council for the new use and one to the County Council to amend the approved restoration or aftercare condition.

Addresses and telephone numbers of the **Essex Planning Authorities** are given on **page 19**.>

- 3.8 The two tier local government system referred to above generally applies outside metropolitan areas and London. Within metropolitan and other unitary areas (such as Thurrock and Southend-on-Sea) and London, the planning authority for **all** developments is generally the relevant Council for that area.

Note: The Greater London Authority Bill when enacted will give the Mayor of London new powers to determine **planning applications of potential strategic importance**. It will come into force either in October 2007 or April 2008, depending on the Parliamentary progress of the Bill.

- 3.9 In some areas an Urban Development Corporation could be the relevant planning authority. An example is the Thurrock Thames Gateway Development Corporation. The Olympic Delivery Authority has also recently been set up to facilitate development required for the Olympic Games which are to be staged primarily in east London.
- 3.10 In national parks from April 1997 the National Park Authority is the planning authority. The Broads area (in parts of Norfolk and Suffolk) is treated as a separate District Planning Authority within the two tier system.

FIGURE 4 – MAP SHOWING PLANNING AUTHORITIES IN ESSEX



ESSEX

Head of Development Control
Essex County Council
County Hall
CHELMSFORD
Essex CM1 1QH
Tel: 0845 6037624
Fax: 01245 493474
www.essexcc.gov.uk

BASILDON

Manager of Planning Services
Basildon District Council
The Basildon Centre
St Martin's Square
BASILDON
SS14 1DL
Tel: 01268 533333
Fax: 01268 294350
www.basildon.gov.uk

BRAINTREE

Director of Environment and
Planning
Braintree District Council
Causeway House
Bocking End
BRAINTREE CM7 6HB
Tel: 01376 552525
Fax: 01376 552626
www.braintree.gov.uk

BRENTWOOD

Chief Planning Officer
Brentwood Borough Council
Town Hall, Ingrave Road
BRENTWOOD
CM15 8AY
Tel: 01277 312500
Fax: 01277 312743
www.brentwood.gov.uk

CASTLE POINT

Director of Environment
Castle Point Borough Council
Council Offices
Kiln Road
Thundersley
BENFLEET
SS7 1TF
Tel: 01268 882200
Fax: 01268 882455
www.castlepoint.gov.uk

CHELMSFORD

Director of Planning and Building
Control
Chelmsford Borough Council
Civic Centre
CHELMSFORD
CM1 1JE
Tel: 01245 606606
Fax: 01245 606693
www.chelmsford.gov.uk

COLCHESTER

Head of Planning, Protection and
Licensing
Colchester Borough Council
PO Box 889
Town Hall
COLCHESTER
CO1 1FR
Tel: 01206 282222
Fax: 01206 282598
www.colchester.gov.uk

EPPING FOREST

Head of Planning Services
Epping Forest District Council
Civic Offices, High Street
EPPING
CM16 4BZ
Tel: 01992 564000
Fax: 01992 564229
www.eppingforestdc.gov.uk

HARLOW

Planning Services
Harlow District Council
Civic Centre
The Water Gardens
The High
HARLOW CM20 1WG
Tel: 01279 446034
Fax: 01279 446639
www.harlow.gov.uk

MALDON

Director of Planning Services
Maldon District Council
Council Offices
Princes Road
MALDON
CM9 7DL
Tel: 01621 854477
Fax: 01621 852575
www.maldon.gov.uk

ROCHFORD

Head of Planning and
Transportation
Rochford District Council
Council Offices
South Street
ROCHFORD SS4 1BW
Tel: 01702 546366
Fax: 01702 318181
www.rochford.gov.uk

TENDRING

Head of Planning and Regeneration
Tendring District Council
Council Offices
Weeley
CLACTON ON SEA CO16 9AJ
Tel: 01255 686161
Fax: 01255 256122
www.tendringdc.gov.uk

UTTLESFORD

Director of Planning
Uttlesford District Council
Council Offices
High Street
DUNMOW
CM6 1AN
Tel: 01799 510510
Fax: 01799 510550
www.uttlesford.gov.uk

**AUTHORITIES OUTSIDE
ESSEX (SINCE 1998)****SOUTHEND ON SEA**

Technical & Environmental
Services Department
PO Box 5557 Civic Centre
Victoria Avenue
SOUTHEND ON SEA SS2 6ZF
Tel: 01702 215000
Fax: 01702 339607
www.southend.gov.uk

THURROCK

Chief Planning Officer
Thurrock Borough Council
Civic Offices
New Road
GRAYS THURROCK RM17 6SL
Tel: 01375 652652
Fax: 01375 652359
www.thurrock.gov.uk

See also

**THURROCK THAMES
GATEWAY DEVELOPMENT
CORPORATION**

Gateway House
Stonehouse Lane
PURFLEET RM19 1NX
Tel: 01708 895400
Fax: 01708 895447
www.thurrocktgudc.org.uk

PART 4, SCHEDULE 1 OF THE EIA REGULATIONS

4.1 MANDATORY ENVIRONMENTAL ASSESSMENT SCHEDULE 1 PROJECTS

Schedule 1 of the Regulations (reproduced next) contains a list of types of project which **require EIA in every case**.

SCHEDULE 1

DESCRIPTION OF DEVELOPMENT

The carrying out of development to provide any of the following:-

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2.
 - (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and
 - (b) Nuclear power stations and other nuclear reactors*¹ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3.
 - (a) Installations for the reprocessing of irradiated nuclear fuel.
 - (b) Installations designed –
 - (i) for the production or enrichment of nuclear fuel,
 - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste,
 - (iii) for the final disposal of irradiated nuclear fuel,
 - (iv) solely for the final disposal of radioactive waste,
 - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

Note 1 Nuclear power stations and other nuclear reactors cease to be such installations when all nuclear fuel and other radioactive contaminated materials have been removed permanently from the site and development for the purpose of dismantling or decommissioning such an installation shall not be treated as development of the description in 2(b) of the Schedule (see separate EIA Regulations).

4.
 - (a) Integrated works for the initial smelting of cast-iron and steel;
 - (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos –
 - (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;
 - (b) for friction material, with an annual production of more than 50 tonnes of finished products; and
 - (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are –
 - (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.
7.
 - (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;
 - (b) Construction of motorways and express roads;
 - (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.

8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes;
- (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Council Directive 75/442/EEC under heading D9), or landfill of hazardous waste (that is to say, waste to which Council Directive 91/689/EEC applies).^{*1 and 2}
10. Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Council Directive 75/442/EEC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
12. (a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year;
- (b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.
13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Council Directive 91/271/EEC.
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

Note 1 The EIA Regulations amend the Town and Country Planning (Use Classes) Order 1987 by adding the following types of development which are specifically excluded from any Use Class; i.e.:- Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Directive 75/442 EEC under heading D9), or landfill of waste to which Directive 91/689 EEC applies.

Note 2 See Good Practice Guide to PPS 10, Paragraph 8.34, for clarification.

- 16.** Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimetres and a length of more than 40 kilometres.
- 17.** Installations for the intensive rearing of poultry or pigs with more than –
 - (a) 85,000 places for broilers or 60,000 places for hens;
 - (b) 3,000 places for production pigs (over 30 kg); or
 - (c) 900 places for sows.
- 18.** Industrial plants for –
 - (a) the production of pulp from timber or similar fibrous materials;
 - (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
- 19.** Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.
- 20.** Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.
- 21.** Any change to or extension of development listed in this Schedule where such a change or alteration itself meets the thresholds, if any, or description of development set out in this Schedule.

PART 5, SCHEDULES 2 AND 3 OF THE REGULATIONS/ SIGNIFICANT ENVIRONMENTAL EFFECTS

5.1 EIA REQUIRED IF SIGNIFICANT ENVIRONMENTAL EFFECTS ARE LIKELY – SCHEDULE 2 – SCREENING

Schedule 2 of the Regulations (reproduced on *BLUE PAPER*; in the first two columns from the left) contains,

- in the **first column a list of descriptions of development.**
- In the **second column, a list of applicable thresholds and criteria for the purpose of classifying development as a Schedule 2 development.**

5.2 If a **project described in Column 1** meets one of the relevant **criteria or exceeds one of the relevant thresholds in Column 2** **or** if a **project in Column 1** is located wholly or partly in a **sensitive area** (identified in para 3.1 of this Guide◀) then it is defined as a **Schedule 2 development.**

Note: If a **project in Column 1** does not meet the relevant **criteria or exceeds the relevant threshold in Column 2** and is not located in a **sensitive area**, then it is not a **Schedule 2 development** and it is not necessary to consider the issue of whether significant environmental effects are likely. (Unless, exceptionally, the Secretary of State has Directed otherwise.)

5.3 The next stage is to establish whether **EIA** is required for the particular **Schedule 2 development.** This requires a consideration of whether the project is **likely to cause significant environmental effects**, because of such factors as:

- **nature of the project;**
- **its size; and**
- **its location.**

(Paras 5.11 to 5.13 ➤provide further advice on **locational criteria**).

5.4 In order to determine whether **significant environmental effects** are likely, planning authorities should take account of **Schedule 3** to the Regulations (reproduced on page 43 *YELLOW PAGE* ➤), which sets out selection criteria.

Schedule 3 identifies 3 broad criteria:

- **characteristics of the development** – size, use of natural resources, pollution and waste generation etc.
- **environmental sensitivity of location**
- **characteristics of potential impact** – magnitude and duration etc.

5.5 INDICATIVE CRITERIA AND THRESHOLDS

A simple universal test of 'likely significant environmental effects' is not possible to provide, because of the range of types of project and the unique nature of each location.

- 5.6 However, the Government has provided some broad **indicative criteria** and **thresholds** in terms of type or scale of development, which indicate the types of case which, in the Secretary of State's view, EIA is more likely to be required.

Annex A, to **Environment Circular 02/99** lists these **criteria and/or thresholds** and these are reproduced (in italics) in the **third column of the table on pages 27 to 41 (BLUE PAGES)** of this Guide. ➤

- 5.7 The **Circular** advises that it should not be presumed that development falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive area. Equally, development which exceeds the thresholds will not in every case require assessment.

The fundamental question is whether that particular type of development and its specific impacts are likely, in that particular location, to result in significant effects on the environment .
--

5.8 SIGNIFICANT ENVIRONMENTAL EFFECTS

The assessment of the extent to which a project is likely to have significant environmental effects is further amplified on **page 43 (YELLOW PAGE)** and onwards. ➤

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

KEY POINTS:

AREA OF THE WORKS – Includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation.

FLOOR SPACE - means the floorspace in a building or buildings.

CONTROLLED WATERS – has the same meaning as in the Water Resources Act 1991.

This table sets out the descriptions of development and applicable thresholds and criteria for the purpose of classifying development as Schedule 2 development.

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
--	--

The carrying out of development to provide any of the following:

1. Agriculture and aquaculture

(a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;	The area of the development exceeds 0.5 hectare.
(b) Water management projects for agriculture, including irrigation and land drainage projects;	The area of the works exceeds 1 hectare.

**EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**

This column sets out criteria and thresholds for identifying whether Schedule 2 developments are likely to require EIA – i.e. significant environmental effects.

The criteria and thresholds are only indicative. In determining whether significant effects are likely, the location of a development is of crucial importance. The more environmentally-sensitive the location, the lower will be the threshold at which significant effects will be likely. (See pages 46 and 48 for guidance on environmentally sensitive locations.)

Agricultural development

In general, agricultural operations fall outside the scope of the Town and Country Planning system and, where relevant, will be regulated under other consent procedures. The descriptions below apply only to projects that are considered to be 'development' for the purposes of the Town and Country Planning Act 1990.

Use of uncultivated land or semi-natural land for intensive agricultural purposes

Development (such as greenhouses, farm buildings etc.) on previously uncultivated land is unlikely to require EIA unless it covers more than 5 hectares. In considering whether particular development is likely to have significant effects, consideration should be given to impacts on the surrounding ecology, hydrology and landscape.

Water management for agriculture, including irrigation and land drainage works

EIA is more likely to be required if the development would result in permanent changes to the character of more than 5 hectares of land. In assessing the significance of any likely effects, particular regard should be had to whether the development would have damaging wider impacts on hydrology and surrounding ecosystems. It follows that EIA will not normally be required for routine water management projects undertaken by farmers.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
--	--

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**1. Agriculture and Aquaculture Continued**

(c) Intensive livestock installations (unless included in Schedule 1);	The area of new floor space exceeds 500 square metres.	<p>Intensive livestock installations</p> <p><i>The significance or otherwise of the impacts of intensive livestock installations will often depend upon the level of odours, increased traffic and the arrangements for waste handling. EIA is more likely to be required for intensive livestock installations if they are designed to house more than 750 sows, 2,000 fattening pigs, 60,000 broilers or 50,000 layers, turkeys or other poultry.</i></p>
(d) Intensive fish farming;	The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.	<p>Intensive fish farming (freshwater)</p> <p><i>Apart from the physical scale of any development, the likelihood of significant effects will generally depend on the extent of any likely wider impacts on the hydrology and ecology of the surrounding area. Developments designed to produce more than 100 tonnes (dead weight) of fish per year will be more likely to require EIA.</i></p>
(e) Reclamation of land from the sea	All development.	<p>Reclamation of land from the sea</p> <p><i>In assessing the significance of any development, regard should be had to the likely wider impacts on natural coastal processes beyond the site itself, as well as to the scale of reclamation works themselves. EIA is more likely to be required where work is proposed on a site which exceeds 1 hectare.</i></p>

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
--	--

2. Extractive industry

(a)	Quarries, open-cast mining and peat extraction (unless included in Schedule 1);	All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres.
(b)	Underground mining;	
(c)	Extraction of minerals by fluvial dredging;	All development.
(d)	Deep drillings, in particular – (i) geothermal drilling; (ii) drilling for the storage of nuclear waste material; (iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil.	(i) In relation to any type of drilling, the area of the works exceeds 1 hectare; or (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material the drilling is within 100 metres of any controlled waters.
(e)	Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.	The area of the development exceeds 0.5 hectare.

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**Extractive industry****Surface and underground mineral working**

The likelihood of significant effects will tend to depend on the scale and duration of the works, and the likely consequent impact of noise, dust, discharges to water and visual intrusion. All new open cast mines and underground mines will generally require EIA. For clay, sand and gravel workings, quarries and peat extraction sites, EIA is more likely to be required if they would cover more than 15 hectares or involve the extraction of more than 30,000 tonnes of mineral per year.

Applicants should consult the relevant **Minerals Local Plan or Development Document. In Essex Check with Essex CC, Southend BC or Thurrock Council.**

Extraction of minerals by dredging in fluvial waters

Particular consideration should be given to noise, and any wider impacts on the surrounding hydrology and ecology. EIA is more likely to be required where it is expected that more than 100,000 tonnes of mineral will be extracted per year.

Deep drilling

EIA is more likely to be required where the scale of the drilling operations involves development of a surface site of more than 5 hectares. Regard should be had to the likely wider impacts on surrounding hydrology and ecology. On its own, exploratory deep drilling is unlikely to require EIA. It would not be appropriate to require EIA for exploratory activity simply because it might eventually lead to some form of permanent activity.

Surface industrial installations for the extraction of coal, petroleum, natural gas, ores, or bituminous shale

*The main considerations are likely to be the scale of development, emissions to air, discharges to water, the risk of accident and the arrangements for transporting the fuel. EIA is more likely to be required if the development is on a major scale (site of 10 hectares or more) or where production is expected to be substantial (e.g. more than 100,000 tonnes of petroleum per year).
See MPS 1 and Guidance*

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
3. Energy industry	
(a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(b) Industrial installations for carrying gas, steam and hot water;	The area of the works exceeds 1 hectare.
(c) Surface storage of natural gas;	(i) The area of any new building, deposit or structure exceeds 500 square metres; or (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled surface waters.
(d) Underground storage of combustible gases;	
(e) Surface storage of fossil fuels;	
(f) Industrial briquetting of coal and lignite;	(i) The area of new floor space exceeds 1,000 square metres.
(g) Installations for the processing and storage of radioactive waste (unless included in Schedule 1);	(i) The area of new floorspace exceeds 1,000 square metres; or (ii) the installation resulting from the development will require authorisation under the Radioactive Substances Act 1993.
(h) Installations for hydroelectric energy production;	The installation is designed to produce more than 0.5 megawatts.
(i) Installations for the harnessing of wind power for energy productions (wind farms).	(i) The development involves the installation of more than 2 turbines; or (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**Energy industry****Power stations**

EIA will normally be required for power stations which require approval from the Secretary of State at the Department of Trade and Industry (i.e. those with a thermal output of more than 50 MW). EIA is unlikely to be required for smaller new conventional power stations. Small stations using novel forms of generation should be considered carefully in line with the guidance in PPS22 (Renewable Energy). The main considerations are likely to be the level of emissions to air, arrangements for the transport of fuel and any visual impact.

Surface storage of fossil fuel and natural gas, underground storage of combustible gases, storage facilities for petroleum, petrochemical and chemical products

In addition to the scale of the development, significant effects are likely to depend on discharges to water, emissions to air and risk of accidents. EIA is more likely to be required where it is proposed to store more than 100,000 tonnes of fuel. Smaller installations are unlikely to require EIA unless hazardous chemicals are stored.

See para. 4.8 of Annex 4 of MPS 1 re Underground Storage of Natural Gas

See para. 3.26 to 3.28 of Annex 4 of MPS 1 re. Underground Coal Gasification proposals.

Installations for the processing and storage of radioactive waste

EIA will normally be required for new installations whose primary purpose is to process and store radioactive waste, and which are located on sites not previously authorised for such use. In addition to the scale of any development, significant effects are likely to depend on the extent of routine discharges of radiation to the environment. In this context EIA is unlikely to be required for installations where the processing or storage of radioactive waste is incidental to the main purpose of the development (e.g. installations at hospitals or research facilities).

Installations for hydroelectric energy production

In addition to the physical scale of the development, particular regard should be had to the potential wider impacts on hydrology and ecology. EIA is likely to be required for new hydroelectric developments which have more than 5 MW of generating capacity.

Wind farms

The likelihood of significant effects will generally depend upon the scale of the development, and its visual impact, as well as potential noise impacts. EIA is more likely to be required for commercial developments of 5 or more turbines, or more than 5 MW of new generating capacity.

See also PPS 22 on Renewable Energy.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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4. Production and processing of metals

<p>(a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;</p> <p>(b) Installations for the processing of ferrous metals –</p> <p style="padding-left: 20px;">(i) hot-rolling mills;</p> <p style="padding-left: 20px;">(ii) smitheries with hammers;</p> <p style="padding-left: 20px;">(iii) application of protective fused metal coats.</p> <p>(c) Ferrous metal foundries;</p> <p>(d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);</p> <p>(e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;</p> <p>(f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;</p> <p>(g) Shipyards;</p> <p>(h) Installations for the construction and repair of aircraft;</p> <p>(i) Manufacture of railway equipment;</p> <p>(j) Swaging by explosives;</p> <p>(k) Installations for the roasting and sintering of metallic ores.</p>	<p>The area of new floor space exceeds 1,000 square metres.</p>
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EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**Industrial and manufacturing development**

New manufacturing or industrial plants of the types listed in the Regulations, may well require EIA if the operational development covers a site of more than 10 hectares. Smaller developments are more likely to require EIA if they are expected to give rise to significant discharges of waste, emission of pollutants or operational noise. Among the factors to be taken into account in assessing the significance of such effects are:

whether the development involves a process designated as a 'scheduled process' for the purpose of air pollution control;

whether the process involves discharges to water which require the consent of the Environment Agency;

whether the installation would give rise to the presence of environmentally significant quantities of potentially hazardous or polluting substances;

whether the process would give rise to radioactive or other hazardous waste;

whether the development would fall under Council Directive 96/82/EC on the control of major accidents hazards involving dangerous substances (COMAH).

However, the need for a consent under other legislation is not itself a justification for EIA.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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5. Mineral industry

(a) Coke ovens (dry coal distillation);	The area of new floor space exceeds 1,000 square metres.
(b) Installations for the manufacture of cement;	
(c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1);	
(d) Installations for the manufacture of glass including glass fibre;	
(e) Installations for smelting mineral substances including the production of mineral fibres;	
(f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.	

See page 31

6. Chemical industry (unless included in Schedule 1)

(a) Treatment of intermediate products and productions of chemicals;	The area of the new floor space exceeds 1,000 square metres.
(b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;	
(c) Storage facilities for petroleum, petrochemical and chemical products.	(i) The area of any new building or structure exceeds 0.05 hectare; or (ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.

See page 31

*EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS*

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS	
Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
7. Food industry	
(a) Manufacture of vegetable and animal oils and fats; (b) Packing and canning of animal and vegetable products; (c) Manufacture of dairy products; (d) Brewing and malting; (e) Confectionery and syrup manufacture; (f) Installations for the slaughter of animals; (g) Industrial starch manufacturing installations; (h) Fish-meal and fish-oil factories; (i) Sugar factories.	The area of the new floor space exceeds 1,000 square metres.
8. Textile, leather, wood and paper industries	
(a) Industrial plants for the production of paper and board (unless included in Schedule 1); (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles; (c) Plants for the tanning of hides and skins; (d) Cellulose-processing and production installations.	The area of the new floor space exceeds 1,000 square metres.
9. Rubber industry	
Manufacture and treatment of elastomer-based products.	The area of the new floor space exceeds 1,000 square metres.

*EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS*

See previous page 31

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EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS	
Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
10. Infrastructure projects	
(a) Industrial estate development projects;	<p>The area of the development exceeds 0.5 hectare.</p>
(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;	
(c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);	

*EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS*

Infrastructure developments

Infrastructure should be interpreted- widely; see para 5.22 regarding a court case.

Industrial estates

EIA is more likely to be required if the site area of the new development is more than 20 hectares. In determining whether significant effects are likely, particular consideration should be given to the potential increase in traffic, emissions, and noise.

Urban development projects (including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas)

In addition to the physical scale of such developments, particular consideration should be given to the potential increase in traffic, emissions, and noise. EIA is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature or there is a high level of contamination.

Developments proposed for sites which have not previously been intensively developed are more likely to require EIA if

the site area of the scheme is more than 5 hectares; or

they would provide a total of more than 10,000m² of new commercial floorspace; or

the development would have significant urbanising effects in a previously non-urbanised area (e.g. a new development of more than 1,000 dwellings).

Intermodal transshipment facilities, and intermodal terminals

In addition to the physical scale of the development, particular impacts for consideration are increased traffic, noise, emissions to air and water. Developments of more than 5 hectares are more likely to require EIA.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**10. Infrastructure Projects Continued**

(d)	Construction of railways (unless included in Schedule 1);	The area of the works exceeds 1 hectare.	(1) Construction of roads, railways (including elevated and underground), tramways <i>For linear transport schemes, the likelihood of significant effects will generally depend on the estimated emissions, traffic, noise and vibration and degree of visual intrusion and impact on the surrounding ecology. EIA is more likely to be required for new development over 2 km in length.</i>
(e)	Construction of airfields (unless included in Schedule 1);	(i) The development involves an extension to a runway; or (ii) the area of the works exceeds 1 hectare.	Construction of airfields <i>The main impacts to be considered in judging significance are noise, traffic generation and emissions. New permanent airfields will normally require EIA, as will major works (such as new runways or terminals with a site area of more than 10 hectares) at existing airports. Smaller scale development at existing airports is unlikely to require EIA unless it would lead to significant increases in air or road traffic.</i>
(f)	Construction of roads (unless included in Schedule 1);	The area of the works exceeds 1 hectare.	<i>See (1) above and (2) below.</i>
(g)	Construction of harbours and port installations including fishing harbours (unless included in Schedule 1);	The area of the works exceeds 1 hectare.	Construction of harbours and port installations, including fishing harbours <i>Primary impacts for consideration are those on hydrology, ecology, noise and increased traffic. EIA is more likely to be required if the development is on a major scale (e.g. would cover a site of more than 10 hectares). Smaller developments may also have significant effects where they include a quay or pier which would extend beyond the high water mark or would affect wider coastal processes.</i>

(2)
Section 55(2) of the Town and Country Planning Act 1990 excludes certain operations and uses from 'development'. This includes "the carrying on land within the boundaries of a road by a local highway authority of any works required for the maintenance or improvement of the road".

The EIA Regulations add: "but in the case of such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment.

Class A of Part 13 in Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, lists matters which would normally be permitted development.

The EIA Regulations amend this to:-

"A. The carrying out by a local highway authority –

(a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2), (b) of the Act; or

(b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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10. Infrastructure Projects Continued

<p>(h) Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works;</p> <p>(i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1);</p> <p>(j) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;</p>	<p>The area of the works exceeds 1 hectare.</p>
<p>(k) Oil and gas pipeline installations (unless included in Schedule 1);</p> <p>(l) Installation of long-distance aqueducts;</p>	<p>(i) The area of the works exceeds 1 hectare; or</p> <p>(ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.</p>

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**Construction of inland waterways and canalisation**

The likelihood of significant impacts is likely to depend primarily on the potential wider impacts on the surrounding hydrology and ecology. EIA is more likely to be required for development of over 2 km of canal.

Flood relief works

The impact of flood relief works is especially dependent upon the nature of the location and the potential effects on the surrounding ecology and hydrology. Schemes for which the area of the proposed works would exceed 5 hectares or more than 2km in length would normally require EIA.

Dams and other installations designed to hold water or store it on a long-term basis

In considering such developments, particular regard should be had to the potential wider impacts to the hydrology and ecology, as well as to the physical scale of the development. EIA is likely to be required for any major new dam (e.g. where the construction site exceeds 20 hectares).

See (1) above (Page 35)..

Installation of oil pipelines, gas pipelines and long-distance aqueducts (including water and sewerage pipelines)

For underground pipelines, the major impact to be considered will generally be the disruption to the surrounding ecosystems during construction, while for overground pipelines visual impact will be a key consideration. EIA is more likely to be required for any pipeline over 5 km long. EIA is very unlikely to be required for pipelines laid underneath a road, or for those installed entirely by means of tunnelling.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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10. Infrastructure Projects Continued

(m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;	All development.
(n) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 1;	} The area of the works exceeds 1 hectare.
(o) Works for the transfer of water resources between river basins not included in Schedule 1;	
(p) Motorway service areas.	The area of the development exceeds 0.5 hectare.

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS***Coastal works to combat erosion and maritime works capable of altering the coast***

The impact of such works will depend largely on the nature of the particular site and the likely wider impacts on natural coastal processes outside of the site. EIA will be more likely where the area of the proposed works would exceed 1 hectare.

Groundwater abstraction and artificial groundwater recharge schemes, works for the transfer of water resources between river basins.

Impacts likely to be significant are those on hydrology and ecology. Developments of this sort can have significant effects on environments some kilometres distant. This is particularly important for wetland and other sites where the habitat and species are particularly dependent on an aquatic environment. EIA is likely to be required for developments where the area of works exceeds one hectare.

Motorway service areas

Impacts likely to be significant are traffic, noise, air quality, ecology and visual impact. EIA is more likely to be required for new motorway service areas which are proposed for previously undeveloped sites and if the proposed development would cover an area of more than 5 hectares.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS	
Column 1 Description of development	Column 2 Applicable Thresholds and Criteria

11. Other projects

(a) Permanent racing and test tracks for motorised vehicles;	The area of the development exceeds 1 hectare.
(b) Installations for the disposal of waste (unless included in Schedule 1);	(i) The disposal is by incineration; or (ii) the area of the development exceeds 0.5 hectare; or (iii) the installation is to be sited within 100 metres of any controlled waters.
(c) Waste-water treatment plants (unless included in Schedule 1);	The area of the development exceeds 1,000 square metres.

**EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**

Other projects

Permanent racing and test tracks for motorised vehicles

Particular consideration should be given to the size, noise impacts, emissions and the potential traffic generation. EIA is more likely to be required for developments with a site area of 20 hectares or more.

Installations for the disposal of non-hazardous waste

The likelihood of significant effects will generally depend on the scale of the development and the nature of the potential impact in terms of discharges, emissions or odour. For installations (including landfill sites) for the deposit, recovery and/or disposal of household, industrial and/or commercial wastes (as defined by the Controlled Waste Regulations 1992) EIA is more likely to be required where new capacity is created to hold more than 50,000 tonnes per year, or to hold waste on a site of 10 hectares or more. Sites taking smaller quantities of these wastes, sites seeking only to accept inert wastes (demolition rubble etc.), or Civic Amenity sites, are unlikely to require EIA.

Applicants should consult the relevant **Waste Local Plan or Development Document**. In Essex discuss matters with **Essex CC, Southend BC or Thurrock Council**.

Waste-water treatment plants

Particular consideration should be given to the size, treatment process, pollution and nuisance potential, topography, proximity of dwellings, and the potential impact of traffic movements. EIA is more likely to be required if the development would be on a substantial scale (e.g. site area of more than 10 hectare) or if it would lead to significant discharges (e.g. capacity exceeding 100,000 population equivalent). EIA should not be required simply because a plant is on a scale which requires compliance with the Urban Waste Water Directive (91/271/EEC).

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**11. Other Projects Continued**

(d) Sludge-deposition sites;	(i) The area of deposit or storage exceeds 0.5 hectare; or
(e) Storage of scrap iron, including scrap vehicles;	(ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters.
(f) Test benches for engines, turbines or reactors;	The area of new floor space exceeds 1,000 square metres.
(g) Installations for the manufacture of artificial mineral fibres;	
(h) Installations for the recovery or destruction of explosive substances;	
(i) Knackers' yards.	

Sludge-deposition sites (sewage sludge lagoons)

Similar considerations will apply for sewage sludge lagoons as for waste disposal installations. EIA is more likely to be required where the site is intended to hold more than 5,000 m³ of sewage sludge.

Storage of scrap iron, including scrap vehicles

Major impacts are likely to be discharges to soil, site noise and traffic generation. EIA is more likely to be required where it is proposed to store scrap on an area of 10 hectares or more.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria
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12. Tourism and Leisure

(a) Ski-runs, ski-lifts and cable-cars and associated developments;	(i) The area of the works exceeds 1 hectare; or (ii) the height of any building or other structure exceeds 15 metres.
(b) Marinas;	The area of the enclosed water surface exceeds 1,000 square metres.
(c) Holiday villages and hotel complexes outside urban areas and associated developments;	The area of the development exceeds 0.5 hectare.
(d) Theme parks;	
(e) Permanent camp sites and caravan sites;	The area of the development exceeds 1 hectare.
(f) Golf courses and associated developments.	The area of the development exceeds 1 hectare;

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS**Tourism and leisure*****Ski-runs, ski lifts and cable-cars and associated developments***

EIA is more likely to be required if the development is over 500 metres in length or if it requires a site of more than 5 hectares. In addition to any visual or ecological impacts, particular regard should also be had to the potential traffic generation.

Marinas

In assessing whether significant effects are likely, particular regard should be had to any wider impacts on natural coastal processes outside the site, as well as the potential noise and traffic generation. EIA is more likely to be required for large new marinas, for example where the proposal is for more than 300 berths (seawater site) or 100 berths (freshwater site). EIA is unlikely to be required where the development is located solely within an existing dock or basin.

Holiday villages and hotel complexes outside urban areas and associated developments, permanent camp sites and caravan sites, and theme parks

In assessing the significance of tourism development, visual impacts, impacts on ecosystems and traffic generation will be key considerations. The effects of new theme parks are more likely to be significant if it is expected that they will generate more than 250,000 visitors per year. EIA is likely to be required for major new tourism and leisure developments which require a site of more than 10 hectares. In particular, EIA is more likely to be required for holiday villages or hotel complexes with more than 300 bed spaces, or for permanent camp sites or caravan sites with more than 200 pitches.

Golf courses

New 18 hole golf courses are likely to require EIA. The main impacts are likely to be those on the surrounding hydrology, ecosystems and landscapes, as well as those from traffic generation. Developments at existing golf courses are unlikely to require EIA.

EXTRACT FROM SCHEDULE 2 OF THE REGULATIONS

Column 1 Description of development	Column 2 Applicable Thresholds and Criteria																																																
<p>13.</p> <p>(a) Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 21 of that Schedule) or in paragraphs 1 to 12 of Column 1 of this Table, where that development is already authorised, executed or in the process of being executed, and the change or extension may have significant adverse effects on the environment;</p>	<p>(i) In relation to development of a description mentioned in Column 1 of this table, the thresholds and criteria in the corresponding part of Column 2 of this table applied to the change or extension (and not to the development as changed or extended).</p> <p>(ii) In relation to development of a description mentioned in a paragraph in Schedule 1 indicated below, the thresholds and criteria in Column 2 of the paragraph of this table indicated below applied to the change or extension (and not to the development as changed or extended):</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><i>Paragraph in Schedule 1</i></th> <th style="text-align: left;"><i>Paragraph of this table</i></th> </tr> </thead> <tbody> <tr><td>1</td><td>6(a)</td></tr> <tr><td>2(a)</td><td>3(a)</td></tr> <tr><td>2(b)</td><td>3(g)</td></tr> <tr><td>3</td><td>3(g)</td></tr> <tr><td>4</td><td>4</td></tr> <tr><td>5</td><td>5</td></tr> <tr><td>6</td><td>6(a)</td></tr> <tr><td>7(a)</td><td>10(d) (in relation to railways) or 10(e) (in relation to airports)</td></tr> <tr><td>7(b) and (c)</td><td>10(f)</td></tr> <tr><td>8(a)</td><td>10(h)</td></tr> <tr><td>8(b)</td><td>10(g)</td></tr> <tr><td>9</td><td>11(b)</td></tr> <tr><td>10</td><td>11(b)</td></tr> <tr><td>11</td><td>10(n)</td></tr> <tr><td>12</td><td>10(o)</td></tr> <tr><td>13</td><td>11(c)</td></tr> <tr><td>14</td><td>2(e)</td></tr> <tr><td>15</td><td>10(i)</td></tr> <tr><td>16</td><td>10(k)</td></tr> <tr><td>17</td><td>1(c)</td></tr> <tr><td>18</td><td>8(a)</td></tr> <tr><td>19</td><td>2(a)</td></tr> <tr><td>20</td><td>6(c)</td></tr> </tbody> </table>	<i>Paragraph in Schedule 1</i>	<i>Paragraph of this table</i>	1	6(a)	2(a)	3(a)	2(b)	3(g)	3	3(g)	4	4	5	5	6	6(a)	7(a)	10(d) (in relation to railways) or 10(e) (in relation to airports)	7(b) and (c)	10(f)	8(a)	10(h)	8(b)	10(g)	9	11(b)	10	11(b)	11	10(n)	12	10(o)	13	11(c)	14	2(e)	15	10(i)	16	10(k)	17	1(c)	18	8(a)	19	2(a)	20	6(c)
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<p>(b) Development of a description mentioned in Schedule 1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.</p>	<p>All development.</p>																																																

EXTRACT FROM ENVIRONMENT CIRCULAR
INDICATIVE CRITERIA/THRESHOLDS

5.9 SCHEDULE 3: SELECTION CRITERIA

Schedule 3 of the Regulations referred to in **para 5.4 (page 25)** and reproduced below, sets out criteria, the relevant ones of which in any particular case, should be taken into account in making a decision whether a **Schedule 2** development is likely to have **significant environmental effects** and therefore require **EIA**.

1. Characteristics of development

The characteristics of development must be considered having regard, in particular, to:-

- (a) the size of the development;
- (b) the cumulation with other developments;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

2. Location of development

The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to –

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas –
 - (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;
 - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
 - (vii) densely populated areas;
 - (viii) landscapes of historical, cultural or archaeological significance.

3. Characteristics of the potential impact

The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to –

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

5.10 THREE MAIN TYPES OF SCHEDULE 2 DEVELOPMENTS LIKELY TO REQUIRE EIA

Environment Circular 02/99 indicates that, in the light of the criteria in **Schedule 3** of the Regulations, the Secretary of State's view is that in general EIA will be needed for Schedule 2 developments in **three main types of cases**.

- for major projects of more than local importance,
- for developments which are proposed for *particularly environmentally sensitive or vulnerable locations*.

For any given proposal, the more **environmentally sensitive the location**, the more likely it is that the effect will be significant and require EIA – this aspect is clarified below ▼ (**para 5.11** etc.).

- For developments with unusually complex and potentially hazardous environmental effects.

Environment Circular 02/99 suggests (paragraph 41) that a small number of projects may be likely to have significant effects on the environment because of the particular nature of their impact. Consideration should be given to development which could have **complex, long term, or irreversible impacts**, and where expert and detailed analysis of those impacts would be desirable and would be relevant to the issue of principle as to whether or not the development should be allowed. Industrial development involving emissions which are potentially hazardous to humans and nature may fall into this category. So, occasionally, may other types of development which are proposed for **severely contaminated land** and where the development might lead to more hazardous contaminants escaping from the site than would otherwise be the case if the development did not take place.

5.11 DEVELOPMENT IN ENVIRONMENTALLY SENSITIVE LOCATIONS

The specific **sensitive locations**, identified in the Regulations are listed on **page 46**, over ➤.

EIA is more likely to be required for a project if it would be likely to have significant effects on the special character of these sensitive areas.

Paragraph 37 of **Environment Circular 02/99** indicates that special circumstances apply to **Sites of Special Scientific Interest (SSSIs)** – **especially international sites**. The Circular indicates that the likely environmental effects of Schedule 2 development will often be such as to require EIA if it is to be located in or close to sites identified as (a), (b) and (c) on **page 46**.

Natural England should be consulted if there is uncertainty about the significance of a development's likely effect on those areas; in the right hand column of the table on **page 46** are listed other **non-statutory expert bodies** who will also be able to advise. ➤

5.12 SENSITIVE LOCATIONS

Environment Circular 02/99 indicates that for the purpose of identifying whether there are likely to be significant environmental effects, sensitive locations include:-

SENSITIVE LOCATIONS	USEFUL CONTACTS IN ESSEX
<p>(a)■ Sites of Special Scientific Interest (SSSIs; includes National Nature Reserves), and including international conservation sites i.e.:- In or close to classified and potential Special Protection Areas (SPAs) under the EC Birds Directive 79/409, Candidate, agreed or designated Special Areas for Conservation (SACs) under the EC Habitats and Species Directive 92/43; and Wetlands of International Importance under the Ramsar convention. *</p> <p>(b)■ Land subject to a Nature Conservation Order.</p> <p>(c)■ Land within 2 kilometres of an SSSI, notified by English Nature to Planning Authorities.</p> <p>(d)■ National Parks, The Broads, The New Forest Heritage Area</p> <p>(e)■ Areas of Outstanding Natural Beauty (AONBs)</p> <p>(f)■ World Heritage Sites</p>	<p>(Planning Authorities addresses – Page 19 Other Bodies, see Appendix C) <i>As a starting point the relevant planning authority should be contacted. Further specialist advice, however, may be obtained from the following bodies:-</i></p> <p>Information from Natural England and Essex Wildlife Trust and RSPB, East Anglian Regional Office. Much of the Rural Essex Coast has SPA and Ramsar designation.</p> <p>Lee Valley is an SPA. Candidate SACs in Essex are Epping Forest and Essex Estuaries (including a large marine area).</p> <p>None currently in Essex</p> <p>i.e. Dedham Vale AONB – Information from The Dedham Vale and Stour Valley Project and proposed extension to Suffolk Coast and Heaths AONB – contact Suffolk Coast and Heaths Project.</p> <p>None currently in Essex</p>
<p>(g)■ Scheduled Monuments</p>	<p>Information from County Archaeologist of Essex County Council Planning Division and English Heritage</p> <div data-bbox="831 1682 1369 1825" style="border: 2px solid black; padding: 5px;"> <p>Reference should also be made to “<i>Historic Towns in Essex</i>” produced by Essex County Council.</p> </div>

*NB. Under **Regulation 48 of the Conservation (Natural Habitats etc.) Regulations 1994 (SI 2716)** local planning authorities are required to undertake an “appropriate assessment” for any plan or project which is likely to have a significant effect on SPAs, Ramsar sites and SACs. Information has to be provided by the developer. This is not the same as an EIA but the information presented in an ES may help inform the appropriate assessment. See **PPS 9** and **ODPM Circular 06/2005 (DEFRA Circular 01/2005)**.

5.13 OTHER POSSIBLE SENSITIVE LOCATIONS

Environment Circular 02/99 states that in certain cases other statutory and non-statutory designations – not included in the formal definition of “sensitive areas” in the Regulations, but which are nonetheless environmentally sensitive may be relevant in **determining whether significant environmental effects are likely, and therefore whether EIA is required.**

The following may be considered to be **environmentally sensitive locations**:-

SENSITIVE LOCATIONS	USEFUL CONTACTS IN ESSEX
<ul style="list-style-type: none"> ■ Urban locations with a heavy concentration of population ■ Areas where national or internationally agreed environmental standards are exceeded ■ Where local air quality management plans or other local standards or levels would be affected ■ Severely contaminated land ■ Heritage Coasts ■ Sites of major archaeological significance ■ Local Nature Reserves ■ Sites of Importance for Nature Conservation (SINCs) also known as County Wildlife Sites ■ Registered Parks and Gardens ■ Coastal Protection Belt ■ Ancient Landscapes ■ Lee Valley Regional Park ■ Country Parks ■ Regionally Important Geological/ Geomorphological Sites (RIGS) ■ Areas close to water boreholes/supply (e.g. for waste disposal/transfer sites, minerals proposals, industry, development of old landfill sites and contaminated land, gasworks, chemical storage, etc.) ■ Within river corridors ■ Sea Defences ■ National Trust sites 	<p data-bbox="831 656 1369 779">As a starting point the relevant local plan prepared by the planning authority should be consulted. Further specialist advice can be obtained from the following bodies:-</p> <p data-bbox="831 965 1369 999">Local Environmental Health Authority</p> <p data-bbox="831 1059 1369 1149">Local Environmental Health Authority/ Environment Agency None currently in Essex</p> <p data-bbox="831 1240 1369 1301">Natural England, Essex Wildlife Trust, RSPB – East Anglian Regional Office</p> <p data-bbox="831 1339 1369 1400">In particular check Local Biodiversity Action Plans.</p> <p data-bbox="831 1435 1369 1496">English Heritage and Garden History Society</p> <p data-bbox="831 1556 1369 1617">Area in Epping Forest DC includes SSSIs; contact Lee Valley Regional Park Authority</p> <p data-bbox="831 1653 1369 1713">Natural England, local Museums and local RIGS Groups</p> <p data-bbox="831 1921 1369 1955">The Environment Agency</p> <p data-bbox="831 2016 1369 2049">The National Trust</p>

- 5.14 Any views expressed by the consultation bodies (see **10.18**) should be taken into account, and authorities should consult them when there is a doubt about the significance of a development's likely effects in or on a sensitive area.

The Secretary of State (in **Environment Circular 02/99**) takes the view that not all **Schedule 2** projects affecting sensitive areas will require EIA; it will be necessary for the planning authority to judge whether the likely effects on the environment of that particular development will be significant in that particular location.

5.15 APPLYING THE GUIDANCE TO PARTICULAR PROPOSALS

- Environment Circular 02/99** in paragraph 45 indicates that the question of whether EIA is required should be considered on its merits: development should be judged on the basis of what is proposed by the developer.
- 5.16 The **Circular** also refers to the need to consider **cumulative effects** with any existing or proposed and permitted projects.
- 5.17 Reference is also made to the issue of **multiple applications** and whether a particular application is, in reality, an integral part of a larger scheme. In such cases the total proposal should be considered in relation to the need for EIA and the applicability of any indicative thresholds.
- 5.18 The **Circular** goes on:
“This is not to say that all applications which form part of some wider scheme must be considered together. In this context, it will be important to establish whether each of the proposed developments could proceed independently and whether the aims of the Regulations and Directive are being frustrated by the submission of multiple planning applications.”
- 5.19 The **Circular** also deals with **extensions to existing or approved development**. It indicates that the question of whether a change or extension to a development is likely to have significant effect relates only to the change or extension itself, although the significance of effects should be considered in the context of the existing development.
- 5.20 With regard to extensions to projects, an expansion of the same size as a previous expansion will not automatically lead to a similar determination that EIA is needed, because the environment may have altered since the issue was last addressed.
- 5.21 In a *Note from the ODPM dated May 2004* it indicates that the **wording of the EIA Directive should be interpreted widely**. The fact that a particular type of development is not listed specifically within one of the categories of projects in the EIA Regulations does not imply that it is not caught. The categories of projects are illustrative, not exhaustive. They should be read in a purposive manner to include similar types of project.

- 5.22 Particular care is needed when considering development that could fall within the categories of "**industrial estate development**" and "**urban development projects**" listed under '**Infrastructure**' projects (Schedule 2.10 projects).
- 5.23 A recent example of interpreting the Regulations widely ('**wide scope and broad purpose**') is found in the Court of Appeal judgment relating to a planning proposal by the Big Yellow Property Company Ltd to construct a storage and distribution facility (**Goodman and another v Lewisham London Borough Council [TLR 21/2/03]**) The planning authority took the view that as such development was not specifically described in either the Directive or Regulations, there was no need to consider EIA.
- Following legal challenge, the **Court of Appeal** decided that *"in this instance "infrastructure" goes wider, indeed far wider, than the normal understanding, as quoted from the Shorter English Dictionary, of "the installations and services (power stations, sewers, roads, housing etc) regarded as the economic foundations of a country"*. It held that the decision that the development was outside the reach of Schedule 2.10(b) of the EIA Regulations was outside the range of reasonableness that was open to the planning authority. The planning permission was quashed and the application remitted to the planning authority for reconsideration.
- 5.24 **The Note** continues: 'it should not be assumed that a project is excluded simply because it is not expressly mentioned in either the Directive or the Regulations. For example, neither the Directive nor the EIA Regulations refer to specifically "housing development". But it would be a mistake to consider that housing development does not fall within the ambit of "urban development projects". Moreover, projects can be described in different ways so it is important to consider carefully the scope and purpose of the project - not just its label. A proposal to create a new "Employment and Enterprise Opportunity Facility" may simply be another way of describing an industrial estate development.'
- See **Part 18** > for more on court cases etc.

5.25 A SUGGESTED METHODOLOGY FOR DECIDING WHETHER ENVIRONMENTAL EFFECTS ARE SIGNIFICANT

The following (see over) is a suggested methodology for deciding whether the effects on the environment, of a particular proposed project are likely to be significant. This would be at the **STEP 5 stage of deciding whether EIA is necessary** (see page 14 <)

STAGE A List the **characteristics of the project** – using the prompts provided by **para 1 of Schedule 3 (on the YELLOW PAGE) page 43**◀

STAGE B Identify the **sensitivity of the location** of the proposed project – using the prompts provided by **para 2 of Schedule 3 (on the YELLOW PAGE) page 43**◀. See also tables – **paragraphs 5.12 and 5.13**◀.

STAGE C Consider whether there is likely to be an **effect on the environment** from any of the listed characteristics (**Stage A**), or because of the location of the project (**Stage B**).

It is suggested that the following criteria are used and that the information is set out in tabular form:-

YES – if an effect is likely

NO – if an effect is not expected

? – if it is uncertain whether an effect will occur or not

STAGE D If the answer to any question is **YES**, then the **significance of the effect** needs to be considered:-

For each **YES** answer, the following further questions should be asked:-
(It is suggested that this be set out in tabular form).

- The **nature** of the effect – is the impact unusual in the area or particularly complex?
- The **size or magnitude** of the effect – what will be the degree of change from the existing situation? – will it be out-of-scale with the existing environment?
- The **geographical extent** of the effect – over what area will the impact extend?
- Will there be any potential for **cross national boundary** impact?
- **How many people or other receptors** will be affected?
- Will it affect **valuable or scarce features or resources**?
- Is there a risk that **environmental standards** will be breached?
- Is there a risk that **protected sites, areas or features** will be affected?
- What is the **probability** of the impact occurring?
- Will the impact be **short, medium or long term**?
- Will the impact be **permanent or temporary**?
- Will the impact be **continuous or intermittent** and if the latter **how frequently** will it occur?
- Will the impact be **irreversible**?

There is no specific rule that can be used to decide whether the results suggest a positive or negative screening decision. In theory if there is one “**YES**” answer at Stage D, EIA may be required, however, as a general principle the greater the number of “**YES**” answers the more likely it is that EIA is required. “**?**” answers, indicating uncertainty about the occurrence of significance of effects, should also point towards a positive screening decision because the EIA process will help to clarify the uncertainty.

The **European Commission** has published **Guidance on Screening** which includes lists of questions to assist in Stages A and B.

PART 6, PROCEDURES PRIOR TO MAKING A PLANNING APPLICATION - SCREENING

6.1 IS PLANNING PERMISSION REQUIRED?

- Before ascertaining whether **EIA** is required for any particular project, it may be necessary to find out whether **planning permission** is needed.
- 6.2 Officers of the relevant planning authority should be able to advise **informally** whether planning permission is required in any particular case. A **formal** procedure is also available by making an application to the planning authority for a **Certificate of Lawful Use or Development**. A leaflet explaining the procedures has been published by The Stationery Office.
- 6.3 If planning permission is not required, because it is a form of development which is approved by a body other than a planning authority – e.g. an overhead powerline, motorway etc. (see **Figure 2** on **page 7** ◀) it may nevertheless be that **EIA** will still be required. It is recommended that applicants/consultants approach the appropriate determining body in these cases.
- 6.4 It is possible that the project may also not normally require planning permission because it is granted a “**deemed permission**” by the **General Permitted Development Order**. However if **EIA** is required for such a project, it will then lose its “**deemed permission**” or “**Permitted Development**” status and require planning permission in the normal way, (see **Part 13** ▶ for further details of these provisions).
-

6.5 IS EIA REQUIRED? – THE SCREENING PROCESS

There are **two** ways of ascertaining whether EIA is required in any particular case:-

- the **informal** approach to officers of the relevant planning authority (**6.6** next), or
- the **formal** method of seeking a **Screening Opinion** from the planning authority. This approach is described from **6.11** ▶.

The informal approach may be useful, however, since additional matters can be raised during informal discussions which may improve the quality of the application and (if required) the **ES**. The advantages of early consultation with the planning authority are set out below.

6.6 EARLY CONSULTATION

Applicants are strongly encouraged to **consult the planning authority** before making a planning application – preferably at, or even prior to, the design stage – for the reasons set out in **6.9** ▶.

- 6.7 If the nature of the proposals and/or timing pose problems of commercial confidentiality, officers will, if requested, respect such confidentiality.
- 6.8 Even if the determining body is not the planning authority (i.e. see **Figure 2** on **page 7**) it is nevertheless likely that the planning authority will be a consultation body later in the process but at that time may only have a limited period in which to make a useful contribution to the process. There are therefore considerable advantages to both the planning authority and the applicant in consulting the planning authority at an early stage in the process.

6.9 ADVANTAGES OF EARLY CONSULTATION AND ESTABLISHING THE PLANNING POLICY CONTEXT: PRE-APPLICATION DISCUSSIONS

The advantages of early consultation are:-

- to find out whether **EIA** is required (**screening**) at the earliest possible stage in the process; otherwise if a planning application which needs **EIA** is received without an **ES** there is likely to be a considerable delay at that stage whilst the necessary work is done in preparing an **ES**. **Part 7** amplifies the procedures when a planning application is submitted *without* an **ES**.
- to ensure that the applicant is fully aware of the **up-to-date planning policy context** – as contained in the **development plan(s)** prepared by the planning authority(ies). An explanation of the ‘**development plan**’ and its importance is contained in the box below:-

THE DEVELOPMENT PLAN comprises:-

- **The Regional Spatial Strategy, the London Plan and the Wales Spatial Plan,**
- **Development Plan Documents prepared by district councils, unitary authorities, the Broads Authority and National Park authorities. In two tier areas mineral and waste documents will be prepared by County Councils.**

The Planning and Compulsory Purchase Act 2004 requires that all planning decisions **should accord with the development plan** unless material considerations indicate otherwise. Therefore if the proposal is contrary to the relevant development plan, then the applicant may wish to reconsider the proposals, by either abandoning the project or adjusting it such that a justification for overriding the provisions of the plan can be demonstrated.

On the other hand if a proposal that requires **EIA** is in accordance with the development plan, this does not override the requirement for the **EIA** procedure to be pursued.

It should also be noted that the **development plan system is not static**: - it is continually evolving. Officers will be able to advise on the stages that particular plans have reached, and their status.

- Planning Authorities (and/or other Council departments) often have useful **local information** relevant to specific locations and proposals. **Sustainability Reports** prepared under Sustainability Appraisal / Strategic Environmental Assessment procedures for Local Development Documents- (development plan documents and supplementary planning documents), will also provide useful information. Particular local problems such as presence of contamination in a site, or existence of a public right of way, can also be identified at an early stage.
- If important **issues** are not considered at an early stage they **may emerge** when project design is well advanced – and then require **expensive re-thinking** and **delay**.
- **EIA** should therefore start at the very early stages of project planning when **alternatives** – i.e. locations and/or processes etc. – can be considered, taking account of planning policies.
- Early discussions with planning officers and also Consultation Bodies (see **para 10.18**➤) and other expert bodies (e.g. amenity, rights of way bodies etc. see **10.21** etc. in **Part 10** ➤) can ensure that all the relevant issues are included in the **ES** – thus possibly reducing the need to seek further information at the formal application stage – when delays might be more critical. **Pre-application discussions are strongly encouraged in Government Planning Policy Statements.**

Applicants are also advised to check out the particular authority's **Statement of Community Involvement**, which sets out how the authority would wish the community to be involved early on with particular types of planning application.

The procedure of identifying the relevant issues to be studied is known as **scoping**, and its importance in the **EIA** process is explained next.

6.10 DEFINING THE SCOPE OF THE EIA

As the *DOE Good Practice Guide to the "Preparation of Environmental Statements, for Planning Projects that require Environmental Assessment"*, states (para 2.2):-

“Defining its scope is one of the most critical parts of an EA in that it sets the context for what follows. If the scope is defined too narrowly, some critical area of uncertainty or adverse impact may emerge late in the day. Decisions on the shape of the project may then be too far advanced to allow for any real change. On the other hand, if the scope of the work is too loosely defined, then much time, effort and cost may be spent on pursuing unnecessary detail.”

Scoping is thus involved with sorting out the important issues to study.

Further details of the **scoping process** itself are described in **Part 8**.➤

6.11 REQUEST TO PLANNING AUTHORITY FOR A SCREENING OPINION ON WHETHER EIA IS REQUIRED – THE FORMAL APPROACH

The formal process of finding out whether EIA is required for a project prior to submitting a planning application involves requesting the planning authority to adopt a **Screening Opinion** on whether **EIA** is necessary.

Chart 1 on **page 60**➤ shows in diagram form the main stages in requesting a **Screening Opinion**; these are detailed next.

6.12 The prospective applicant should accompany the request for a **Screening Opinion**, with:

- a location plan,
- a brief description of the nature and purpose of the proposals and possible environmental effects,
- any other relevant information.

6.13 The **planning authority** has **3 weeks** to determine whether **EIA** is necessary and to adopt a **Screening Opinion** (although this period can be extended by agreement). The **EPOA** recommends that the applicant's agreement to extending this period is obtained in potentially complex cases.

Further information can be sought from the prospective applicant in writing during this period.

6.14 Normally the screening process will be carried out by an officer of the planning authority. However, the **decision is taken on behalf of the planning authority**. It is, therefore, important to ensure that the officer concerned has **delegated authority** for this, otherwise any subsequent decision may be open to legal challenge.

6.15 In order to determine whether EIA is necessary, the **5 STEP PROCESS**, illustrated in **Figure 3** on **page 14** ◀ should be followed.

Briefly this means that the planning authority should consider whether the proposed development is either a **Schedule 1** development (see **Part 4**◀) and if not whether it is a **Schedule 2** development (i.e. identified in **Column 1 of Schedule 2**) and either is in a **specific sensitive area** (identified in **3.1** of this Guide ◀) or meets one or more of the relevant **criteria in Column 2 of Schedule 2**; **and** is likely to have **significant effects on the environment** by virtue of such factors as its nature, size or location. See **Part 5**◀ which provides more detailed guidance on the screening process and suggests how to assess whether effects are significant, taking into account **Schedule 3** of the Regulations.

6.16 It is recommended that all planning authorities set up **screening procedures** that will make this process easier. This might include having a specific skilled officer dealing with such matters and setting up liaison with relevant consultation/expert bodies such as English Nature, the Environment Agency etc. It may be useful to devise a **pro-forma** based on the **5 step process** illustrated on **page 14**◀.

6.17 A recent court case held that it was **not appropriate when making a screening decision to start from the premise that although there may be significant impacts, these can be reduced to insignificance by the application of planning conditions** (see **para 10.46**) or **legal obligations** (see **para 10.53**) The appropriate course is to **require an ES and the measures it is said will reduce the significance of the impacts.**

6.18 If the planning authority **adopts a Screening Opinion** to the effect that **EIA is necessary** the Opinion must be accompanied by a **statement** giving clearly and precisely the full reasons for that conclusion.

A copy of the Opinion and, if EIA is necessary, the statement, should be sent to:

- the prospective applicant.

Where EIA is required, the statement of reasons will help the prospective applicant to prepare the ES by identifying likely environmental effects.

6.19 A copy of the **Screening Opinion and, if EIA is necessary, the statement**, must be made available for **public inspection** for 2 years, where the relevant Planning Register is kept (i.e. at the relevant District/Borough Council Planning Office).

It should be noted that if it is decided that **EIA is not required**, then no statement of reasons is necessary. However, it is **recommended** that the planning authority keeps on file a note of the reasoning in such cases, in case a similar proposal on a nearby site should arise, to build up a database of expertise and to assist in the event of any challenge to any subsequent planning decision.

6.20 If the planning authority considers that **EIA is required but has failed to issue a Screening Opinion** within the 3 week (or agreed extended period), the planning authority could:-

- (a) seek to persuade the prospective applicant to **voluntarily** carry out an EIA and provide an ES which would be dealt with under the regulations (see **10.4**)
- or (b) request the Secretary of State to issue a **Screening Direction** to determine whether EIA is required (see **6.28 onwards**).

6.21 The planning authority can **change** its **Screening Opinion** in the light of new information only within the 3 week (or agreed extended period).

6.22 If the planning authority has issued a **Screening Opinion that EIA is not required** but subsequent information indicates that EIA **should have been required**, the planning authority **cannot** issue a new Screening Opinion **outside the 3 week** (or agreed extended period).

- 6.23 If a planning application is subsequently made for the development, the **Screening Opinion** and related documents should be transferred to Part 1 of the Register with the planning application.
- 6.24 Where EIA is determined to be required, if the prospective **applicant** notifies the planning authority that an **ES** will be submitted, the authority should then notify the consultation bodies (identified in **10.18**) in order that they can be pre-warned that they may be requested by the applicant to provide information for the **ES**.
- 6.25 The **consultees** should be provided with the name and address of the prospective **applicant** and advised of their obligation to make relevant existing information available to the prospective applicant, if required. The planning authority must also advise the prospective applicant of the names and addresses of the consultees which have been notified.
- 6.26 The **Planning Authority/ies** should also make relevant information available, including that held by other Council departments, e.g. Environmental Health, etc.

Essex County Council and some District/Borough Councils have produced Environmental Audits or State of the Environment Reports which can provide useful baseline information. Sustainability Reports prepared as part of the process of producing Regional Spatial Strategies, Development Plan Documents and Supplementary Planning Documents will also be important sources of information.

The public bodies may make a reasonable charge reflecting the cost of making the information available.

- 6.27
- Where the planning authority adopt a **Screening Opinion** that EIA is required and the prospective **applicant** disagrees;
- Or
- If the planning authority **fail** to adopt a Screening Opinion within 3 weeks (or agreed extended period);
- the prospective applicant may request the **Secretary of State** to make a **Screening Direction** on the matter (see next).

6.28 REQUEST TO SECRETARY OF STATE FOR A SCREENING DIRECTION

Chart 2 on page 61 shows the main stages in seeking a **Screening Direction** from the Secretary of State.

- 6.29 In seeking the **Screening Direction** the prospective **applicant** must send to the **Secretary of State** a copy of all the previous documentation (i.e. original request for a Screening Opinion and related documents) any requests for more information from the planning authority and the prospective applicant's response, if any; and the Screening Opinion [if any] and any accompanying statement of reasons plus any further representations the applicant wishes to make. The prospective applicant must also copy the documents to the planning authority. The Secretary of State may ask in writing for further information from the prospective applicant and from the planning authority.

- 6.30 The **Secretary of State** will normally make a **Screening Direction** within **3 weeks** (although in some cases a longer period may elapse). If the Secretary of State makes a **Screening Direction that EIA is required, a clear and precise statement of reasons will be given**. Copies will be sent to the prospective applicant.
- 6.31 A copy of the **Screening Direction** will also be sent to the planning authority which will make arrangements for **public inspection**, where the relevant planning register is kept for a period of 2 years (i.e. at the relevant District/Borough Council Planning Office).
- 6.32 If **EIA** is required the planning authority will notify the consultation bodies (identified in **para 10.18**), in order that they can be pre-warned that they may be asked to supply information to help the prospective applicant complete the **ES**.
- 6.33 The **consultees** should be provided with the name and address of the prospective **applicant** and advised of their obligation to make relevant existing information available to the prospective applicant, if required. The planning authority must also advise the prospective applicant of the names and addresses of the consultees that have been notified.
- 6.34 The **Planning Authority/ies** should also make relevant information available, including that held by other Council departments, e.g. Environmental Health, etc.
See **box on page 56**
- The public bodies may make a reasonable charge reflecting the cost of making the information available.
- 6.35 It should be noted that seeking a **Screening Direction** from the Secretary of State could be counterproductive from a public relations point of view and may build up hostility to the proposal.

6.36 EFFECT OF PLANNING AUTHORITY SCREENING OPINION OR A SECRETARY OF STATE SCREENING DIRECTION

- A prospective applicant following these procedures can thus normally establish, before making an application, whether **EIA** is required; i.e. the **Screening Opinion** of the planning authority is binding, unless over-ruled by a Secretary of State **Screening Direction**.
- 6.37 However, a **Screening Opinion or Direction** can only apply in relation to **current available information**. There may exceptionally be cases where a **Screening Opinion** has been given that EIA is not required for a particular proposal, but it subsequently becomes evident (perhaps through supporting information, accompanying a planning application, for instance) that it is nevertheless an EIA application.
In such cases the procedures referred to in **Part 7** will apply.
- 6.38 In exceptional circumstances a planning authority may ask the **Secretary of State** to cancel or vary a **Screening Direction** if they consider that there is good reason to do so.

6.39 SECRETARY OF STATE'S GENERAL POWERS TO MAKE SCREENING DIRECTIONS

The **Secretary of State** may in exceptional circumstances and at any stage prior to a planning application being made, or determined, make a **Screening Direction**. For instance a **Screening Direction** may be issued as a result of information submitted to the **Secretary of State** by members of the public or third parties.

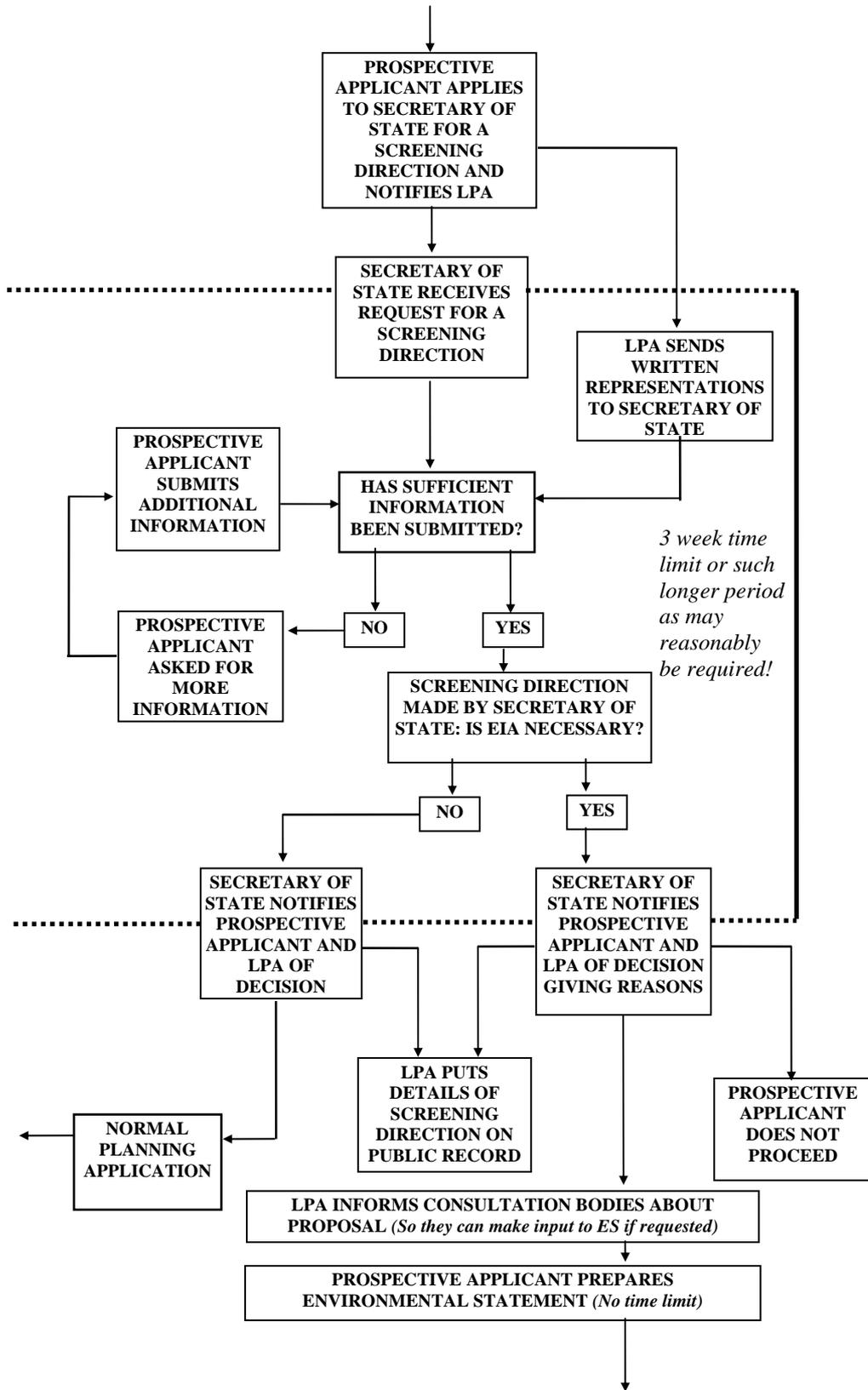
- 6.40 **Planning authorities** may also exceptionally draw the **Secretary of State's** attention to a particular development which although listed in Schedule 2, it is either not within a sensitive area or below the relevant criteria in Column 2 of the Schedule. *The Secretary of State can exceptionally Direct that EIA is necessary in such cases.*
- 6.41 Before making a **Screening Direction** the Secretary of State will normally give the planning authority and prospective applicant the opportunity to make representations. The **Screening Direction** must be copied to the applicant and made available for public inspection where the Planning Register is kept, for a period of 2 years.

KEY POINTS/GOOD PRACTICE

- Is **EIA** required? – **Informal approach** to planning authority may be more useful than the formal procedure
- Note the advantages of **early consultation** (para **6.6** to **6.9**)<
- **Scoping** the **EIA** is an important key stage (para **6.10**)< (and **Part 8**>).
- Recent court cases point to the need to **interpret the Regulations as widely as possible when screening** - see para **5.21**< onwards.
- It is recommended that planning authorities should seek extensions of time to deal with '**Screening Opinion**' applications, in potentially complex cases
- Although it is **not necessary** to provide a **statement of reasons** for cases where a Screening Opinion is that **EIA is not necessary**, nevertheless it will be useful for the planning authority to keep a note of the reasoning that led to this decision in case a similar project should arise nearby, to build up a database of expertise and to assist in the event of any challenge to any subsequent planning permission, on EIA grounds.
- It is recommended that planning authorities set up **screening** procedures. It may be useful to devise a **pro-forma** based on the **5 step process** – see **page 14**<.
- Planning authorities should **delegate** to their officers the power to make Screening Opinions.
- Seeking a **Screening Direction** from the Secretary of State could be counter-productive and build up public opposition.

CHART 2

APPLICATION TO SECRETARY OF STATE FOR SCREENING DIRECTION WHERE PROSPECTIVE APPLICANT DISAGREES WITH LOCAL PLANNING AUTHORITY'S SCREENING OPINION



(Continued On Chart 6 on page 135➤)

PART 7, **APPLICATION NOT ACCOMPANIED BY AN ES - SCREENING**

7.1 RECEIPT OF A PLANNING APPLICATION WITHOUT AN ES

Note; As a result of a European Court of Justice decision, the definition of applications include those for the **approval of reserved matters** following an **outline planning permission**, whether or not the original outline application was screened for EIA. See **paragraphs 7.23, 9.11, 10.40 and 11.21**➤

Chart 3 on page 68➤ shows in diagram form the procedures for dealing with an application not accompanied by an **ES**: these are detailed below:-

Upon the receipt of any application which might **require EIA and which does not have an ES**, the Planning Authority should:-

- check the **planning register** for any **Secretary of State Screening Direction** or **planning authority Screening Opinion**.
- 7.2 If the proposal is the subject of a **Screening Direction** the planning authority should deal with it in those terms. (If, exceptionally, there is a good reason, i.e. changed circumstances etc. the planning authority can ask the Secretary of State to cancel or vary the Screening Direction.)
- 7.3 If there is **no Screening Opinion** or **Direction** relating to the proposal, the planning authority should follow the **5 STEP SCREENING PROCESS**, shown in **Figure 3** on **page 14** ◀ i.e.:-

- the Planning Authority should consider whether the proposal requires a **mandatory EIA** because of its inclusion in **Schedule 1** of the Regulations; (**GREEN PAGES**) – see **Part 4** ◀

and if not

- if it falls within **Column 1 of Schedule 2** of the Regulations
- and is located in a **specific sensitive area (identified in 3.1** ◀ **of this Guide)**
- or meets a relevant **criterion or exceeds a relevant threshold in Column 2 of Schedule 2**, (**BLUE PAGES** – see **Part 5**)◀
- the Planning Authority should then consider whether it is likely to have **significant environmental effects** by virtue of nature, size or location etc. (For explanation and further details of suggested procedures see **Part 5 (YELLOW PAGE) and onwards.**◀

Thus if the project falls within Column 1 of Schedule 2 but is not in a specific sensitive area and does not meet the relevant criteria in Column 2 of Schedule 2, then there is no need to consider whether there are likely to be significant environmental effects – and the planning application can be dealt with in the normal way.

If the project is determined:

- not to be a Schedule 1 Project (Step 1),
and
- not to be a Schedule 2 Project (Step 4),

then it is not necessary to adopt a Screening Opinion and the application can be dealt with in the normal way.

Conversely if the project is determined:

- to be a Schedule 1 Project (Step 1)
- or
- to be a Schedule 2 Project (Steps 3 and 4)

then **it is necessary to adopt a Screening Opinion**. For **Schedule 2 Projects** this will involve consideration of **Step 5** i.e. ‘are there likely to be **significant environmental effects**?’

- 7.4 It is recommended that planning authorities set up specific procedures in order to facilitate this screening process. This could include devising a **pro-forma** based on the **5 step procedure** on **page 14**◀.
- 7.5 Normally the screening process will be carried out by an officer of the planning authority. However, the decision is taken on behalf of the planning authority. It is therefore important to ensure that the officer concerned has **delegated authority** for this, otherwise any subsequent decision may be open to successful legal challenge.
- See **para 6.17**◀ regarding the issue of planning conditions or legal obligations being used to avoid requesting an EIA.
- 7.6 Since only **three weeks** are allowed for a **screening opinion** to be adopted on whether EIA is required, if further information needs to be sought from the applicant (in writing) and relevant expert bodies, then the **EPOA** recommend that agreement to an **extension** of the three week period be sought from the applicant.
- 7.7 If it is concluded that **EIA is not required**, the planning application is then dealt with in the normal way. The Screening Opinion that EIA is **not** required should be placed on Part 1 of the Planning Register with the planning application. No reasons for this decision are required – however, it is considered to be good practice to keep a note of the reasoning on file, in case a similar project is received within the same general location; and thus ensure a consistent approach, to build up expertise in the screening process and to assist in the event of any challenge on EIA grounds, on any subsequent planning permission.
- 7.8 If however it is decided that **EIA is required** (because it is either within Schedule 1, or because it is a Schedule 2 Project which is likely to have significant environmental effects), then within 3 weeks (or extended agreed period) the planning authority must **notify** the applicant sending a copy of the Screening Opinion and the statement of reasons.
- The planning authority should also notify the applicant of anyone, including a non governmental environmental organisation, who they consider is likely to be affected, or who has an interest in the proposal and who may not otherwise become aware of it through the publicity process.
- 7.9 If the planning authority considers that **EIA is required but has failed to issue a Screening Opinion** within the 3 week (or agreed extended period), the planning authority could:-
- (a) seek to persuade the applicant to **voluntarily** carry out an EIA and provide an ES which would be dealt with under the regulations (see **10.4**▶)
 - or (b) request the Secretary of State to issue a **Screening Direction** to determine whether EIA is required (see **6.29 onwards**◀).
- 7.10 The planning authority can **change** its **Screening Opinion** in the light of new information only within the 3 week (or agreed extended period).

- 7.11 If the planning authority has issued a **Screening Opinion that EIA is not required** but subsequent information indicates that EIA **should have been required**, the planning authority cannot issue a new Screening Opinion **outside the 3 week** (or agreed extended period). If no planning decision has been made however, the planning authority should not ignore the new information. It could seek to persuade the applicant to voluntarily carry out an EIA (see **para 10.4** for procedures in this case). If the applicant is unwilling, the authority should either request a **Screening Direction** from the Secretary of State (see **6.29 onwards**) or refuse planning permission.

Should the Secretary of State issue a **Screening Direction** (and statement of reasons) after the 3 week or extended period, **that EIA is required**, a copy should be sent to the applicant by the planning authority within 7 days of receipt. A copy of such a Screening Direction (and statement of reasons) should be placed on the planning register.

- 7.12 Following making its **Screening Opinion** decision, the planning authority must
- place a copy of the **Notification, Screening Opinion** and a **statement of reasons** (if EIA is required) in the **Planning Register**.
 - send a copy to the **Secretary of State** at the relevant Regional Government Office.
- 7.13 If EIA is required the **applicant** should also be advised that if wishing to continue with the planning application, the applicant must reply, within 3 weeks of receipt of the notification, to the planning authority indicating,
- whether it is intended to **submit an ES**
- or
- whether it is intended to seek a Secretary of State **Screening Direction** (see **para 7.21** for procedures) on the matter (unless the Secretary of State has already made a Screening Direction).

- 7.14 If no such reply is received within 3 weeks of the date of the planning authority's notification, (and no Screening Direction has been made by the Secretary of State) then the application is **deemed** to have been **refused** – *against which there is no appeal*.

- 7.15 If the applicant advises *either* that it is intended to submit an **ES** or seek a Secretary of State **Screening Direction**, the planning authority should **suspend consideration of the application** (unless it is minded to refuse it – in which case it should do so quickly to avoid abortive work on the **ES**), pending the receipt of the **ES** from the applicant or **Screening Direction** from the Secretary of State.

Thus the 16 week period for determining the application does not begin until the **ES** is submitted. Similarly if the Secretary of State makes a **Screening Direction** that an **ES is not required** then the normal 8 week or 13 week determination period for a major application, does not run until the **Screening Direction** has been made.

There is no time limit for the preparation of an ES.

- 7.16 If the applicant indicates an intention to submit an **ES** the planning authority should **notify the consultation bodies** (listed in **para 10.18**) in order that they can be pre-warned that they may be asked to supply information to help the applicant complete the **ES**.
- 7.17 The consultees should be provided with the name and address of the applicant and advised of their duty to make relevant existing information available to the applicant, if required. The planning authority must also advise the applicant of the names and addresses of the consultees that have been notified.

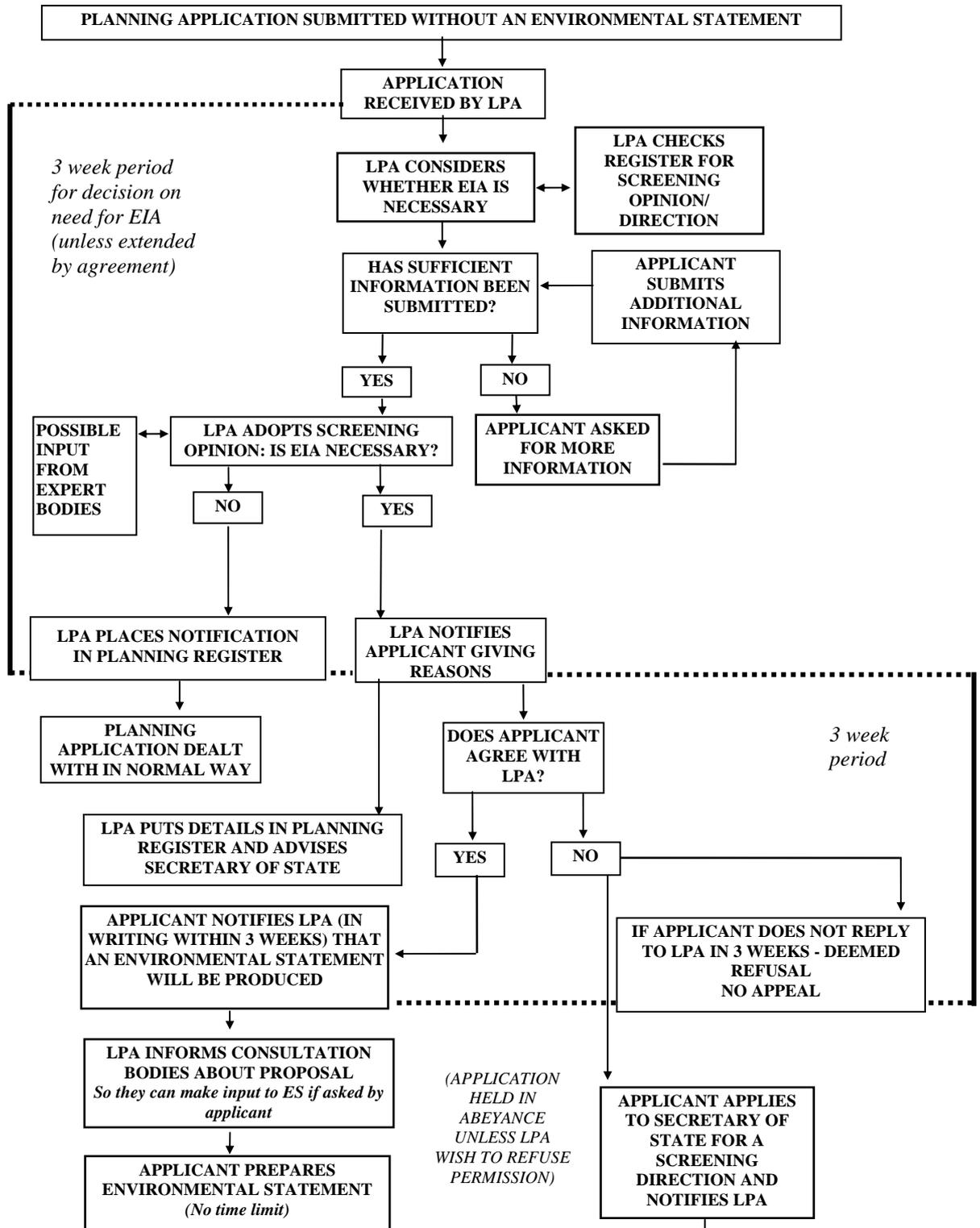
- 7.18 The planning authority should also make relevant information available, including that held by other departments.
- 7.19 The public bodies may make a reasonable charge reflecting the cost of making the information available.
- 7.20 The applicant may wish to ascertain what information the planning authority considers should be included in the ES. This process is known as **scoping** and is considered in greater detail in **8.8** onwards.➤ Whilst there is no legal requirement for the planning authority to issue a Scoping Opinion when a planning application has been submitted, nevertheless by **letter dated May 2004 the ODPM** encouraged authorities to respond favourably to such a request.
- 7.21 If the applicant intends to seek a **Screening Direction** from the Secretary of State, the applicant should send with the request, a copy of the planning application and all related documents and relevant correspondence to the Secretary of State. See **6.29** to **6.34**⊲ for “**procedures for requesting a Screening Direction**”, but for ‘**prospective applicant**’ substitute ‘**applicant**’).
- Chart 4** on **page 69**➤ shows in diagram form the procedures involved in seeking a Screening Direction from the Secretary of State.
- 7.22 **Part 10** explains the procedures when an ES is eventually submitted.
- 7.23 For applications for the **Approval of Reserved Matters**, (See **Paragraphs 7.1, ⊲ 9.11, 10.40 and 11.21**➤) the DCLG has issued **interim guidance**:-
- Regardless of whether EIA was carried out at the outline stage, the planning authority should screen the development again to determine whether all of the likely significant environmental effects have been considered.
 - If it determines that EIA **is** required the planning authority should request an ES - this could be a supplemental ES or an addendum to an existing ES.
 - If the applicant disagrees with the request, the planning authority must disapprove the details or defer determination until an ES is submitted.

KEY POINTS

- Planning authorities should seek **extensions of time** to determine whether **EIA** is required, in potentially complex cases
- Planning authorities should set up a **screening** process in order to help identify potential EIA related applications. This could include devising a **pro-forma** based on the **5 step process** referred to on **page 14**⊲.
- Although there is no legal requirement for a planning authority to give **reasons** for deciding that EIA is not required for a Schedule 2 project, it is recommended that reasons are kept on file in order to help the screening process in respect of future similar projects on nearby sites, to help build up a body of expertise in this field and to assist in the event of any challenge on any subsequent planning permission granted, on EIA grounds.
- Planning Authorities should **delegate** to officers the power to **adopt Screening Opinions** on whether or not EIA is required.
- Applications include applications for the **Approval of Reserved Matters** following an outline permission.

CHART 3

SUBMISSION OF PLANNING APPLICATION *WITHOUT* ENVIRONMENTAL STATEMENT

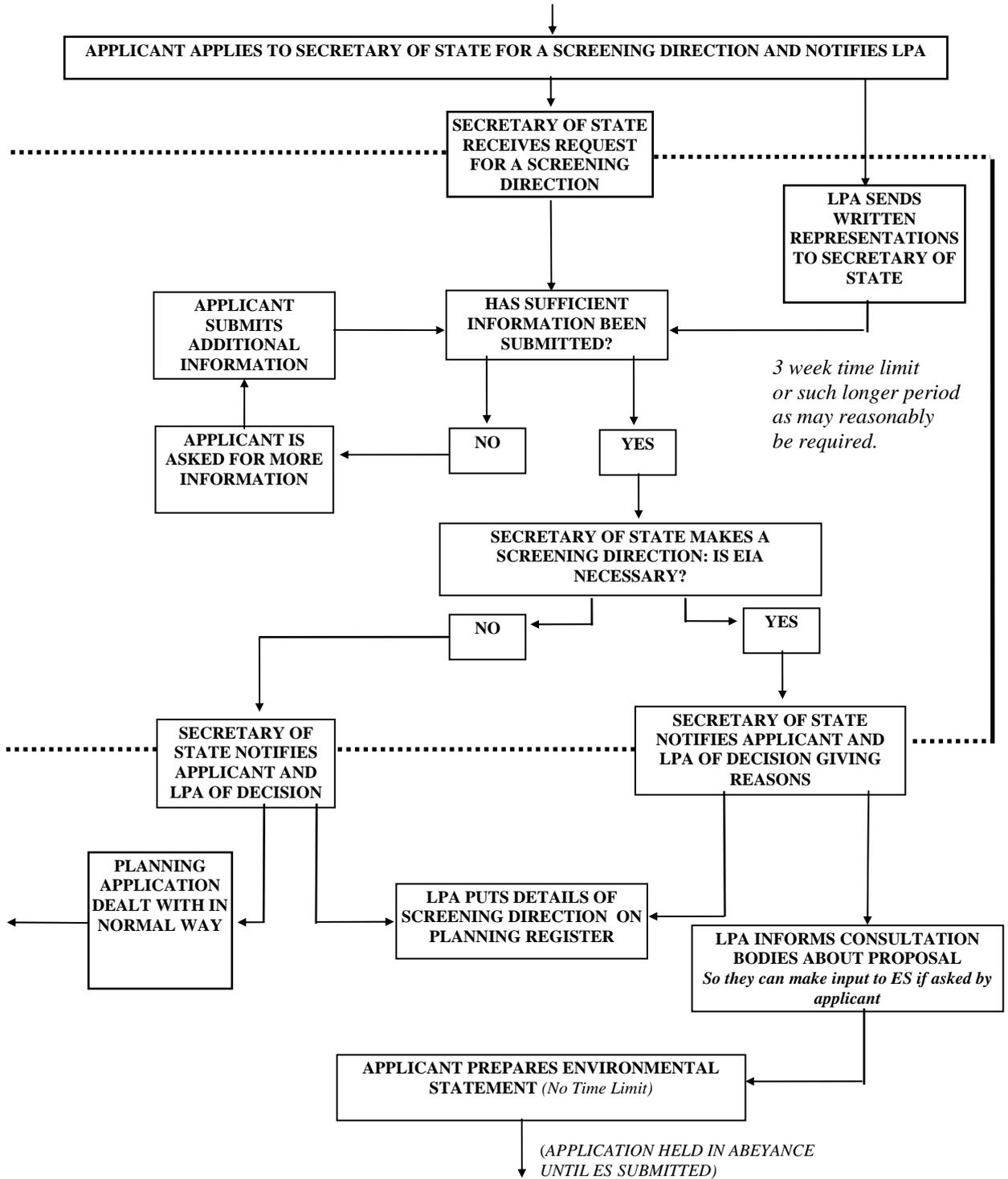


(Continued on **Chart 5** on page 134➤.)

(Continued on **Chart 4** -opposite)

CHART 4

APPLICATION TO SECRETARY OF STATE FOR *SCREENING DIRECTION* WHERE APPLICANT DISAGREES WITH LOCAL PLANNING AUTHORITY



(Continued On **Chart 5** on **Page 134**➤.)

PART 8

THE EIA PROCESS LEADING TO THE ENVIRONMENTAL STATEMENT

8.1 NOTIFICATION TO PLANNING AUTHORITY

A prospective applicant **may notify** the planning authority in writing that it is **intended** to submit an **ES** with a planning application. The notification should include a plan, details of the nature and purpose of the proposals and main environmental consequences.

- 8.2 The planning authority should then notify the Consultation Bodies (see **para 10.18** etc.), in order to alert them that they may be requested by the applicant to provide information to help the applicant complete the ES.

The applicant will be advised which consultees have been notified.

The consultees should be provided with the name and address of the prospective applicant and advised of their duty to make relevant information available to the prospective applicant, if required. The public bodies may make a reasonable charge reflecting the cost of making the information available.

8.3 THE EIA PROCESS

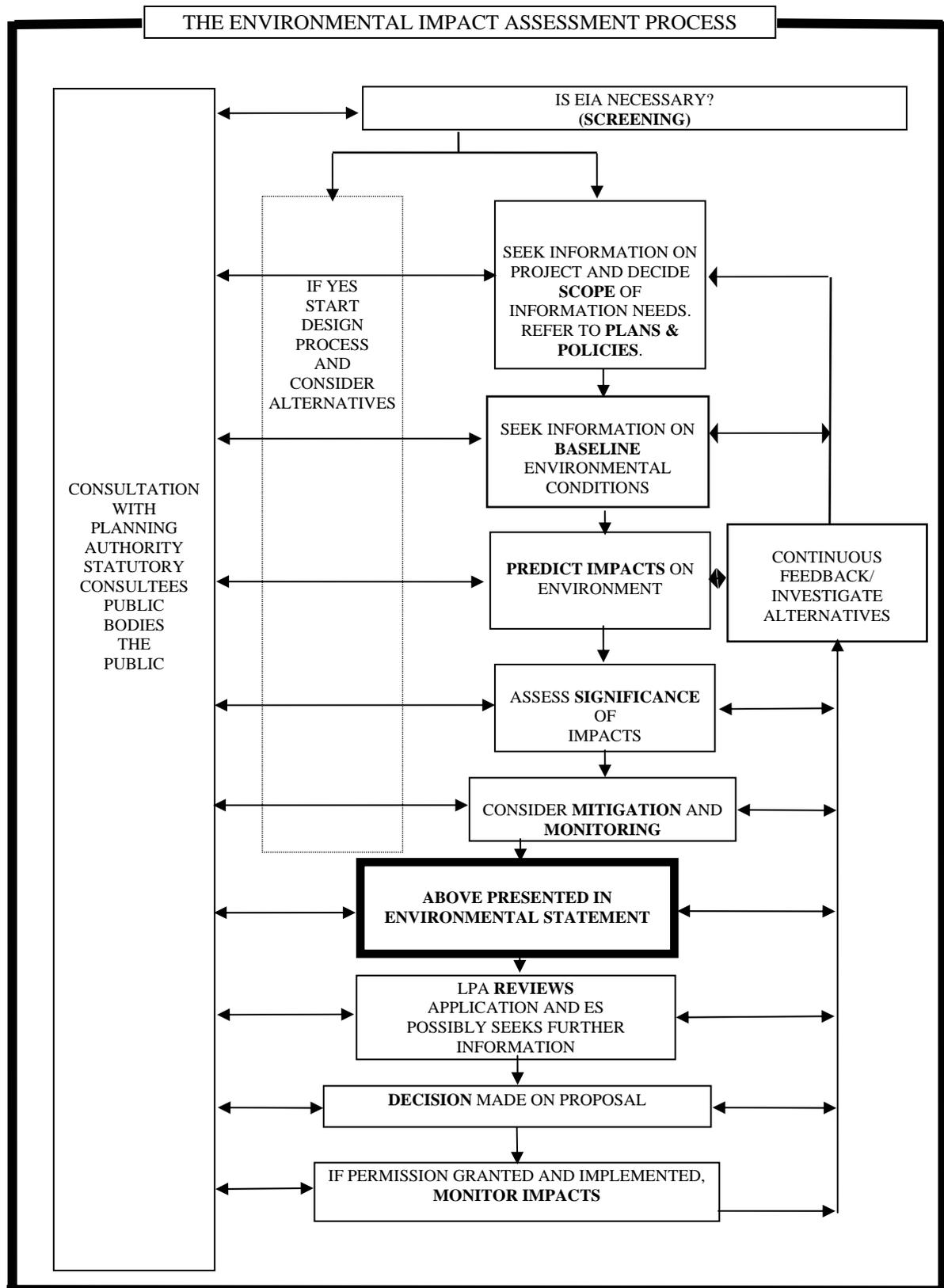
Figure 5 on **page 72** shows how the **Environmental Statement** fits into the **Environmental Impact Assessment** process; it is a document which brings together for scrutiny by the planning authority, the consultation bodies, the public etc., the results of that part of the EIA process carried out by the applicant/consultant.

- 8.4 Since the process is an iterative one, where feedback and consultation at various stages is particularly important, early contact with the **Consultation Bodies** is strongly recommended – see **para 10.18** etc. for further details of the consultees.

The EIA process involves the following stages:-

- 8.5 ■ **Screening**
Applicant/consultant determines whether EIA is necessary in consultation with the planning authority (this was explained in **Part 6**)
- 8.6 ■ **Design Process**
Applicant/consultant surveys in detail the **site** (and **alternatives** including, perhaps, a ‘do nothing’ option) and **surroundings** and starts the **design process**. Alternative approaches to achieving the same objective should also be considered at this stage. The technical design of the project may well be the responsibility of a separate team or consultant. The design process is best carried out in parallel with the **EIA** process proper (see next).

FIGURE 5 – THE EIA PROCESS – A MORE COMPLICATED DIAGRAM



8.7 ■ Information on the Project

Applicant/consultant seeks **information** on the project. The ideal situation will be where the **EIA process** and **project design** happen in parallel – i.e. the EIA process thus has started at a very early stage. This can lead to modification and improvements in design as a result of taking into account environmental factors that come to light in the iterative EIA process. In this case, if the project designer/team is different from the EIA consultant/team, a system of good and **continuous liaison** is essential. This can be encouraged by the use of a **project specification** which describes the requirements of the project, identifies the range of uncertainty and starts to spell out environmental impacts. The project specification will need to be updated as the project is modified and refined.

It is accepted, however, that there may well be situations where the need for EIA has not been appreciated until the project has been designed. In this case there may be little or no scope for improving or modifying the project itself and this could result in unacceptable environmental impacts emerging as the EIA process progresses and the possibility of the project failing to obtain planning permission.

The type of information required at this stage is considered further in **Part 9 – page 96**➤, but should include in particular quantification of **resources** to be used and of all likely **emissions**.

8.8 ■ Scoping

At this stage the applicant/consultant should decide which are the significant environmental issues which need to be investigated – and also those issues which are not to be looked at in as much detail. This is known as **scoping** and was referred to briefly in **para 6.10**.◀

It is emphasised that it is the **whole life cycle** of the project which needs to be considered; the stages could include: **reclamation** or **decontamination** from a previous use, **site preparation**, **construction**, **operation**, **de-commissioning** and **reinstatement**.

A useful starting point in the scoping process is **Schedule 4** to the Regulations – referred to in **paragraph 9.17 of Part 9** and reproduced on **page 93 (PINK)**.➤ The checklist contained in **Appendix 5 to the DETR's "Environmental Impact Assessment: A Guide to Procedures"**, the **Environmental topic areas** referred to in **Appendix A of this Guide** and the **1995 DOE Good Practice Guide – 'Preparation of Environmental Statements for Planning Projects that Require Environmental Assessment'** will also be useful.

The **European Commission** has also published guidelines: - **Environmental Impact Assessment – Guidance on Scoping, 2002**.

The range of environmental issues will reflect the nature, scale and location of the particular project.

The **policy context** (see **para 8.18**) is also likely to be an important contribution to this process of identifying key environment topics. Thus the allocation(s) of the site in the various relevant **regional spatial strategies** and **development plan documents** and the wording of any policies relating to the type of project may well reveal issues that should be addressed in the EIA.

It is therefore emphasised that **consultation with planning officers**, who will have knowledge of the Policy context and are also likely to be involved in the final decision making process will help greatly with this scoping process.

Consultation with **consultation bodies**, other **expert bodies** including for instance the statutory rights of way consultees – as advocated in **DOE Circular 2/93** – (for addresses see **Appendix C**); and other non government bodies like RSPB and the **public** (see next ✓) is also strongly advocated at this important stage.

PUBLIC INVOLVEMENT

During the scoping stage it may be appropriate to consider how and when the public can be involved. (See **para 8.10**).

As the *DOE Guide to the Preparation of Environmental Statements* points out (para 2.20/2.21):

“While developers are under no obligation to publicise their proposals before submitting a planning application, consultation with local amenity groups and with the general public can be useful in identifying key environmental issues. Such consultation may put the developer in a better position to modify the project in ways which would mitigate adverse effects and recognise local environmental concerns. It will also give the developer an early indication of the issues which are likely to be important at the formal application stage if, for instance, the proposal goes to a public inquiry”.

“Developers may be reluctant to make a public announcement about their proposals at an early stage, perhaps because of commercial concerns relating to land purchase negotiations or perceived challenges from rival companies. There may also be occasions when public disclosure of development proposals in advance of a formal planning application may cause unnecessary blight. However, early announcement of plans for prospecting and site or route selection, and the provision of opportunities for environmental/amenity groups and local people to comment on environmental issues, may channel legitimate concerns into constructive criticism.”

Consultation at this stage enables potential conflicts to be identified, focuses attention on areas requiring further investigation and highlights existing knowledge and information which can assist. This also allows more opportunities for the proposal to be altered to avoid potential impacts.

The appropriate local authority’s **Community Involvement Statement** which sets out how the authority expect the community to be involved in the early stages of formulating planning applications, should also be scrutinised.

8.9 Scoping Procedure

During scoping, participants should be provided with a brief description of the project and its location and invited to comment on project design, its potential environmental impacts and their mitigation, and any alternatives which they consider should be investigated.

It can also be useful to ask consultees to provide any information they may have on the existing environment or any special local issue.

8.10 **Consultation** may be facilitated through a range of means including:-

- announcement in the press
- posting notices on site/in the area
- distributing letters/questionnaires to potentially interested organisations and residents requesting information and comments
- telephone discussions and meetings with key organisations, groups or individuals
- articles in newspapers, radio or TV
- public meetings (with an independent chair!)
- public exhibitions (may be preferable to a meeting – some people may be nervous about speaking in public – may prefer a one to one setting)
- A Scoping Workshop – participants working together through a structured programme
- Establishing an expert or community based scoping group to oversee the whole process.

A range of such methods could be used. **It is important, however, to provide enough information about the project; make clear to participants that the process is about hearing their views, not selling the project; provide sufficient time for responses; reassure consultees that views will not preclude them making further comments and possibly objecting at a later stage in the EIA process, ensure that views expressed are taken into account and seen to be taken into account; that an explanation is provided if recommendations are not followed.**

It is suggested that the **results of the scoping process** are included in the final ES.

8.11 A **formal scoping procedure involving the local planning authority** also exists under the EIA Regulations; which is recommended to be followed, this is explained in the box below:-

FORMAL SCOPING PROCEDURE

A prospective applicant or any one proposing to prepare an ES may ask the **planning authority** for a formal **Opinion** on what **information needs to be included in the ES** i.e. a **Scoping Opinion**. This allows that person to be clear about what the planning authority considers the main effects of the proposal are likely to be and on which environmental issues the ES should focus.





■ Request to Planning Authority for a Scoping Opinion

The **request for a Scoping Opinion** can be made at the same time as a **Screening Opinion** on the need for EIA (see **para 6.11 etc. in Part 6**◀) but it does not have to be – it can be made separately.

** Whilst the regulations require scoping opinions to be issued only in cases where the planning application has not been submitted, the **ODPM in its May 2004 Note, encourages authorities to respond favourably to any requests for a scoping opinion.***

The person making the request must send to the planning authority:-

- a location plan
- a brief description of the nature and purpose of the proposals
- a description of the possible environmental effects and their scale
- any other relevant information.

It is suggested that the person making the request may also wish to submit a draft outline of the proposed ES, giving an indication of what they consider to be the main issues.

If the planning authority considers that it needs **further information** to be able to adopt a Scoping Opinion, the person making the request should be asked to provide it.

A Scoping Opinion cannot be adopted until the Planning Authority has consulted the person making the request and the consultation bodies – see **paragraph 10.18**►.

The planning authority may also wish to consult the public and other interested bodies.

The planning authority must take into account:-

- specific characteristics of the development;
- specific characteristics of development of the type concerned; and
- environmental features likely to be affected.

The **planning authority** must adopt its **Scoping Opinion** and send it to the person making the request within **5 weeks** of receiving a request (or from the adoption of the related Screening Opinion that EIA is required) – although this period can be extended in writing, by agreement between the person making the request and the planning authority.

The **Scoping Opinion** of the planning authority on the **content of the ES**, the original request, and other documents submitted by the person making the request must be made available for **public inspection**, where the Planning Register is kept, for 2 years or until transferred to the Planning Register with any related planning application, or in the case of EIA requirements for a Local Development Order (LDO), with the draft LDO.

Where the **planning authority fails to adopt a Scoping Opinion** within the 5 weeks, or agreed, extended period the person making the request may ask the Secretary of State for a **Scoping Direction**.





■ Request to Secretary of State for a Scoping Direction

This request must be accompanied by all the previous documents relating to the original request for a **Scoping Opinion**, including any requests for additional information from the Planning Authority and any response and a copy of any related Screening Opinion and statement of reasons, together with any additional representations that the person making the request wishes to make.

A copy of the request and representations should also be sent to the planning authority; which can also make representations.

The Secretary of State may seek, in writing, any additional information from the person making the request and from the Planning Authority.

The consultation bodies (see **para 10.18** etc.➤) and the person making the request will be consulted and the Secretary of State should give a Scoping Direction within 5 weeks from the date of receipt of the request or such longer period as required.

The Secretary of State must take account of:-

- specific characteristics of the particular development;
- specific characteristics of development of the type concerned; and
- environmental features likely to be affected.

Copies of the Scoping Direction will be sent to the person making the request and to the planning authority with the request that a copy (plus all relevant documents), is made available for inspection, where the Planning Register is kept, for 2 years or until transferred to the Planning Register with any related planning application, or in the case of EIA requirements for a Local Development Order (LDO), with the draft LDO.

As **Environment Circular 02/99** points out an ES is not invalid if it does not fully comply with the Scoping Opinion or Direction. However, an ES which does not cover all the matters specified in the Scoping Opinion or Direction may well be subject to requests for **further information** at the critical stage when a planning decision is being sought. (See **para 10.28**➤). The absence of information in an ES that has been requested in a Scoping Opinion or Direction may be a **material consideration** in determining the planning application. (See **para 10.43**➤).

Even though a formal Scoping Opinion or Direction may have been given on the content of an ES, this does not prevent the planning authority or Secretary of State from requesting further information, at a later stage – this emphasises the **iterative** nature of the whole process and the acknowledgement that circumstances can change during the period whilst an ES is being produced.

In order to reduce the likelihood of needing to seek further information at a later stage, continuous consultation during the preparation of the ES – in addition to formal scoping – is strongly advocated.

It is recommended that planning authorities delegate to Chief Officers the power to make Scoping Opinions.

- 8.12 It is advocated that applicants prepare a **scoping report** explaining the reasons for concentrating on particular issues in the ES – this could include a copy of any formal Scoping Opinion or Direction that has been made.

The **scoping report** could indicate likely sources of information and likely boundaries of study for the various issues – both geographical and temporal i.e. in terms of time of year etc., although this can only be confirmed once baseline studies (see **para 8.17**) have been initiated. The report could also discuss how **alternatives** will be dealt with – see **next**.

8.13 **Alternatives**

Alternatives can range from high level strategies to detailed design and could include:-

- alternative strategies
- alternative sites or routes
- alternative technologies/raw materials etc.
- alternative layouts or designs
- alternative mitigation measures

The ‘**No project**’ alternative should also be considered as the baseline against which the environmental effects of the project should be considered. This may include changes from the present day situation as a result of other developments taking place nearby and changes in environmental conditions.

- 8.14 It is suggested that the **scoping report** should be included in, or accompany, the ES; and should itself be the subject of consultation before finalisation.

It is emphasised, however, that the EIA process is an **iterative** one and topics discarded at the initial scoping stage, or new topics, may emerge later in the process.

8.15 **A Scoping methodology**

It is considered important that the people undertaking the scoping process should

- have sufficient information about the project and the location to allow them to identify potential impacts and possible alternatives
- have experience of impact assessment methods
- understand the relevant legislation and its implications for the project and the environmental studies
- understand the decision making process so that issues which must be considered by the decision maker are taken into account.

Effective scoping should involve the decision making body and developer/consultant in a dialogue about the project and the issues it raises. This experience and expertise will be supplemented via the consultation process with other bodies and the public. Site visits of the project location and surroundings will, of course, always be important.

8.16

STAGE BY STAGE SCOPING METHODOLOGY**STAGE A**

Identify the **Project Activities** or **sources of impact** that could arise from construction, operation or decommissioning of the project.

STAGE B

Identify any aspects of the **receiving environment** which could be affected by the activity.

It is important to consider whether any **direct effect** might give rise to a **secondary effect** or an **effect on another environmental component**.

STAGE C

Once all the potential impacts have been identified the next task is to **focus the assessment on the most important for decision making**.

For each potential effect the following questions could then be asked to identify which of the effects are likely to be significant.

- The **nature of the effect** – is the impact unusual in the area or particularly complex?
- The **size or magnitude** of the effect – what will be the degree of change from the existing situation? – will it be out-of-scale with the existing environment?
- The **geographical extent** of the effect – over what area will the impact extend?
- Will there be any potential for **cross national boundary** impact?
- **How many people or other receptors** will be affected?
- Will it affect **valuable or scarce features or resources**?
- Is there a risk that **environmental standards** will be breached?
- Is there a risk that **protected sites, areas or features** will be affected?
- What is the **probability** of the impact occurring?
- Will the impact be **short, medium or long term**?
- Will the impact be **permanent or temporary**?
- Will the impact be **continuous or intermittent** and if intermittent, **how frequently** will it occur?
- Will the impact be **irreversible**?
- Could the impact be **repaired or remedied** or could it be **compensated** for?
- Has the **developer agreed to incorporate mitigation** into the Project proposals to reduce, avoid or offset significant adverse impacts?
- Will the **mitigation itself cause impacts** on other environmental components?

The **European Commission** has produced *Guidance on Scoping* which includes checklists which will assist in Stages A and B.

See also *Handbook for Scoping Projects* – Environment Agency.

8.17 ■ **Baseline studies**

Applicant/consultant seeks information on the environment and establishes the “**baseline situation**” i.e. as the ‘environment’ currently exists, for the various potential environmental impacts which will have emerged from the **scoping** stage.

The aim is to establish current environmental conditions and consider the character, extent, importance and vulnerability of the various components of the environment.

This may well require **specialists** looking at particular environmental topics and involve desk studies, field surveys and consultation with other experts and bodies – such as the planning authority and statutory consultees.

Some planning authorities have produced *environmental audits* or *State of the Environment Reports*, of their areas. *Sustainability Reports* prepared as part of the process of producing Regional Spatial Strategies, Development Plan Documents and Supplementary Planning Documents will also be important sources of information.

Environmental trends should also be established i.e. likely changes in environmental conditions which will occur independently of the project. Where major projects have a long lead time, the changes in baseline conditions during that period should be recognised.

Uncertainty in terms of **lack of data** should be explicitly recognised and consideration given as to how or whether this can be rectified.

It may be that **monitoring** (see **para 8.24**) of some environmental components will be required once the project is being constructed and during its operation, either because of planning and licensing conditions or because of internal company **Environmental Management Systems**. If this is likely, consideration should be given to the long term data requirements and baseline studies designed with this in mind.

8.18 ■ **Policies and Plans**

In association with previous stages, the applicant/consultant should consider the **development plan and policies** of the planning authority and other bodies (see **box on page 52** explaining what the **development plan** is). This will give an indication of likely **future developments** and help in establishing **trends** for some of the environmental topics and also inform the **scoping** exercise referred to in **para 8.8** onwards. As indicated in **para 6.9** it is also necessary to be aware of the **Development Plan** provisions for the site/and type of project since this will be an influential matter in the final decision of the planning authority (see **10.39**).

The **POLICY FRAMEWORK** which needs to be considered comprises:-

- **INTERNATIONAL LEVEL – EC Directives, International Conventions** etc.
- **NATIONAL POLICY – Ministerial Statements, White Papers, DCLG/ODPM/DTLR/DOE/DETR Planning Policy Guidance Notes and Statements (PPGs and PPSs), Minerals Planning Guidance Notes and Statements (MPGs and MPSs) and companion guides, Circulars, UK Sustainability Strategy** etc.

Also **advice** from **national statutory bodies** such as **Natural England, English Heritage, The Environment Agency** etc.

- **REGIONAL POLICY –Regional Spatial Strategies (RSSs) (In Essex RPG 9 – South East England; and RPG 9a – Thames Gateway and emerging RSS 14 for the East of England); Reports from regional bodies** such as **East of England Development Agency (EEDA), Regional Sports Councils** etc.
- **LOCAL POLICY – See Box on page 52** for details of the new **development plan system**. In addition **Supplementary Planning Documents** should be considered. It will also be necessary to refer to ‘saved’ existing **structure, unitary and local plans** and also to **Area of Outstanding Natural Beauty (AONB) Management Plans, Noise Action Plans** and **Air Quality Action Plans**.

Each authority will produce a **Local Development Scheme** which will set out the authorities programme for the preparation of Development Plan Documents and Supplementary Planning Documents.

It is emphasised, however, that the **development plan framework is not a static system**, and therefore consultation with the relevant planning authorities is advocated in order to ascertain the up-to-date situation – i.e. the stages at which the various plans have reached in their progress towards adoption. This is important since the **weight to which the planning authority will give a plan in the decision making process depends on the status of the plan, i.e. whether it is in draft, awaiting an Inspector’s report following an inquiry, whether modifications have been published, whether it has been adopted or whether it is being reviewed again etc.** Additional documents such as Council Committee reports may provide an indication of the most recent situation.

Where applicable, information should also be given on other relevant **statutory designations** such as:-

- **World Heritage Sites** – there are none in Essex – further information from Department for Culture, Media and Sport.
- **Historic Battlefield Sites** – there is one in Essex at Maldon.
- **Sites of Special Scientific Interest (SSSIs)**, these include international designations i.e. SPAs, SACs and Ramsar sites, **national and local nature reserves** etc. (see PPS 9 for legal obligations relating to these designations and information from Natural England, the County Wildlife Trusts, local authorities and RSPB etc.).

- **National Parks** (various National Park Authorities, see also PPS 7). (There are no National Parks in Essex.)
- **Areas of Outstanding Natural Beauty and Heritage Coasts** (information from relevant local planning authorities or partnership organisations). (In Essex – Dedham Vale AONB).
- **Regional Parks** (in Essex, Lee Valley Park – information from Lee Valley Regional Park Authority), (in Essex we also have **Epping Forest** which although not a regional park has special status as open space protected by Act of Parliament – information from the Conservators of Epping Forest).
- **Country Parks** (relevant local authorities [and in Essex, the Lee Valley Regional Park Authority and the National Trust]).
- **Tree preservation orders, and public rights of way, etc.** (information from relevant local authority).
- **Listed buildings, historic parks and gardens, and conservation areas** – (relevant planning authorities, English Heritage, Garden History Society – can advise).
- **Scheduled Ancient Monuments and areas of archaeological importance** – (information from County Archaeologists and English Heritage).
- **Environmentally Sensitive Areas (ESAs), Nitrate Sensitive Areas (NSAs) and Water Fringe Areas (WFAs), Nitrate Vulnerable Zones (NVZs)** – (information from Natural England). (In Essex the Stour Valley and parts of the Essex Coast are ESAs).
- **Community Forests** – (information from Forestry Commission and relevant planning authorities and partnership organisations). (The Thames Chase Community Forest straddles parts of south west Essex and East London).
- **Rural Development Areas** – information from Natural England.
- **Objective 5(b) Areas** – information from European Commission and relevant planning authorities.
- **National Trust Sites** – information from The National Trust (in Essex there are 14 sites).

8.19 ■ **Impact Predictions**

Again this is likely to be a **specialist** activity for the various environmental topic areas.

It involves the **analysis of potential causes of change** to the existing environment and determination of **likely effects**.

The basic stages are:-

- **Identifying characteristics of the project and activities** in the development process throughout the potential life cycle of the project likely to generate both **positive and negative impacts** i.e. as a result of the existence of the development, the use of natural resources the emission of pollutants, the creation of nuisances and the treatment or disposal of waste.

The **scoping** stage should have identified the main environmental topic areas in which the development has a potential impact. The potential impacts need to be reviewed in terms of how the environmental baseline conditions – including trends – will be affected by the impacts.

- **Identifying resources** – (i.e. water, soil, air, etc.) and **receptors** (i.e. species of plants and animals, and people), likely to be affected by the impacts. Particular attention should be paid to potential impacts on any internationally or nationally important areas or species. Cumulative impacts should also be considered. In order to assess the effect on individual receptors, **target groups** are often selected; for instance dwellings close to a development should be assessed in terms of noise impact.
- Establishing the **chain of events or pathways** linking cause and effect. These may be direct or indirect.
- **Predicting the nature, extent and magnitude** of any anticipated effects.

As far as **nature** of the impact is concerned it will be necessary to assess whether the effects will be:-

direct or indirect
secondary
short, medium or long term
reversible or irreversible
permanent or temporary
beneficial or adverse
cumulative
unusual
complex.

The **magnitude or physical extent** should be presented in **quantifiable** terms wherever possible. Methods of prediction will differ according to the environmental topic – they will often include a combination of **qualitative** and **quantitative** techniques. Qualitative techniques rely heavily on previous experience and knowledge; quantitative techniques often seek to model the natural environment. The usefulness of such techniques may be reduced by limitation of knowledge of pathways and lack of data.

Uncertainty should be clearly and explicitly recognised i.e. the probability of an event occurring, the severity of the event, the consequences, and interaction between events.

Where **health and safety** is an issue a full **hazard and risk assessment** may be required as a separate study, e.g. natural hazards such as ground instability and flooding, failure of structures like dams, and malfunction of plant, movement of hazardous wastes etc. Such assessments require specialist knowledge – see “*A Guide to Risk Assessment and Risk Management for Environmental Protection*” The Stationery Office 1995. **The Health and Safety Executive** may also be able to provide advice.

It is emphasised that the EIA process is **iterative or cyclic** and at the stage of identifying the environmental impacts there may well be opportunities to refine the proposals to **mitigate** some of the adverse effects identified.

8.20 ■ Evaluation of significance of impacts

One of the most important parts of the EIA process is attaching some measure of significance to the likely impacts. This could involve:-

- considering the **extent (geographical) and magnitude** (size – degree of change from existing – or out of scale with existing) of the impact. (How many people or receptors will be affected?)
- considering whether its impact is **short-, medium-, or long-term**
- considering whether the impact is **reversible or irreversible/permanent or temporary**
- considering the **frequency of the impact** – continuous or intermittent?
- considering the **probability of an effect occurring**
- considering whether the impact is **cumulative**
- performance against **environmental quality standards** – will they be breached?
- **sensitivity** of the receptor and **capacity of the receiving environment** to absorb impacts. (How valuable or scarce is the receptor? (Will a protected site be affected?)
- compatibility with **environmental and planning policy** guidelines.

Environmental quality standards may be particularly useful for assessing the significance of impact on air or water; and there are accepted methods for measuring impact of noise (see **PPG 24**) and traffic etc. It is more difficult, however, to assess significance in relation to landscape value, for instance, although a consensus through ‘**panel**’ interviews etc. may be able to be achieved.

An approach applying environmental and planning policy guidelines may be to categorise the impact in terms of **geographical levels of importance** i.e. ranging from impacts of international importance e.g. on a Ramsar site, down to local impacts e.g. noise, or local visual impact etc.

Expert bodies may be able to advise on particular measures for significance.

It is suggested that the impacts are rated **major, minor or of no significance**. However, a minor impact on a major environmental component may be more important than a major impact on a minor part of the system. Whilst a minor adverse impact might be tolerable, the cumulative effect of several such impacts might result in an overall unacceptable impact.

It should be recognised that assigning levels of significance to predicted impacts is very much a matter of **judgement**.

8.21 ■ **Consideration of mitigating measures and their effectiveness**

This stage involves determining what mitigating measures can be introduced to **avoid, reduce or remedy** any significant adverse effects.

The most satisfactory form of mitigation is **avoidance** – e.g. at source, through design. **Reduction** involves lessening the severity of an impact. **Remedy** – which could include **compensation**; accepts that there will be adverse consequences, but provides means by which those consequences can be mitigated or compensated for.

Consideration should also be given to any possible **enhancement or improvements** to the environment not related to an identified impact, but where there will be a net benefit to the environment.

Only measures that can be **implemented by the applicant**, either directly, or indirectly e.g. via a legal obligation with other parties for instance, should be included.

All significant adverse impacts should be considered for mitigation and specific measures put forward; and attention should be paid to all stages of the development – **in particular the construction stage where there is likely to be great potential for nuisance**.

It is advocated that all proposed mitigating measures should be the subject of discussion with the relevant expert body and the planning authority – since the measures must be capable of **enforcement** (see **para 8.22**➤).

It should be noted that the mitigating measures themselves sometimes have potentially adverse impacts on other aspects of the environment and which will also need to be assessed in terms of significance. This emphasises the need for co-ordination between the various experts who may be involved in the process.

Examples of mitigating measures and approaches are given in **Appendix A** under specific environmental topic headings. (See also *Mitigation Measures in Environmental Statements – DETR, 1998.*)

8.22 ■ Identifying methods of monitoring residual impacts and mitigating measures

The purpose of **monitoring** is to assess the actual impacts of a development which has been granted permission, and implemented, on the environment. This is not a mandatory requirement of the legislation but is nevertheless highly desirable since it has the potential for **verifying predictions** of impact which can **improve prediction techniques** for the future. It will also enable the project to be **fine tuned**, in terms of assessing whether the residual impacts need additional mitigation, and whether the original mitigating measures are effective or need adjustment in order to ensure that there is least possible impact on the environment.

The expert bodies and the planning authority may be willing to advise on methods and means of monitoring. Indeed the planning authority may well, if permission is granted, seek to ensure that mitigating measures are implemented and these and impacts are monitored and enforced by **planning conditions** and/or by **legal obligations** (see 10.46, 10.53 and 10.93➤).

Many companies are using **Environmental Management Systems** to ensure that the environmental implications of their operations are minimised. The results of the Environmental Impact Assessment could provide a basis for any Environmental Management System set up for a new site, and the monitoring of impacts may generate much of the data for an initial review and future **environmental audits**.

8.23 ■ Preparation of ENVIRONMENTAL STATEMENT

Applicant/consultant presents all the above information in the **Environmental Statement**. This is dealt with further in **Part 9**➤.

8.24 The next stages of the EIA process, where the **planning authority** is the key player, are explained in **Part 10**➤, but in summary they comprise:-

- **Reviewing the ES**

*Planning authority **reviews** the ES as part of the consideration of the planning application. This includes consultation with consultation bodies, expert bodies and the public. **Further information** may also need to be sought from the applicant/consultant.*

- **Decision on the Project**

*Decision is made based on the ES, views of consultees, the public and other **material considerations** – primarily the provisions of the **development plan**. See page 52↵.*

- **Monitoring**

*If permission is granted, and the proposal is implemented, **monitoring** may be required and any planning conditions or agreements are likely to be enforced by the planning authority.*

8.25 It is clear from this that although the **ES** is an important and high profile document, it is nevertheless only **a part** of the total **EIA process**.

KEY POINTS – GOOD PRACTICE

- **Alternatives** – ways of achieving the same objective, layouts, location etc. should be considered.
- The EIA process should **start early** enough so that the design process can proceed in parallel.
- **Scoping** is extremely important; i.e. identifying the key environmental issues that need to be studied in detail.
- **Involvement** of the **public** at an **early stage** can also be beneficial.
- The **formal scoping procedure**, contained in the Regulations, is recommended.
- It is recommended that planning authorities **delegate** the power to make Scoping Opinions to their relevant Chief Officer.
- The EIA process should be **iterative or cyclic**.
- The **whole life-cycle** of the project should be assessed.
- Environmental **trends** should be identified.
- Plans and Policies are **not a static system**; the up-to-date situation should be sought.
- Much assessment and prediction involves **matters of judgement**.
- Only **mitigating measures** that are capable of **implementation** by the applicant should be included.
- **Monitoring** of impacts and mitigation is highly desirable; and could where appropriate be linked to company **Environmental Management Systems**.

PART 9, PREPARATION OF ENVIRONMENTAL STATEMENT

9.1 PURPOSE OF THE ENVIRONMENTAL STATEMENT

The main purpose of the **Environmental Statement (ES)** is to aid the **decision makers** i.e. the body that makes the decision on whether the project should, or should not, go ahead.

9.2 The **ES** will also have a high profile in terms of it also being available to consultation bodies, other expert bodies and the public.
It should therefore be:

- comprehensive
- credible i.e. not perceived to be biased towards the project
- and clear.

9.3 If the **ES** follows these principles it will also aid consultation with the expert bodies and hopefully allay the fears of the public, which are often created by the lack of information; all of which will contribute to the decision making process.

9.4 WHEN SHOULD THE ES BE PREPARED?

The **ES** cannot be begun to be prepared until the **EIA** process is underway. It is likely that some of the stages of the process described in **Part 8** < will have been given some attention before the **ES** is begun to be compiled i.e. as follows:-

- Definition of **scope** of EIA (**para 8.8**<)
- **Baseline studies** completed (**para 8.17**<)
- **Trends** assessed (**para 8.17**<)
- **Policies and plans** considered (**para 8.18**<)

and preliminary findings may have emerged on

- **potential impacts** (**para 8.19**< etc)
- **significance of impacts** (**para 8.20**<)
- **possible mitigation** strategies (**para 8.21**<)

However, it is likely that the full effects of a project on the environment and the interaction between different impacts will only begin to emerge as the **ES** is begun to be compiled.

- 9.5 It is therefore recommended that the **ES** should be begun in **draft** at an early stage in the process; then at various points in the iterative process it could be used for **consultation** purposes – both internally and externally.
- 9.6 The ideal situation is thus when the **EIA** is carried out in parallel with project design – where there is good liaison and interaction between the various personnel and the project can be refined in design to minimise subsequent environmental effects. It is accepted, however, that there will still be a minority of cases, where the need for **EIA** is not recognised until later on or even after the project is designed. Clearly the **ES**, in those cases, will be compiled at a late stage in the overall process and its ability to influence the design through the iterative process will be significantly reduced – the possibility of achieving an acceptable form of development may also be considerably reduced.

9.7 THE ES AND POLLUTION CONTROL CONSENTS

If the project also requires a consent from the **Environment Agency or other pollution control authorities** under the **integrated pollution prevention and control system**, it might be appropriate to prepare a **combined ES** to serve both decision making processes – since much of the information required will be comparable.

This will allow **parallel applications** to be made thus minimising costs to the applicant and will also facilitate the consultation process between the bodies concerned and help to ensure that the decisions are compatible.

See **Good Practice Guidance to PPS 10**, paragraph 8.5.

9.8 THE ES AND OTHER CONSENTS

Additional consents which may be required from the **Environment Agency** include **abstraction licences, land drainage consents** and **waste disposal licences**. Environmental Statements are required for certain projects involving abstracting or impounding of water. [See separate **EIA Regulations**]. The Environment Agency also seeks to assess the environmental implications of other applications for licences and consents etc. The Agency will therefore request environmental information to support applications for discharge consents and waste disposal licences. An **EIA** may provide an appropriate method for the developer to collate the relevant information.

- 9.9 With regard to the **internationally important nature conservation zones**, i.e.:- **Special Protection Areas, Ramsar sites** and **Special Areas of Conservation** and **proposed or candidate**, such areas, **Regulation 48 of the Conservation (Natural Habitats etc.) Regulations 1994 (SI 2716)**, determining bodies are required to undertake an appropriate assessment. Further details can be found in **PPS 9**, the related **Good Practice Guide** and **ODPM Circular 06/2005 (DEFRA 01/2005)**.
- 9.10 Since 1999, certain establishments which have the potential to cause a major accident hazard will require a consent under the **Control of Major Accident Hazards Directive**.

9.11 OUTLINE PLANNING APPLICATIONS

It is acknowledged that for some major projects, applicants may not be willing to commit themselves to high expenditure on design until they have secured a permission or consent of some sort – indeed finance may depend on this. The law therefore allows planning applications for **buildings** to be made **in outline**. However a ‘bare’ outline permission with all matters reserved for later approval is unlikely to comply with the requirements of the EIA Regulations. Until a recent European Court of Justice (ECJ) decision, EIA could not be required at the **reserved matters** stage once an outline permission had been already granted. Now however EIA can be required at this later stage in certain circumstances. See **paragraphs 7.1, 7.23, < 10.40 and 11.20>**. Nevertheless EIA should, be sought at the outline stage if possible.

DCLG Circular 01/2006 gives details of what information must be provided at the outline stage and clarifies the meaning of **reserved matters**.

- 9.12 Where an outline application is received the planning authority can seek further information. The *Government’s Guide to Procedures* makes clear the need for planning authorities to obtain sufficient information to be submitted with outline applications for a thorough Environmental Impact Assessment to be made. Clearly therefore it is sensible for the applicant to commit some expenditure to design which provides enough detail to allow environmental analysis to be carried out.
- 9.13 Prior to the EJC case, the ODPM, in a letter to planning authorities dated May 2004 had given advice based on several domestic court cases to assist in **reconciling outline applications with EIA requirements**. **The advice which is still valid, has been summarised by the DCLG in a letter of 30 June 2006 as follows:-**
- When granting Outline Planning Permission, the permission must be conditioned by reference to the development parameters considered in the environmental information provided in the ES which has been considered and assessed by the authority prior to approval. This can be usually done by conditions (see **paragraph 10.51>**) although it would also be possible to achieve this by a section 106 agreement (see **paragraph 10.53>**)
 - Developers are not precluded from having a degree of flexibility in how a scheme may be developed. But each option will need to have been properly assessed and be within the remit of the Outline Planning Permission if it is to be permitted as an option for reserved matters; and
 - Development carried out pursuant to a reserved matters consent granted for a matter that does not fall within the remit of the outline consent will be unlawful. If a developer wishes to develop outside the parameters of the Outline Planning Permission conditions, then a new planning permission must be sought or an application made under section 73 of the 1990 Act. In either case, fresh consideration should be given to the need for EIA of the revised development. Applications to amend projects which have already required EIA may fall within paragraph 13 of Schedule 2 to the EIA Regulations.
- 9.14 By this means, the project, as it evolves with the benefit of approvals of reserved matters, remains the same as the project that was assessed. Mitigating measures, in these circumstances could include the undertaking of further studies, discussion of findings with specific expert bodies and devising detailed mitigation in the light of those discussions.

9.15 WHEN WILL THE ES BE COMPLETED?

The length of time required to complete that part of the **EIA** process up to completion of the **ES** will depend on such factors as:-

- the stage when EIA is begun relative to the design process,
- the complexity of the proposals,
- commercial and financial constraints,
- the need for original survey work.

The latter may be influenced by the **weather** and **season** of the year. For example baseline information about habitats, climatic conditions, noise and air and water pollution and views of the landscape etc. may need to be collected over a full year to identify seasonal variations.

- 9.16 The work could therefore run from 12 to 18 months for a major project; this emphasises the need for EIA to be begun at the earliest possible stage. Smaller projects, when the number of issues is less, or where background information already exists, may take significantly less time.
-

9.17 CONTENT OF ENVIRONMENTAL STATEMENT

There are no statutory requirements concerning the form of an ES but it must contain the information referred to in **Part I of Schedule 4 (opposite ➤)** as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but must include at least the information referred to in **Part II of Schedule 4**.

- 9.18 In every case a **non-technical summary** must be provided.

Schedule 4 is reproduced opposite:-

**INFORMATION TO BE INCLUDED IN AN ENVIRONMENTAL STATEMENT:
SCHEDULE 4 TO THE REGULATIONS**

Part I

1. Description of the development, including in particular –
 - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:
 - (a) the existence of the development;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation or nuisances and the elimination of waste;and the description by the applicant of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

Part II

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for his choice, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

9.19 COMMENTS ON SCHEDULE 4

Whilst **Further information** can be requested by the planning authority at the formal planning application stage (see **10.28**), there is also a requirement to carry out **consultations** on the further information when received, which can delay the processing of the planning application. **It is therefore good practice and strongly recommended that as much information as possible is included in the ES in the first place.**

9.20 FORMAT FOR THE ES

An ES could comprise one or more documents. However there is no prescribed or “right” way of setting out an **ES**. Each case is different and particular circumstances could influence the format. Nevertheless a useful approach is set out below. This is modified from a suggestion in the *DOE Good Practice Guide to the preparation of Environmental Statements*:

- **NON-TECHNICAL SUMMARY**
- **METHOD STATEMENT**
- **CONCLUSIONS OF SCOPING EXERCISE – THE KEY ISSUES**
- **DESCRIPTION OF THE PROJECT, SITE AND SURROUNDINGS - INCLUDING ALTERNATIVES**
- **PLANS AND POLICIES CONTEXT**
- **ASSESSMENT OF ENVIRONMENTAL EFFECTS BY TOPIC AREA**
- **INTER-RELATIONSHIPS/CONCLUSIONS**
- **APPENDICES – TECHNICAL DATA**

9.21 Looking at these elements in a little more detail:-

A. NON-TECHNICAL SUMMARY

It is recommended that this should also be **published separately** and **at no charge**, in order to facilitate public consultation.

The provision of a non-technical summary is a **mandatory** requirement. Its purpose is to help dissemination of the contents of the **ES** to the public and help non-experts and decision makers to understand the conclusions and therefore should be written in accessible plain English.

It should therefore be an accurate and balanced account of the key information in the **ES**, and should, if possible, be even more user friendly.

It should **describe the project**, the main **alternatives** studied, the **environment affected**, the **effects on the environment** and all the **conclusions** of the **ES**, including **mitigation** and **residual impacts**, and the **facts** and **judgements** on which the conclusions are based. The *DOE Guide* suggests that short summaries and conclusions from the ends of each section or chapter in the main **ES** are incorporated into the non-technical summary. An overall **summary of effects** (see **figure 6** on **page 103**) may also be appropriate.

It should be remembered that the summary is not simply a public relations document and any bias towards the project in terms of highlighting the favourable features and playing down adverse effects must be avoided. Otherwise the credibility of the project and applicant will be brought into question.

The summary should indicate where the main **ES** can be obtained or viewed, and set out how the **public** can make their views known.

B. METHOD STATEMENT

Although not mandatory, the *DOE Guide* suggests that this section of the **ES** will be of help to those who have to review it.

It could include details of the **EIA team**, relationship with design team (if separate) and the applicant, programme/timetable of technical studies, level of contact with consultants, expert bodies and the public, how alternatives and objectivity have been dealt with, the approach towards determining significance of impacts, guidelines, methods and techniques used.

C. KEY ISSUES

This should be the conclusion of the **scoping exercise** (see **6.10** and **para 8.8** onwards). It should clearly spell out what the key issues are; the methods and logic for determining the key issues, and for those identified as having no or little significance. Any additional issues that have arisen as the result of the iterative **EIA** process should also be identified. A full **scoping report** could be included as an appendix.

It is suggested that any **Scoping Opinion** or **Direction** should be included in the **ES**.

D. DESCRIPTION OF THE PROJECT, THE SITE AND SURROUNDINGS

This is a key part of the **ES**.

The writer of the **ES** may need to translate the technical specifications provided by the design team, for the benefit of the lay reader. This section should provide a comprehensive picture of the scheme, its **purpose, location and scale**. Written text, maps, drawings, (flow diagrams etc.) sketches, photomontages etc. should be used as appropriate.

The **sequence of development** i.e. phasing or distinct stages, such as construction, operation, decommissioning etc. should be described.

Any **alternatives** including, perhaps, the ‘do-nothing’ option, and matters such as location, siting, types of plant etc. which have been considered at earlier stages are required to be included in the ES. This should reduce misinformed criticism by setting out the range of options considered and demonstrating how environmental factors have been taken into account.

The following provides a checklist of some of the matters that should be included in the project description:-

■ **Nature and Purpose of the Development**

The **function** of the proposal, within its economic and operational context.

■ **Alternatives** considered with environmental advantages/disadvantages; and reasons for final choice.

■ **Characteristics of the proposed site and surroundings**

Location;

size;

summary of **land-use, topography, landscape** and **natural and manmade features**, including reference to **previous uses/contamination** etc;

access to transport systems;

existence of any **physical constraints** – e.g. utilities, public rights of way etc.; in relation to surroundings.

■ **Characteristics of the Proposed Development**

This should include the **stages of the project** (see next)➤

STAGES OF THE PROJECT

Construction Stage (this could include an earlier decontamination, demolition or site preparation stage – e.g. the preparation of a site previously used as a gas works, or ordnance factory etc.)

Nature, frequency, duration and location of potentially intrusive operations;

Times/days of work;

Methods of decontamination; treatment/disposal of waste;

Location of construction compounds etc.;

Emissions and residues – water, air and soil pollution, vibration, light, heat, radiation, etc.;

Method and timing of transport of construction materials and plant. (*Consider alternative modes of transport/assembly off-site etc.*)

Numbers of workers, visitors, mode of transport etc.

Vehicular entrances and exits;

Provision for utility services;

Alternatives considered with environmental advantages/disadvantages and reasons for final choice;

Operational Stage

Visual appearance;

Site layout;

Processes, nature and quality of raw materials, energy etc., residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation etc.);

Methods of treatment or disposal of waste etc.;

Number of workers, visitors, mode of transport etc.;

Times of use/operations;

Car parking, service areas, entrances, exits, access to public transport, provision for pedestrians and cyclists;

Landscaping and grading;

Provision for utility services;

Alternatives considered with environmental advantages/disadvantages and reasons for final choice;

Likely expansion or secondary development *To be covered so far as the effects of such development can be anticipated at the time the ES is prepared*

e.g. the connection of a wind farm to the electricity grid forms an intrinsic part of the project: both should be considered together- see **PPS 22**

Decommissioning/Closure/Site reinstatement Stages – e.g. landfill site – final land use.

This could include all those aspects referred to under the above sections.

■ **Summary of baseline environmental conditions.**

It may be useful to provide a brief summary of environmental conditions at the site and surroundings at an early stage in the **ES** as a context for the analysis which follows under specific topics where more details can be provided.

E. PLANS AND POLICY CONTEXT

The aim is to demonstrate how the **development plan** (see page 52◀) and other **policies** (referred to in para 8.18◀) have been taken into account in developing the project.

Thus it should be explained **whether and how the proposals accord with relevant policies**. In particular if the proposal does not accord with the current Development Plan for the area, then it should seek to justify the proposals and explain what material circumstances exist to enable the provisions of the plan to be overridden in that particular case.

It might also be appropriate to explain how the proposals might help other policies to be achieved.

General reference should also be made to any of the **international, national, regional or local designations** referred to in para 8.18◀. etc.) and how they relate to the proposals. More specific reference is likely to be relevant under the environmental topic headings in the next section.

F. ASSESSMENT OF ENVIRONMENTAL EFFECTS BY TOPIC

PPS 23 says that in preparing the ES developers should anticipate any **likely change in environmental effects** arising from ‘start up’, ‘shut down’, **abnormal operating conditions or change in operating arrangements**. For example a change in fuel burnt in a manufacturing plant. This is particularly important when those changes do not require planning permission or where transport requirements may be significantly increased. **The ES should take account of the possibility of such future effects at the outset.**

It is suggested that each significant environmental topic (examples of such topics are given in para 9.22 ➤ and considered in further detail in **Appendix A**), identified at the **scoping stage**, should be dealt with in a chapter or section in a logical sequence as shown below.

Those environmental topics considered having little or no significance will still need a brief mention to indicate that their possible relevance has been considered.

A SUGGESTED LOGICAL APPROACH FOR ASSESSING EFFECTS:-

- **potential impacts** (from scoping stage)
- **existing baseline conditions** (data to support this information could be included in appendices)

- **predicted impacts** – nature, extent and magnitude, resulting from
 - the existence of the development
 - the use of natural resources
 - the emission of pollutants, the creation of nuisances and the treatment or disposal of waste.

The **methodology** used to predict impacts should be stated and any gaps in data or analysis described. Where possible, estimation of impacts should be in measurable quantities with ranges and/or confidence limits as appropriate.

The description should be as concise as possible and identify:

- the source and/or cause of the problem
- the receptor of the impact
- the way in which the effect is transmitted from source to receptor; and
- potential consequences

The **magnitude** of the impact is likely to be a **combination** of extent of **area** affected and the **scale** of the effect.

- **Evaluation of significance of impacts**

Conclusions on **significance of predicted impacts** are likely to be a matter of judgement and such conclusions may not necessarily be accepted by the planning authority, other expert bodies or the public. (See **para 8.20** for further advice on methods of assessing significance).

Effects can be categorised as of **major, minor or no significance**.

Qualitative descriptions, where necessary, should be as fully defined as possible (e.g. insignificant visual impact means not perceptible from more than 100m distance).

Other useful criteria could be:-

adverse, beneficial, short, medium, or long term, permanent or temporary, reversible or irreversible, direct or indirect, unavoidable or uncertain.

■ **Scope for mitigation of adverse effects, and enhancement of beneficial aspects**

The **applicant/developer's commitment to implementation** should be stated and to facilitate this it is recommended that the mitigation measures should also be specifically included as part of the planning proposal in the planning application – perhaps as a **schedule of mitigating measures**. If appropriate a draft legal obligation (see **para 10.53**) could accompany the application.

Any **potential adverse effects of the mitigating measures** should also be recognised and assessed e.g. noise barriers and high chimneys etc. may have visual impacts.

■ **Evaluation of significance of unavoidable or residual impacts following mitigation (see also above) and proposed monitoring**

This is, in effect, a recognition that some adverse effects may not be able to be mitigated without the project ceasing. It will involve a discussion of the effectiveness of the mitigating measures. Again this is very much a matter of judgement.

It is recommended that details of proposed **monitoring of residual impacts** (as distinct from that which might be identified as part of a mitigating measure) should be included.

Any **monitoring** that is proposed should include details of what, when, how and why – including staffing and procedures for implementation. This information should also be included in the planning application.

This topic by topic exercise needs to be undertaken for **each stage in the life cycle** of the project i.e. site preparation/decontamination, construction, operation, decommissioning and reinstatement or after use.

Any possible **associated or secondary development** should also be assessed e.g. housing, new roads, power lines, pipelines, etc.

G. INTER-RELATIONSHIPS / CONCLUSIONS

Since the Regulations quite sensibly require inter-relationships between impacts to be assessed, it is clear that the various topic chapters/sections need to be **co-ordinated**, cross-referenced and desirably a separate chapter/section included, bringing the conclusions from the separate sections, together.

In particular there is benefit in bringing together all the proposed mitigating measures and proposals to monitor their effectiveness; and any other proposed post project monitoring of residual impacts. This will be of benefit to the planning authority at the decision making stage. It will facilitate drafting of conditions and/or legal obligations in order to ensure that such monitoring etc. is actually carried out.

This emphasises the importance of the **co-ordination skills** for those involved in **EIA**, in order to ensure that there is no conflict between conclusions and mitigating measures. Frequent meetings between all participants is recommended.

A **summary of impacts** could be included here, and also in the Non-Technical Summary (see **para 9.21**) – see **Figure 6** opposite, for an example.

H. APPENDICES

These could include **technical data** from baseline study stages and possibly any original **scoping report**. Details of consultation exercises, meetings, copies of correspondence etc. with expert bodies, consultation bodies, planning authority(ies), public etc. is encouraged. This ensures that those reading the **ES** can appreciate precisely what the comments of consultees etc. were and do not need to rely on any interpretation of them by the applicant or writer of the ES.

FIGURE 6 - EXAMPLE OF ES SUMMARY TABLE SHOWING RELATIVE WEIGHTS GIVEN TO SIGNIFICANCE OF IMPACTS

(NOTE: ONLY A SELECTION OF KEY ISSUES IS GIVEN)

Topic area	Description of impact	Geographical level of importance of issue					Impact	Nature	Significance
		I	N	R	D	L			
Population	Disturbance to existing residents from noise				*		Adverse	St, R	Major
	Severance of communities			*			Adverse	Lt, IR	Major
Flora & fauna	Loss of woodland of local nature conservation value					*	Adverse	Lt, IR	Minor
	Creation of new habitats					*	Beneficial	Lt, R	Minor
	Increased recreation pressure on NNR		*				Adverse	Lt, R	Minor
Soil & Geology	Loss of 50 hectares agricultural land (grade 3C)			*			Adverse	Lt, IR	Minor
Water	Increased rates of surface water run-off				*		Adverse	Lt, IR	Minor
	Reduction in groundwater recharge			*			Adverse	Lt, R	Minor

Key

I - International St - Short term
 N - National Lt - Long term
 R - Regional R - Reversible
 D - District IR - Irreversible
 L - Local

9.22 TYPICAL ENVIRONMENTAL TOPICS

The environmental topics listed below are based on **Schedule 4** of the Regulations (see **page 93**); clearly not every **ES** will need to consider all these topic areas; the **scoping exercise (para 8.8)** should identify which topics need to be investigated in detail.

9.23 It should be emphasised that many of the topic areas will involve specific expertise, and that they are often inter-related. This again emphasises the need for good co-ordination during the **EIA** process.

- **EFFECTS ON POPULATION FROM SOCIO-ECONOMIC CHANGES**
- **EFFECTS ON POPULATION FROM NOISE AND VIBRATION**
- **EFFECTS ON POPULATION FROM TRAFFIC**
- **EFFECTS ON POPULATION FROM MAJOR HAZARDOUS INCIDENTS**
- **EFFECTS ON FAUNA AND FLORA**
- **EFFECTS ON LAND – GEOLOGY AND SOIL**
- **EFFECTS ON LAND – MAJOR LAND USES – AGRICULTURE, FORESTRY, RECREATION AND LEISURE**
- **EFFECTS ON WATER**
- **EFFECTS ON AIR AND CLIMATE**
- **EFFECTS ON LANDSCAPE AND VISUAL IMPACTS**
- **EFFECTS ON MATERIAL ASSETS AND ARCHITECTURAL AND ARCHAEOLOGICAL HERITAGE**

These areas are looked at in more detail in **Appendix A**.

9.24 PRESENTATION OF ENVIRONMENTAL STATEMENT – GOOD PRACTICE

Experience of **Environmental Statements** that have been submitted leads to some suggestions to applicants and their advisers on **presentation** aspects:-

- The main aim is to make them as **user-friendly and manageable** as possible. A document of over 150 pages length tends to be cumbersome; **Appendices** can reduce this problem.
- A good **index** or **table of contents** is vital.
- It is essential that the **ES** should be an **impartial objective assessment**, not a best case statement for the proposal – otherwise the credibility of the ES may be brought into question. Negative impacts should be given equal prominence with positive impacts and adverse impacts should not be disguised by euphemisms or platitudes.
- The **ES** should be made available at a **reasonable charge** (it is suggested that this could be calculated on the basis of black and white photocopying) which does not inhibit any member of the public who wishes to obtain a copy from doing so. Sufficient copies for this should be made available.
- It is also recommended that applicants give thought to putting the ES or the non-technical summary on the **Internet**. The fact that it has been put on the Internet will need to be publicised in some way.
- The **ES** should include clear instructions to the public on how they can make their further comments known.
- It is suggested that the **ES** should be securely bound, but not so tightly so as to prevent pages from being individually copied to aid consultation, i.e. spiral binding is preferable to ring binders – where pages can be lost.
- All pages should be **numbered**.
- All maps must have **north points** and **grid reference co-ordinates**; and **scales** clearly indicated.
- **Cross sections** must also have horizontal and vertical scales shown and an indication on the relevant maps of the location of those cross sections.
- All **photographs** should include details of **focal length of lens, date, and time** when taken, and **height** of camera above ground level; and **locations** marked on a map.
- There should be a minimal use of technical terms but a **glossary** will be useful.
- The names, addresses and telephone numbers of the developers and their **consultants** should be given. (Perhaps in the ‘**method statement**’ section, see **page 96** ◀)
- The ES should be a “**stand alone**” document and not require reference to other documents.
- Where the ES summarises conclusions of other detailed work, the **source** of that work should be identified so that the information can be verified.
- Unless chapters are short, a **summary** of each chapter, outlining the main findings, will be useful.
- Avoid small type fonts.

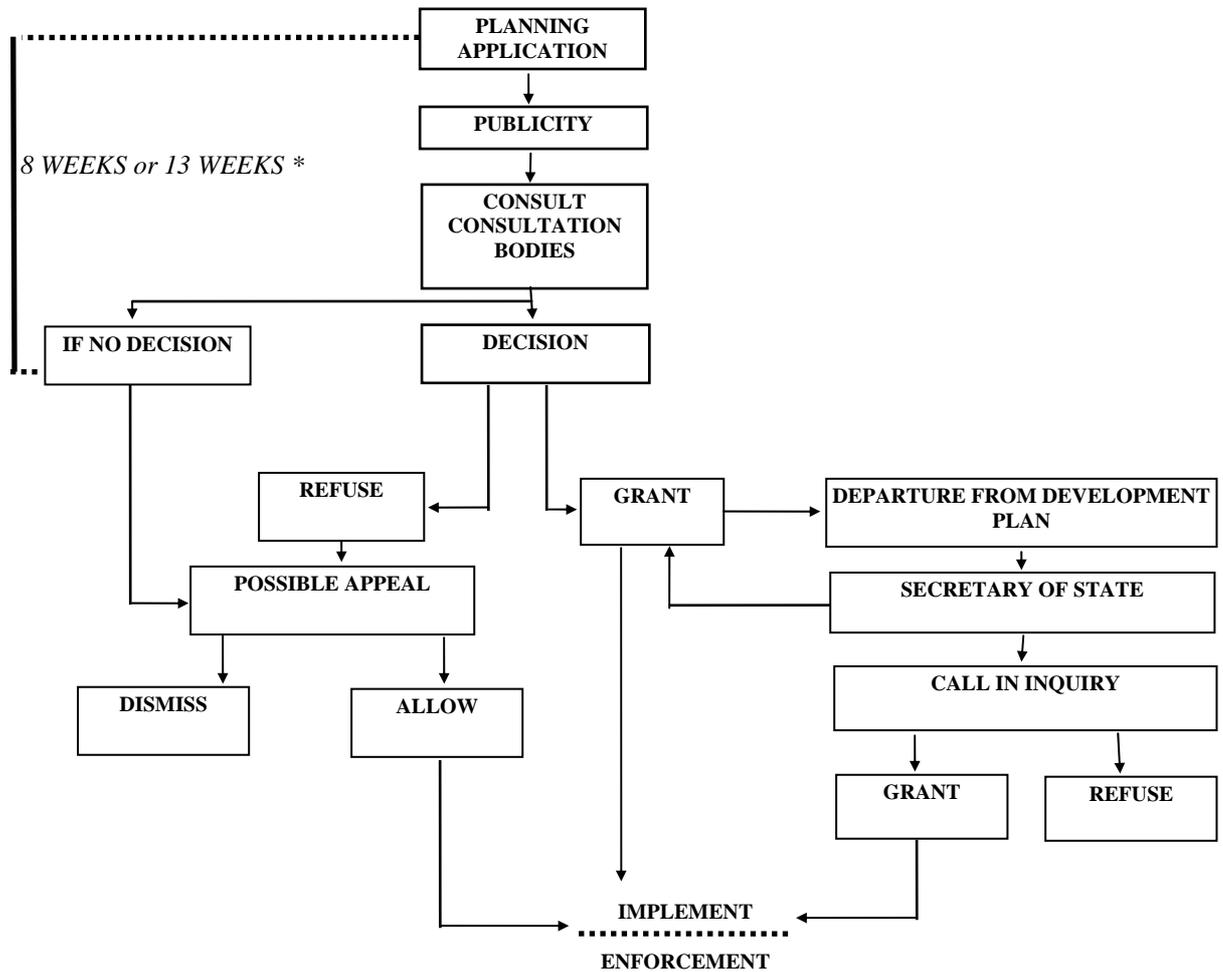
KEY POINTS/GOOD PRACTICE

- The **ES** should be **comprehensive, credible and clear**.
- Use a **draft ES** for consultation purposes during the EIA process.
- Make **parallel applications** for planning permission and Environment Agency consents, licences and/or authorisations (if appropriate); with a **common ES** if possible.
- If an application (for the erection of buildings) is made as an **outline application** (i.e. with details to follow), since EIA can not be sought at reserved matter stage, enough detail for EIA should be provided as part of the outline application.
- **Seasonal variations** in baseline studies are important and should be reflected in the timing of surveys etc. as appropriate.
- Supply as much relevant information as possible in the ES – including reference to **alternatives** studied and the reasons for selecting the current scheme.
- Suggested that **reasonable charge** for the ES could be calculated on the basis of black and white photocopying.
- Publish the **non-technical summary separately and free of charge**.
- Consider the use of the **Internet** to make information available to the public.
- A **method statement (page 96 ◀)** is advocated.
- Include a copy of any related **Scoping Opinion** or **Direction**.
- Adopt a **topic by topic** approach to environmental effects but **co-ordination** to avoid conflict between conclusions and mitigating measures is crucial.
- Developer/applicant should be **committed to the mitigating proposals** – include in planning application as a **schedule of mitigating measures**.
- Developer/applicant should be committed to **monitoring of mitigation measures and residual impacts**. Full details should be also included in planning applications.
- Consider **associated/secondary** developments.
- Try to consider at the outset any **future changes** that might occur in the operation of the project or in transport or in abnormal conditions etc.
- A summary **table of impacts** is useful.
- Include copies of all **correspondence** with consultees, public etc. in an appendix.

PART 10, DEALING WITH PLANNING APPLICATION AND ES

10.1 A planning application with an **ES** is dealt with in a very similar way to that in which a normal planning application is processed. There are *some* differences however. The following diagram gives a broad indication of the main steps involved in processing a **normal** application **without an ES**. The diagram on the **next page (Figure 8)** shows the process when an Environmental Statement is also involved.

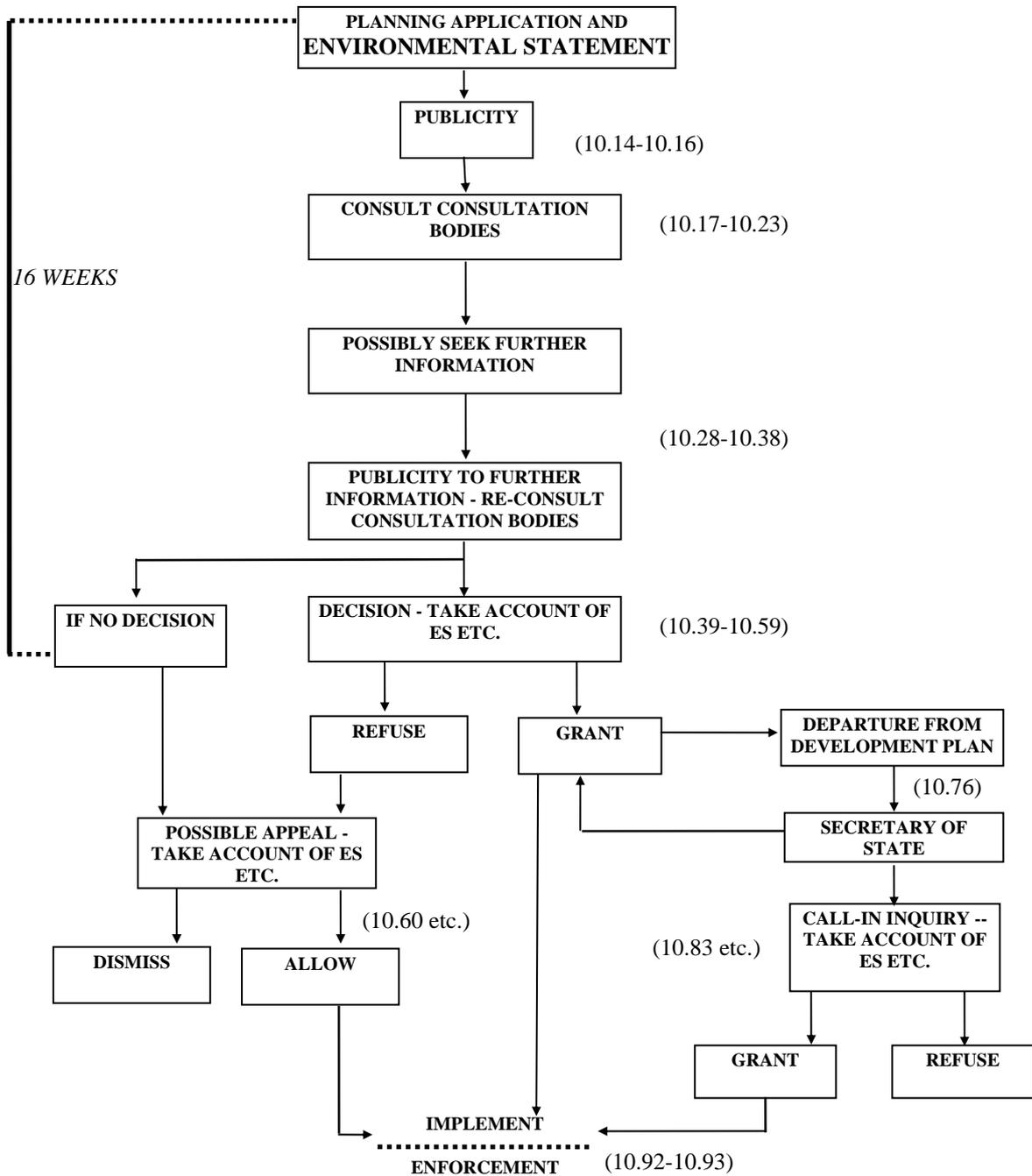
FIGURE 7 - THE NORMAL PLANNING PROCESS - MAIN STEPS



* The normal determination period for an application is 8 weeks unless it is a major application, when it is 13 weeks.

10.2 The diagram below shows broadly how an application accompanied by an **ES**, is dealt with.

FIGURE 8 - THE PLANNING PROCESS AND ENVIRONMENTAL IMPACT ASSESSMENT



The various stages involved are expanded upon in this part of the Guide.

The numbers in brackets refer to paragraph numbers in the following text.

Chart 6, on page 135 shows the procedures where an **ES** accompanies a planning application.

10.3 VALIDATION OF APPLICATION AND SUPPORTING INFORMATION

Before a planning application can be accepted as being valid the local planning authority will check that the relevant fee has been paid, certificates of ownership properly completed and that it is accompanied by correctly completed plans and forms etc.

Additional supporting information may be required such as :-

- A retail impact study.
- A study of housing implications.
- A study of economic impacts, and labour requirements.
- A traffic impact study.
- A crime profile to reflect policing requirements etc.
- A geotechnical study.
- A safety/risk assessment e.g. flood risk assessment.

In particular certain types of proposal will require the submission of **design and access statements**. See **DCLG Circular 01/2006**.

The **ES** may also, however, need to address the above aspects in relevant cases.

10.4 ES SUBMITTED ‘VOLUNTARILY’ BY APPLICANT

An applicant may submit an ES with a planning application without having obtained a formal determination that one is required.

If the applicant expressly states that the **ES is submitted for the purpose of the Regulations**, the application should be treated by the planning authority as an **EIA application**.

10.5 Exceptionally, when an **ES** is submitted voluntarily, if the planning authority considers that the associated planning application is clearly not one which they would have determined as an EIA application, they can request a **Screening Direction** on the matter from the **Secretary of State**. (See **para 6.28**◀).

10.6 It may be **unclear** whether the information submitted **is** intended to be an ES under the Regulations. In these cases the planning authority should consider whether EIA is required (see **Parts 3, 4 and 5**◀). If it is determined that EIA is required, the applicant may ask for the information already submitted to be treated as an ES; or submit the specified information in a new ES.

If it is determined that EIA is not required, the planning application will be dealt with in the normal way – the information supplied by the applicant, if it is material, being taken into account in determining the planning application.

10.7 PUBLICITY FOR ES RELATED TO A PLANNING APPLICATION ALREADY SUBMITTED

Whilst this part of the Guide describes the decision making process where an ES accompanies a planning application, there will, nevertheless, be situations where planning applications are submitted *without ES's* (as referred to in **Part 7**◀) but it is subsequently determined that EIA is necessary. In these cases the planning application will be held in abeyance until the ES is submitted (unless the planning authority [or Secretary of State or Planning Inspector as the case may be] is minded to refuse planning permission – in which case they can do this).

There are three situations where applications might be **submitted without an ES**, but where **subsequently it is determined that EIA is necessary**:-

- **Planning application** submitted to a planning authority, referred to in **Part 7**◀; (see **Chart 5** on **page 134**▶ for procedures in this case)
- **Appeal** to the Secretary of State, following a refusal of planning permission, or failure to make a decision by the end of 8 weeks or 13 weeks for a major proposal (or longer period as agreed) (see **Part 11**▶);
- **Planning application** referred to the Secretary of State following a **call-in** (see **Part 11**▶).

- 10.8 The **publicity**, where an application or appeal already exists and the related ES is submitted subsequently, is the responsibility of the **applicant or appellant**.

The procedure is that before submitting the **ES**, the applicant or appellant **must**:

- publish a **notice** in a **local newspaper**; and
- post **notices on site** for at least **7 days** during the 28 days prior to submission of the ES. The site notices must be firmly fixed on the land and be easily readable by the public from outside the site.

- 10.9 The **box** on **page 112**▶ gives details of the information that the notices must contain. (There is no need to refer to whether the application is or is not a departure from the development plan). But in addition, in the case of an **ES relating to an already submitted planning application or appeal**, the **applicant or appellant** must also include in the notice the date when the planning application was made, and if it has been referred to the Secretary of State for determination or on appeal (to whom, in those cases, written representations [within the 21 days from publication or posting on site] should be addressed) and giving the address.

- The applicant should also serve a notice, setting out the above information to anyone, (including a non governmental environmental organisation) who has been notified to the applicant, that they are likely to be affected, or have an interest in the application and who may not otherwise become aware of it through the publicity process. The 21 days to make representations will run from the date of service of the notice.
- Where the **ES** follows a planning application previously submitted, the applicant must also submit **certificates** regarding posting/publication of notices (see **10.8** above▲). These must include a copy of the newspaper notice certified by the applicant/appellant as having been published in a named newspaper on a date, specified; and a certificate by the applicant/appellant which states either that a notice has been posted on the land, and when, and left in position for 7 days in the 28 day period preceding the date of submission of the ES, or that without any fault or intention, it was removed, obscured or defaced before 7 days had elapsed, and specifying reasonable steps taken to protect or replace it; or that the applicant/appellant was unable to post the notice because the necessary rights were not available; and specifying the reasonable steps that were open to acquire those rights, but has been unable to do so.

- 10.10 Applicants are encouraged to discuss publicity arrangements and possible additional publicity with the planning authority. This might include, for instance, putting information on the Internet.

The Planning Authority's **Statement of Community Involvement** will indicate how the authority considers that the community should be involved with particular types of application.

THE REST OF THIS PART DEALS WITH BOTH THE CASE OF AN ES FOLLOWING AN ALREADY SUBMITTED PLANNING APPLICATION AND THE CASE OF AN ES ACCOMPANYING A PLANNING APPLICATION.

10.11 SUBMISSION OF ES

The **applicant** should submit

- 3 copies of the **ES** (two to be sent on by the planning authority to the Secretary of State via the relevant Regional Government Office - see **para 10.17**➤).
- A note of names and addresses of all bodies that have been sent the ES by the applicant and the date sent.
- and certificate of publicity - if ES follows an existing Planning application – see **above** ▲

Since either the applicant or the planning authority is able to consult the Statutory Consultees, it is suggested that there is potential for **confusion, duplication or omission**.

It is recommended therefore that agreement with the planning authority be sought before submission, in order to decide which party will carry out the consultations.

In view of their experience in such matters and the fact that they already have systems in place for this, in respect of normal planning applications it is **recommended that the best option is for the planning authority to carry out the consultations at this stage in the process**.

This will also simplify the procedures for the applicant.

However, if an applicant does send the ES to other bodies, the applicant should also ensure that they also send copies of the planning application. The applicant should inform the bodies that representations can be made to the planning authority.

- 10.12 Applicants must also make copies of the **ES available to the public**, either **free** of charge or at a **reasonable cost**, reflecting printing and distribution costs. One option is for applicants and planning authorities to agree that copies are held at the authorities' offices – with authority staff collecting charges on behalf of the applicant. The ES could also be put on to the **Internet**.

10.13 COPIES OF ES FOR CONSULTEES ETC.

In the recommended case of the planning authority carrying out the consultations, the planning authority, on receipt of an application, should notify the applicant of the number of copies of the **ES** required for consultation and the names and addresses of the **consultees**.

The applicant must then provide, without charge, enough copies of the ES for this consultation.

As will be seen in paras **10.20 to 10.22** ➤, there may be other bodies whose views would be helpful in considering the proposal – in which case it would be helpful if additional copies of the ES could be provided. The planning authority will indicate the numbers of additional copies of the ES required.

10.14 PUBLICITY

Publicity for planning applications **accompanied by an ES** is carried out by the **planning authority**, (see General Development Procedure Order).

The particular requirements are:-

The planning authority will publicise the **application** and **ES** in the form of a **site notice** displayed for 21 days **and** by a notice in the **local newspaper**.

The **site notice** will allow **21 days** for representations to be made about the proposals to the planning authority; and the **newspaper advertisement** will allow **14 days**.

WHAT THE NOTICES SHOULD INCLUDE:

The notices must include, the applicant's name, the name and address of the planning authority, a note that application is accompanied by an ES, the address/location and description of the proposed development, that a copy of the **ES**, planning application etc. will be open to public inspection at reasonable hours, and give a local address (this would normally be the office of the planning authority) where and during all reasonable hours, and until when (a date not less than 21 days from posting on site, or 14 days from publication) copies may be inspected. Similarly, where the ES can be obtained, until stocks last; and if a charge is made by the applicant, the cost (which must be reasonable). (See **para 9.24** for a suggestion on calculation of a reasonable price).

The notice must state that written **representations** about the application (and ES) should be made to the planning authority within the period mentioned above.

If the development does not accord with the development plan for the area this should be indicated.

A copy of the Notice is contained in **Schedule 3 of the Town and Country Planning (General Development Procedure) Order 1995**.

Applicants are encouraged to discuss publicity arrangements and possible additional publicity with the planning authority. The Councils **Statement of Community Involvement** will be particularly relevant.

- 10.15 The **EPOA strongly recommends that the non-technical summary should be published separately and at no charge**. It is also suggested that the applicant may wish to pursue additional publicity such as exhibitions and public meetings; - again early discussion with the planning authority would be beneficial.
- 10.16 **Planning Authorities** may also wish to further publicise proposals including individual neighbour notification, or public meetings in accordance with the Statement of Community Involvement. In addition it is suggested that the fact that an application is accompanied by an **ES**, or an **ES** has been submitted to accompany an existing application, could be identified on the **weekly** lists of applications that District/Borough planning authorities provide for the press, libraries, etc.

Many authorities publicise planning applications on their web sites: this is strongly recommended.

10.17 CONSULTATION PROCEDURE

The planning authority will:-

- send copies of application, related documents and **ES** (2 copies) to the Secretary of State via the relevant Regional Government Office within **14 days of receipt**;
- request from the applicant additional copies of the **ES** to enable the sending of copies of the **ES** and planning application (unless already sent direct by the applicant) to the **consultation bodies** (see **10.18**▼) and other relevant bodies, seeking comments.

Note: The application cannot be determined until at least **14 days** after the last date on which a consultee has been served with a copy of the ES. However for normal planning applications the period for response to a consultation is 21 days or agreed extended period. See **Circular 08/2005**.

(It is suggested that consultations are sent by first class post and all relevant information is included.)

- send anyone, including a non-governmental environmental organisation, who they consider is likely to be affected, or who has an interest in the application and who may not otherwise become aware of it through the publicity process, a notice containing the information described in the **box** on **page 112**◀ plus the date when the application was made.
 - place the **ES** and planning application (or the ES, with the existing planning application, if submitted separately) on Part 1 of the Planning Register (together with any pre-application **Screening** or **Scoping Opinion** or **Screening** or **Scoping Direction** which might have been made).
-

10.18 CONSULTATION BODIES

The consultation bodies **on every EIA** related planning application are as follows:-

- **Any statutory consultee**, required to be consulted on the planning application (or would be required to be consulted if a planning application for the development had been made), under the current TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT PROCEDURE ORDER (**GDPO**) (Article 10, or any Direction made under Article 10). These are listed as **GDPO CONSULTEES** in **para 10.19**➤.
- The **other planning authority** for the area (this relates only to two tier local government areas) (thus in Essex both Essex County Council and the relevant District/Borough Council will then be aware of the proposals)

The following bodies (if not already required to be consulted under the GDPO):-

- **Natural England**
 - **The Environment Agency**
 - **Other bodies** designated by statutory provision as **having specific environmental responsibilities** and where the **relevant planning authority** or **Secretary of State**, as the case may be, **considers are likely to have an interest in the application**.
-

10.19 GDPO CONSULTEES –

Note, this list had been summarised from the Order and subsequent amendments to it.

DESCRIPTION OF DEVELOPMENT	CONSULTEE (addresses see Appendix C)
Development within notified hazardous areas, for residential accommodation, more than 250 square metres of retail floorspace, more than 500 square metres of office floorspace or more than 750 square metres of industrial floorspace, or likely to result in a material increase in the number of persons working in or visiting these areas.	The Health and Safety Executive (see Annex A of DETR Circular 04/2000)
Development affecting: (i) a trunk road; or (see advice in DTLR Circular 04/2001) (ii) a railway level crossing (see also DOE Circular 9/95)	Secretary of State for Transport, (via The Highways Agency) The railway network operator (Network Rail (Area Civil Engineering), Secretary of State for Transport, (via The Highways Agency)
Development affecting a classified road or proposed highway	The Local Highway Authority (see note 2 – page 117➤).
Development likely to prejudice the improvement or construction of a classified road or proposed highway	The Local Highway Authority (see note 2 – page 117➤).
Development involving (i) a new or altered access to a highway (other than a trunk road); or (ii) a new highway or private access to premises having access to a toll road	The Local Highway Authority (see note 2– page 117➤). The Local Highway Authority (see note 2– page 117➤) and in the case of a road subject to a concession, the concessionaire.
Development of a new street	The Local Highway Authority (see note 2– page 117➤).
Mining operations	The Environment Agency
Development affecting a scheduled ancient monument	English Heritage

DESCRIPTION OF DEVELOPMENT	CONSULTEE (addresses see Appendix C)
Development affecting any registered garden or park of special historic interest classified as Grade I or Grade II*	English Heritage
Development in the bed or within 20 metres of the top of a bank of a main river (as notified to the local planning authority) Or development involving culverting or control of flow of any river or stream.	The Environment Agency
Development for refining or storing mineral oils etc.	The Environment Agency
Development for the deposit of refuse or waste	The Environment Agency
Development for the retention, treatment or disposal of sewage, trade-waste, slurry or sludge	The Environment Agency
Development of a cemetery	The Environment Agency
Development in or likely to affect a Site of Special Scientific Interest. Or an area notified to the local planning authority as being within 2 kilometres of a Site of Special Scientific Interest.	Natural England or The Countryside Council for Wales
Development involving land occupied by a theatre	The Theatres Trust
Non-agricultural development, not in accordance with the development plan and involving the loss of 20 hectares or more of grade 1, 2 or 3a agricultural land; or a loss which is less than this but likely to lead to further losses or amounting cumulatively to 20 hectares or more	The Secretary of State for Environment, Food and Rural Affairs (via the Government Office for the relevant Region)
Development within 250m of an existing or old refuse/waste site. (<i>This is to deal with the problem of possible lateral transmission of landfill gas – see also DOE Circular 17/89</i>)	The Environment Agency
Development for fish farming	The Environment Agency

DESCRIPTION OF DEVELOPMENT	CONSULTEE (addresses see Appendix C)
Development affecting a playing field, undeveloped land which was a playing field, land allocated in a Development Plan as a playing field etc.	The English Sports Council (Sport England)
Development likely to affect specified inland waterways, reservoirs, canal feeder channels, water courses, let-offs and culverts	The British Waterways Board
Development:- involving siting of new establishments; or consisting of modifications to establishments which could have significant repercussions on major-accident hazards; or including transport links, locations frequented by the public and residential areas in vicinity of existing establishments, where siting of development is such as to increase the risk or consequences of a major accident.	The Health and Safety Executive and the Environment Agency and, where it appears to the planning authority that an area of particular natural sensitivity or interest may be affected, Natural England . (see also Annex A of DETR Circular 04/2000)
Developments involving or likely to affect existing or proposed infrastructure projects (as notified by the Regional Development Agency (RDA)) and likely to have a significant impact on the implementation of a policy in the RDA's strategy	The Regional Development Agency
Developments which are likely to affect the implementation of a strategic regional investment or employment policy in the RDA's strategy (where RDA has notified the LPA of the area to which consultation is required).	The Regional Development Agency
Non - minor development on land within certain flood zones. (see PPS 25) Or any development of land of 1 hectare or more.	The Environment Agency

Outside Essex the following GDPO statutory consultations may be required.

DESCRIPTION OF DEVELOPMENT	CONSULTEE (addresses see Appendix C)
Development of a building or pipe-line in a coal working area	The Coal Authority
Development close to any royal palace or park	The Secretary of State for Culture, Media and Sport

Development in Greater London for demolition, or material alteration of a listed building (see also **DETR Circular 01/2001** for development outside Greater London).

English Heritage

Where proposals affect land across an administrative boundary the adjoining planning authority(ies) should be consulted.

Note 1

The Secretary of State for Communities and Local government may **Direct** a planning authority to carry out specific consultation. (See below).

Note 2

The **Highway Authority** in these cases is the County Council in non-metropolitan areas, and the Metropolitan District/Borough, London Borough Council, or Unitary Council elsewhere.

10.20 OTHER STATUTORY CONSULTEES

The Secretary of State for Transport, (via the Highways Agency) must be consulted on applications which include

- (a) new or altered access to trunk roads and motorways
- or
- (b) development within 67 metres from proposed Trunk Roads or Motorways or proposed improvements, in certain circumstances
(See **DTLR Circular 04/2001**)

For any development in the **Lee Valley Regional Park** (in Essex, this will apply to part of the Epping Forest District area), consultation is required with the **Lee Valley Regional Park Authority**.

MPG 7 states that **The Secretary of State for Environment, Food and Rural Affairs (DEFRA)** (via the relevant Government Regional Office) is required to be consulted on aftercare conditions where land is to be returned to agricultural use following permission involving mineral working or disposal of waste, (and before an agricultural afteruse scheme is approved). Similarly **The Forestry Commission** is to be consulted if the afteruse is to be forestry.

Under Paragraph 7(3) of Schedule 1 to the Town and Country Planning Act 1990, Rochford District Council must consult the **Essex County Council as Minerals Planning Authority** on any application for new development, other than within a residential curtilage, in the area identified on the **Brickearth Deposit maps**.

Generally **MPS 1 (paragraph 13)** says that where a planning application is made for a non-mineral development within a **Mineral Consultation Area** as defined by the Minerals Planning Authority in a Local Development Document, the District Council should consult the **Minerals Planning Authority**.

The **Secretary of State** has issued a **Direction** (contained in **Appendix C of Circular 9/95**) requiring consultation with the **Garden History Society** for development affecting any registered garden or park of special historic interest.

The Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas Direction 2002 contained in Annex 1 of ODPM Circular 01/2003 requires planning authorities to consult the airport owner or operators before granting planning permission for certain types of proposal within certain areas close to Civil Aerodromes – such as Southend and Stansted Airports in Essex and within certain distances of technical sites i.e. beacons and radar stations etc., as shown on

Safeguarding Maps held by the planning authorities. There are also requirements to consult the **Secretary of State for Defence** via the **Ministry of Defence (MOD)** in respect of military airfields (in Essex, Wethersfield Airfield) and technical sites and military explosives storage areas.

MPS 1 (paragraph 19) indicates that where restoration of a mineral working is through landfill or to a wet land habitat, consultation should be carried out with the owners or operators of civil and military aerodromes within 13 km. of the site, in order to assess the likelihood of increasing the bird strike hazard.

In **Circular 01/2003** the **CAA** asks to be notified of any permission granted for obstacles above a height of 91.4 metres above ground level.

The **GDPO** also requires the **Coal Authority** to be notified of applications for mineral working in areas notified by the **Coal Authority** as containing coal. It also requires the **Crown Estate Commissioners** to be notified of applications for mineral workings in areas notified by them as containing silver or gold. Similarly the **DTi** must be notified of mineral applications on land notified as containing gas or oil.

The Town and Country Planning (Mayor of London) Order 2000 requires the **Greater London Authority** to be sent copies by the London Boroughs of applications of potential strategic importance – see also **Government Office for London Circular 1/2000**.

DETR Circular 01/2001 as modified by **ODPM Circular 09/2005**, sets out in detail the requirements for consultation with and notification to, **English Heritage** and the Amenity bodies (see **Appendix C**), in respect of heritage applications i.e. affecting listed buildings, their settings and conservation areas etc..

ODPM Circular 08/2005 explains that the **Regional Planning Body** is to be consulted on any development which would be of **major importance for the implementation of the Regional Spatial Strategy or a relevant regional policy, because of its scale or nature or location**. **Regional Planning Bodies** can also notify **Local Planning Authorities** of **other types of application** it wished to be consulted on.

MPS 1 (Annex 3 paragraph 3.50) indicates that **Natural England** and **English Heritage** should be notified of proposals which affect **old building stone sources**, to provide an opportunity for their significance to be assessed.

10.21 OTHER CONSULTATIONS

DOE Circular 9/95 sets out the types of application on which consideration should be given to consultation with the **Secretary of State for Transport (via the Highways Agency)**.

DOE Circular 9/95 (Appendix B) indicates that the **Environment Agency** should be consulted on proposals sited within 500 metres (measured from the site boundary) of a process subject to **Integrated Pollution Control** under Part 1 of the Environmental Protection Act 1990, or subject to the **Control of Industrial Air Pollution (Registration of Works) Regulations 1989 (SI 1989/318)**.

The Circular also requests the **Health and Safety Executive** to be consulted for development involving substances and quantities notifiable under the **Control of Industrial Major Accident Hazard Regulations 1984 (SI 1984/1902)** which do not require hazardous substances consent.

By **letter dated 12 October 2000** the **Health and Safety Executive** asks to be consulted on certain proposals close to licensed explosives factories and magazines.

In addition **Circular 9/95** also requests that **Environmental Health Authorities** (e.g. Environmental Health Departments of District/Borough Councils), should be consulted about proposals within 250m of the site boundary of a process subject to **Local Authority Air Pollution Control** under Part 1 of the Environmental Protection Act 1990.

The same Circular (as amended by **letter dated 15/3/99**) requests planning authorities to consult the **Forestry Commission** (via the local Forestry Commission Conservator) for any proposals, the sites of which include **ancient semi-natural woodlands** or **ancient re-planted woodlands**, or involving new or extended buildings within 500 metres of such woodlands. These are shown on **Natural England's Provisional Inventory of Ancient Woodlands**.

Circular 9/95 as amended by **letter from DETR dated 22/7/1996** requires consultation with **Sport England** on applications which would lead to the loss of a whole range of types of sports facilities – including water areas etc. or for development of sports facilities, for 300 or more dwellings or minerals workings.

Safer Places: The Planning System and Crime Prevention encourages consultation with **Police Architectural Liaison Officers** and in the Metropolitan Police Service, **Crime Prevention and Design Advisers** on appropriate applications in order to reduce **potential criminal activity** through the adoption of appropriate measures at the design stage.

DETR Circular 04/2000 asks that private pipelines carrying dangerous fluids should be subject of consultation with the **Health and Safety Executive**.

ODPM letter dated 6 December 2006 reminds local planning authorities of the circumstances in which it is appropriate to consult the **Commission for Architecture and the Built Environment** about schemes both at the pre- application and planning application stages.

DCLG Circular 1/2006 urges consultation with **CABE** when a local planning Authority considers that a project raises significant **design** questions or **access** issues.

PPG 16 and MPG 10 outline situations when consultation, with **County Archaeological Officers** or equivalent, who hold the Sites and Monuments Records, is felt necessary.

PPS 23 says the **Environment Agency** should be consulted when land is or might be contaminated with radioactive substances.

DfT Circular 1/2002 sets out Government policy in respect of development within **Airport Public Safety Zones**. If in doubt, the planning authority can seek advice from the **Civil Aviation Division in the Department for Transport**.

In response to **ODPM Circular 01/2003** Operators of **Licensed Aerodromes** which are not officially safeguarded (see **page 117**) and operators of **unlicensed aerodromes** and sites for **other aviation activities** – e.g. Gliding or parachuting might have set up procedures to protect their locations from adverse development by establishing a consultation procedure between themselves and the planning authorities concerned.

ODPM Circular 08/2003 in addition to the statutory requirement (see **page 116**), encourages consultation with **Regional Development Agencies** on a non-statutory basis when planning authorities receive applications on which they think the Agencies would have an interest.

PPS 22 Annex suggests specific consultations on **windfarm** developments.

PPS 23 Annex 1 recommends additional consultations in certain circumstances for potentially **polluting developments**.

- 10.22 In addition there are **other bodies** that may be consulted in relevant cases. It would be helpful if additional copies of the **ES** could be provided in order to facilitate such consultation; the planning authority will indicate how many additional copies will be required.

Such organisations can include (organisations specific to Essex or where relevant the East of England Region are in brackets):-

Ambulance Service (Essex)	National Trust, The
British Gas/Transco	Navigation Authorities (Chelmer and Blackwater Navigation Authority, Port of London Authority)
British Geological Survey	
British Pipeline Agency	Primary Health Care NHS Trusts
Chambers of Trade etc.	Public Transport Companies (e.g. Transport for London, Bus Companies, Train Companies etc.)
Community Forests (Thames Chase)	
(Conservators of Epping Forest, The)	Rights of Way Interests (see DOE Circular 2/93 and Appendix C for details)
Council for the Protection of Rural England (Essex Branch)	
Electricity Supply and generating companies	Royal Society for the Protection of Birds
Emergency Planning Authorities	Sewerage Undertakings (Anglian Water Services Ltd and Thames Water Utilities)
(Essex Bridleways Association)	
Fire and Rescue Services (Joint Essex)	Telecommunications Companies – Terrestrial, Cable and Satellite
Harbour Authorities	Tourist Boards (East of England)
(Lee Valley Regional Park Authority)	
Local groups/societies etc.	Water Undertakings (Anglian Water Services Ltd, Essex and Suffolk Water PLC, Tendring Hundred Waterworks Co., Thames Water Utilities, Three Valleys Water Services PLC)
National Playing Fields Association	
	Wildlife Trusts (Essex)

Parish Councils are also required to be “notified” of all planning applications within their areas. It is good practice to send them **copies** of planning applications and relevant **ESs**.

- 10.23 Relevant addresses and telephone numbers of these and other organisations are given in **Appendix C**.

10.24 REVIEWING THE ENVIRONMENTAL STATEMENT

As part of the decision making process the planning authority will check the quality and adequacy of the **ES**. The **EIA Centre at Manchester University** has published an **ES Review Package**, which is publicly available, to assist in this. (The **European Commission** and **Institute of Environmental Management and Assessment** have each published similar documents). Consultation bodies, other specialist bodies and the public also have a role in reviewing the **ES** as part of the consultation process referred to above. The Review may highlight deficiencies which the planning authority may wish to seek to rectify by seeking **further information** from the applicant (see **10.28** ▼below), or by seeking a **second opinion** from other bodies or consultants etc.

- 10.25 The **DOE** publication – “*Evaluation of Environmental Information for Planning Projects: A Good Practice Guide*”, provides guidance to assist planning authority officers and planning committees to consider whether information submitted in Environmental Statements is adequate, and to help them evaluate that information and representations made.
- 10.26 The period for dealing with an EIA related planning application is extended from the normal 8 weeks or 13 weeks for major applications, to **16 weeks** from receipt; this period may be extended by agreement with the applicant. (In practice some complex EIA related applications take longer than the statutory period to be dealt with.)
- During the **16 week** (or extended) period the planning authority may **seek further information** from the applicant. (See **10.28**▼).
- 10.27 If no decision by the planning authority has been made by the end of this **16 week** or extended period, the applicant may **appeal** to the Secretary of State against **failure to make a decision on the application**. The Secretary of State will consider the **ES** and the application at that stage – to facilitate this the appellant must send 3 copies of the **ES** to the **Secretary of State** with the normal planning documentation (**10.60**► explains the Appeal procedures).

10.28 FURTHER AND ANY OTHER INFORMATION AND PUBLICITY

If the planning authority considers that the **ES** should contain additional information in order for it to be an **ES** as defined by the Regulations (see **Schedule 4** of the Regulations on **page 93 (PINK)** in **Part 9**◀ of this Guide), the planning authority should notify the applicant in writing; and the applicant should provide that information.

It is recommended that the request for Further Information is made as soon as possible in order to reduce any possible delays in determining the proposal.

- 10.29 The Applicant might also provide Information relating to the **ES**, which had not been requested by the planning authority. If such information is considered to be substantive then it is known as **Any Other Information**.

- 10.30 Upon receipt of the **Further** or **Any Other Information**, the planning authority must:-
- send copies to those bodies who were sent the original **ES**
 - place a copy on the **planning register**
 - send 2 copies to the **Secretary of State** via the relevant Government Office
 - publish a notice in a **local newspaper** stating, amongst other things:
 - *name of the applicant and name / address of the planning authority*
 - *date when application was made*
 - *address / location of the site and nature of the proposed development*
 - *that further or any other information has been provided in relation to an ES already submitted*
 - *that a copy of further or any other information may be inspected by the public at all reasonable hours*
 - *where, locally, the further or any other information may be inspected; and until which date (not less than 21 days from publication)*
 - *where, locally, copies can be obtained*
 - *that copies may be obtained whilst stocks last*
 - *the amount of charge, if any*
 - *that representations, in writing, should be made before the 21 days has elapsed, to the planning authority – and giving the address.*
- 10.31 The planning authority may need to seek by notice, in writing from the applicant, additional copies of the further or any other information, to enable consultation.
- 10.32 The planning authority must not determine the application before the expiration of **14 days** after the further or any other information has been sent to consultees, or **21 days** after publication in the local press, whichever is the later.
- 10.33 The applicant must ensure that a reasonable number of copies of the information are available for the public to obtain.
- 10.34 A reasonable charge, reflecting printing and distribution costs may be made to the public for the further or any other information.
- 10.35 In order to **avoid delays** in determining EIA applications, consideration of the need for further information and any necessary request for such information should take place as early as possible in the scrutiny of planning applications.

- 10.36 **Environment Circular 02/99** also indicates that the additional delay and costs on developers should be kept to the minimum consistent with the compliance of the Regulations. It also says that authorities should not use this power simply to obtain clarification or non-substantial information.
- 10.37 The Circular also makes the point that a planning authority cannot take the view that a planning application is **invalid** purely because an inadequate ES has been supplied nor because the applicant has not provided further information when required to do so. However, if a developer fails to provide enough information to complete the ES, the application can be determined only by refusal for which there must be sound planning reasons.
- 10.38 The planning authority may, in writing, require an applicant to produce evidence to verify any information in the ES.

10.39 DETERMINING THE PLANNING APPLICATION

In considering the **ES** accompanied application, the planning authority is required to have regard to all the **environmental information**, i.e.-

- that contained in the **ES** (and any **further or any other information** supplied - see **paragraphs 10.28 and 10.29**)
- comments of **consultation bodies**
- comments from the **public**, and **other bodies**

also, however, the **planning authority** must take account of the **Development Plan** – see **Box on page 52** (see next) and **any other material consideration**.

- 10.40 The planning decision should accord with the **Development Plan** unless other **material considerations** indicate otherwise. **Planning Policy Statement No. 1** and **The Planning System: General Principles** published by the ODPM provide further advice on this and other planning procedural matters. It is suggested that the **ES** should seek to justify the proposal if it is not in accord with the Development Plan.

Note: For an application for the **Approval of Reserved Matters** following an Outline Permission (see **paragraphs 7.1, 7.23, 9.11** and **11.21**), if an ES has been requested and submitted, the planning authority must have regard to it in deciding whether to approve those Reserved Matters.

- 10.41 The process of dealing with the planning application will involve **verifying the information** submitted, by **site visits** and may require seeking **second opinions** from other bodies etc. The process is also likely to require trying to reconcile possibly conflicting views from consultees, the public and other bodies and balancing the pros and cons of the proposal; thus issues of **judgement** will be involved.

The **ODPM Note, May 2004** stresses that the authority must obtain all the information it needs to assess and evaluate the likely significant environmental effects before it reaches a decision. It cannot adopt a ‘wait and see’ approach and impose a condition requesting further work to identify the likely environmental effects after permission has been granted. Otherwise the decision could be quashed in possible court proceedings.

- 10.42 It is normal practice for professional officers of the authority (normally town planners) to compile a report summarising the relevant issues and culminating in a **recommendation** to the appropriate planning committee of lay members who will make the final decision.
- 10.43 Having considered all the **environmental information**, the **policies** in the **development plans** and **other material considerations** (this includes Government policy contained in PPSs etc.) the planning authority may **refuse** permission or **grant** it, with or without **conditions**. **10.46**➤ below gives further advice on the use of conditions.
- 10.44 If the proposal involves a development which is a **departure** from (i.e. not in accordance with) the development plan, and if the planning authority wish to **grant permission**, a further procedure (referred to in **para 10.76**➤ below) may be involved.
- 10.45 **Mitigation measures** proposed in the ES should be designed to limit the environmental effects of the development. In order to secure those mitigating measures **planning conditions** (see **10.46** next) or **legal obligations** might be employed (**para 10.53**➤).

10.46 PLANNING CONDITIONS

Planning conditions are imposed on the grant of planning permission to enhance the quality of the development and enable proposals to proceed where they might otherwise be refused. **DOE Circular 11/95** states that all conditions must be

- necessary,
 - relevant to planning,
 - relevant to the development concerned,
 - enforceable,
 - precise,
 - reasonable in all other respects.
- 10.47 The Circular indicates that whether a particular condition is necessary, depends on whether planning permission would have been refused if it had not been imposed. If it would not have been refused, then the condition needs special and precise justification.
- 10.48 **Paragraph 77 of DOE Circular 11/95** says that “For projects subject to **EIA**, conditions attached to a grant of planning permission may incorporate mitigation measures proposed in an **ES**”. The Circular continues “It may be appropriate in the light of the **EIA**, to require a scheme of mitigation covering matters of planning concern to be submitted to and approved in writing by the planning authority before any development is undertaken”.
- 10.49 **Environment Circular 02/99** states that a condition requiring the development to be in accordance with the ES is unlikely to be valid unless the ES was exceptionally precise – even then the condition would need to refer to the specific part of the ES.

The **Circular** also stresses that **conditions should not duplicate the effect of other controls** e.g. pollution control. Consultation with the relevant pollution control bodies will be necessary in appropriate cases to ensure that the decisions of the bodies are compatible.

10.50 Advice on the imposition of planning conditions is contained in **DOE Circular 11/95**, in **Minerals Planning Guidance Note No. 2** and for reclamation of mineral workings, in **MPG 7**, in **PPS 10** (for waste management applications) and **PPS 23 Annexes 1 and 2** (for potentially polluting developments and the **Companion Guide to PPS22** for renewable energy projects). In relation to nature conservation matters see **PPS 9, Good Practice Guidance paragraph 5.22**.

10.51 With regard to **Outline Permissions**, (see **para 9.11** ◀) the **ODPM May 2004 Note** says that an application for a ‘bare’ outline permission with all matters reserved for later approval is extremely unlikely to comply with the EIA regulations. When granting outline permission therefore, that permission must be “tied” to the environmental information provided in the ES, and considered and assessed by the authority prior to approval. This can be usually done by conditions although it would also be possible to achieve this by a section 106 agreement (see **10.53** ▶). An example of a condition was referred to in a recent Court case:-

“The development on this site shall be carried out in substantial accordance with the layout included within the Development Framework document submitted as part of the application and shown on (a) drawing entitled ‘Master Plan with Building Layouts’.”

The reason for this condition was given as:

“The layout of the proposed Business Park is the subject of an Environmental Impact Assessment and any material alteration to the layout may have an impact which has not been assessed by that process.”

Development carried out following a reserved matter granted for a matter that does not fall within the remit of the outline permission will be unlawful.

10.52 It should be noted that once planning permission has been granted applicants can apply to the planning authority to **vary the permission by seeking to remove a condition or conditions that have been imposed. (Section 73 of the Town and Country Planning Act)**. This is in effect a new planning application and the EIA regulations will apply to it in the same way as any other planning application. There is therefore also the normal appeal on such decisions to the Secretary of State; again the EIA regulations apply.

10.53 PLANNING OBLIGATIONS

Since the power to impose planning conditions is relatively narrowly drawn, **planning obligations** are often used to regulate aspects of a development.

10.54 **Planning Obligations** (under Section 106 of the Town and Country Planning Act, as amended), can be in the form of an **agreement** between the planning authority and the applicant or, often in an appeal situation, they can be offered by applicants without entering into an agreement with the planning authority – these are known as “**unilateral undertakings**”.

10.55 **ODPM Circular 05/2005** gives further advice, stressing that they should only be sought where they meet the following tests:-

- relevant to planning,
- necessary to make the proposal acceptable in planning terms
- directly related to the proposed development,
- fairly and reasonably related in scale and kind to the proposed development and,
- reasonable in all other respects.

After 5 years, if circumstances have changed, the **applicant** can apply to the planning authority to **modify or discharge** the obligation (there is also a right of appeal to the Secretary of State in the case of refusal by the planning authority in such cases).

See also *Planning Obligations: Practice Guidance, DLGC, July 2006*.

Government policy is that conditions should be used in preference to obligations, because applicants can appeal against conditions at the time that they are imposed.

10.56 The circumstances where obligations are more appropriate than conditions include long term management of land (e.g. nature conservation), measures affecting land outside the application site (e.g. planting, off-site, to help screen a project, or off-site roadworks) and where third parties might be involved, and where there are financial transactions involved. The **Circular** says that **Planning Obligations** can be used to offset through substitution, replacement or regeneration the loss of, or damage to a feature or resource present or nearby, for example a landscape feature of biodiversity value, open space or right of way. See also **MPG 2** and **MPG 7** regarding planning obligations in relation to the reclamation of mineral workings and **PPS 23 Annexes 1 and 2** for potentially polluting development.

10.57 For a discussion on the relative merits of conditions and obligations see “*Natural Conditions – a review of planning conditions and nature conservation*” produced by **RSPB**. See also the *DETR Report on Mitigation Measures*.

10.58 THE PLANNING DECISION

The applicant may wish to attend the meeting of the Council which determines the application; the relevant authority should be contacted to find out the particular arrangements.

10.59 When the planning application has been determined the planning authority must:-

- notify the **applicant** (the notification, if permission is granted, must state that the **Environmental Information** has been taken into consideration)
- notify those who made **representations** and relevant **parish councils**
- notify the **Secretary of State** through the relevant Government Office
- **publish a notice** in the local press and where the planning authority publicise planning applications on a web site, in that web site or by other reasonable means
- make available for **public inspection**, where the planning register is kept, a statement containing –
 - the **content of the decision** and any **conditions**;
 - The **main reasons** and considerations on which the decision is based-including relevant **details of policies** and **proposals** in the relevant **Development Plan (s)** see **Box on page 52**◀
 - a description, where necessary, of the **mitigating measures** i.e. the main measures to avoid, reduce and if possible offset the major adverse effects, and
 - information regarding the right to challenge the validity of the decision and procedure for doing so.

(It is suggested that a copy of the relevant planning officer's report to the Planning Committee may meet these requirements).

10.60 APPEALS

Applicants have the usual right of **appeal** against refusal of planning permission for an **EIA** related application or against any planning condition or non-determination of the application. In such cases the **ES** is one of the documents considered at the appeal and the appellant must send 2 copies of the **ES** and any further or any other information received (**paragraphs 10.28 and 10.29**) to the **Secretary of State** with the notice of appeal.

The appeal must be made within **6 months** of the planning authority's decision or where there has been no determination, within **6 months** from the expiration of the period for determining it (i.e. the 16 week period or as extended by agreement in writing).

10.61 For **Enforcement Appeals** see **Part 14**; and **para 14.22** where both a planning appeal and enforcement appeal relate to the same project.

10.62 **DOE Circular 11/95** states that when applications come to appeal, the Secretary of State or planning inspectors welcome reasoned suggestions from the parties as to **conditions** (see **10.46**) which they would find acceptable if permission were granted. However conditions will not be imposed if they are considered to be invalid or are unacceptable on policy grounds.

10.63 There are three formats for an appeal: most are dealt with by **written representation** – an exchange of documents; some by **informal hearing**, but **EIA** related appeals, which are likely to involve major proposals, are likely to be heard at **public inquiries**. The procedures are set out in **DETR Circular 05/2000**.

The majority of planning appeals in England are decided by inspectors, but a small percentage are decided by the Secretary of State, usually because the development is large or controversial. The Secretary of State's policy on recovering appeals from inspectors for determination, is set out in an **House of Commons Hansard Written Answer for 24 July 2006**.

10.64 It should be noted that the writer(s) of the **ES** may be required to give evidence at the public inquiry to substantiate any matters in the **ES**.

10.65 FURTHER AND ANY OTHER INFORMATION FOR AN EIA RELATED APPEAL

If the Secretary of State or Planning Inspector considers that the **ES** should contain additional information in order for it to be an **ES** as defined by the Regulations (see **Schedule 4** of the Regulations on **page 93 (PINK) in Part 9** of this Guide), the Secretary of State should notify the appellant in writing and the appellant should provide that information.

The Appellant might also provide Information relating to the **ES**, which had not been requested by the Secretary of State or Planning Inspector. If such information is considered to be substantive then it is known as **Any Other Information**.

- 10.66 Upon receipt of the **Further or Any Other Information** the Secretary of State or Planning Inspector must:
- send copies to those bodies who were sent the original ES (the planning authority, on receipt, should place a copy on the planning register)
 - publish a notice in a local newspaper of those details referred to in **para 10.14** of this Guide – but substituting ‘appellant’ for ‘applicant’; and indicating that the application is the subject of appeal to the Secretary of State, that representations should be made not to the planning authority, but to the Secretary of State or the Planning Inspector; and giving an address.
- 10.67 The Secretary of State or Planning Inspector may need to seek, by notice in writing, from the appellant, additional copies of the further or any other information for consultation with the consultation bodies.
- 10.68 The Secretary of State or Planning Inspector must not determine the appeal before the expiration of 14 days after the further or any other information has been sent to consultees, or 21 days after publication in the local press, whichever is the later.
- 10.69 The appellant must ensure a reasonable number of copies of the further or any other information is available and at a reasonable cost (see **10.11**). ◀
- Note:** If the request for the information says that it is required for a **public inquiry** then the publicity procedures followed will be carried out under the Inquiry Rules which are referred to in **DETR Circular 05/2000**.
- 10.70 The Secretary of State or a Planning Inspector may in writing require an appellant to produce evidence to verify any information in the ES.

10.71 APPEAL DECISION

The **Secretary of State (or the planning inspector)** will take the environmental information into account and will deal with the proposal afresh.

This will include:-

- the ES
- **further and any other information** supplied
- **comments of consultation bodies, the public and other bodies**

The **Development Plan and other material considerations** will also be taken into account.

- 10.72 The decision will either be to **allow** the appeal (granting permission, normally subject to conditions) or to **dismiss** the appeal (refusing permission).
The Secretary of State or Planning Inspector must notify the Planning Authority of the decision and provide a statement including the content of the decision and planning conditions, the main reasons and considerations on which the decision is based including, if relevant information about the participation of the public, a description, if relevant, of the main mitigating measures and information regarding the right to challenge the validity of the decision and procedures for doing so.

The planning authority should then inform the public of the decision via a local newspaper and where the planning authority publicise planning applications on a web site, in that web site or some other reasonable method and make the statement from the Secretary of State or Planning Inspector available for **public inspection** where the planning register is kept.

- 10.73 An aggrieved appellant or the planning authority can appeal to the **High Court** against the Secretary of State decision within **6 weeks** of that decision, on a point of law.
-

10.74 COSTS

At the Planning Inquiry into the appeal, it is possible for either party to claim **costs** on grounds of unreasonable behaviour by the other party, causing expense. This could include an unsubstantiated reason for refusal, the withdrawing of a reason for refusal at the last moment or taking a decision contrary to government policy. The decision on the costs application is made independently of the planning merits of the case. **DOE Circular 8/93** provides advice on these matters.

- 10.75 **Public Inquiries** can be very expensive and also damaging to public relations for appellants. It is therefore strongly recommended that before embarking on an appeal, the parties should meet to try to resolve their differences; a revised proposal may be acceptable, and in some circumstances the appellants may come to realise the futility of an appeal.
-

10.76 DEPARTURE PLANNING APPLICATIONS (i.e. not in accordance with the Development Plan – see box on page 52◀)

The Secretary of State must be **notified** of certain types of development before permission is granted, in order to decide whether to **call-in** (see **10.82** to **10.83**▶) the application for determination by the Secretary of State.

- 10.77 The most common case will be where a **proposal is not in accordance with the Development Plan** and the planning authority wish to grant planning permission – known as a **Departure Application**.

Details of this procedure and of the types of development concerned are contained in the **Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999**, which can be found in **DETR Circular 07/99**. These requirements do not affect proposals which the planning authority wish to refuse.

- 10.78 Where these procedures apply, the planning authority must send to the Secretary of State the following:
- a copy of the application
 - a copy of the publicity advertisement
 - a copy of any representation received
 - a statement of issues involved in the decision and of any views by a government department or another planning authority
 - 2 copies of the **ES**.
-

10.79 OTHER NOTIFICATION REQUIREMENTS

The Secretary of State has also formally directed that four other particular types of proposal should be notified to the Secretary of State:-

- Certain types of **major retail development**; see **DOE Circular 15/93 – The Town and Country Planning (Shopping Development) (England and Wales) (No. 2) Direction 1993**.
- Development of **school or other local authority playing fields** (see **Environment Circular 09/98 – The Town and Country Planning (Playing Fields) (England) Direction 1998**).
- **Inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan document where the local planning authority does not propose to refuse permission**. See **ODPM Circular 11/2005 - The Town and Country Planning (Green Belts) Direction 2005**, for details of the type and scale of development concerned.
- **Major development in a flood risk area**, where the local planning authority is minded to grant permission against advice on flood risk grounds from the Environment Agency. See **DCLG Circular 04/2006 – The Town and Country Planning (Flooding) (England) Direction 2007**.
See also *PPS 25, Planning and Flood Risk*, Paragraphs 25 to 28.

- 10.80 In addition, if the Secretary of State becomes aware of any particular application, the **planning authority can be directed not to grant planning permission until the direction is lifted**. This allows the Secretary of State time to consider whether to call-in the application for decision, or not.
- 10.81 Planning permission cannot be **granted** by the planning authority for an application which has been notified to the Secretary of State, unless a period of 21 days has elapsed from the receipt of the documents by the Secretary of State. During this period the Secretary of State can **direct** the planning authority **not to grant permission until the direction is lifted** – this does not prevent a **refusal** of permission by the planning authority.
- 10.82 **DETR Circulars 07/99 and 05/2000** say that the Secretary of State will maintain the policy of, in general only calling-in applications which raise planning issues of more than local significance.

10.83 CALLED-IN APPLICATIONS

When a planning application is referred to the Secretary of State, following a **‘call-in’ direction**, the **planning authority** will serve a notice on the applicant giving details of the direction, and stating that the application has been called-in.

In this case the applicant must send 2 copies of the ES to the Secretary of State and any further or any other information submitted, unless the planning authority has already done so.

There are particular procedures for dealing with **Major Infrastructure Projects**; – see **DTLR Circular 02/2002**, and from 24 August 2005 **ODPM Circular 07/2005**.

Where such a project is considered at a public inquiry, **Circular 04/2006** sets out the procedures for **Economic Impact Reports required to accompany such applications**.

10.84 FURTHER AND ANY OTHER INFORMATION FOR AN EIA RELATED CALLED-IN APPLICATION

If the Secretary of State considers that the ES should contain additional information in order for it to be an ES as defined by the Regulations (see **Schedule 4** of the Regulations on **page 93 (PINK)** in **Part 9** of this Guide), the Secretary of State should notify the applicant in writing and the applicant should provide that information.

The Applicant might also provide Information relating to the ES, which had not been requested by the Secretary of State. If such information is considered to be substantive then it is known as **Any Other Information**.

- 10.85 Upon receipt of the **further or any other information** the Secretary of State must:
- **send copies** to those bodies who were sent the original ES (the planning authority, on receipt, should place a copy on the planning register)
 - **publish a notice** in a local newspaper of those details referred to in **para 10.14** of this Guide – and indicating that the application has been referred to the Secretary of State, and that representations should be made not to the planning authority, but to the Secretary of State; and giving an address.
- 10.86 The Secretary of State may need to seek, by notice in writing, from the applicant, additional copies of the further or any other information for consultation with the consultation bodies.
- 10.87 The Secretary of State must not determine the application before the expiration of 14 days after the further or any other information has been sent to consultees, or 21 days after publication, whichever is the later.
- 10.88 The applicant must ensure a reasonable number of copies of the further or any other information is available and at a reasonable cost (see **10.11**).
- Note:** If the request for the information says that it is required for a **public inquiry** then the publicity procedures followed will be carried out under the **Inquiry Rules** which are referred to in **DETR Circular 05/2000**.
- 10.89 The Secretary of State may in writing require an applicant to produce evidence to verify any information in the ES.
- The **Secretary of State**, will take account of the **ES**, any further or any other information; comments of consultation bodies, the public and other bodies and will take account of the Development Plan and any other material considerations, in coming to a decision. The decision will normally be arrived at following a **public inquiry**. The procedures are set out in **DETR Circular 05/2000**.
- 10.90 It should be noted that the writer(s) of the **ES** may be required to give evidence at the public inquiry to substantiate any matters in the **ES**.

10.91 DECISION ON CALLED-IN APPLICATION

The decision will be either to grant permission, normally subject to conditions or to refuse permission. The Secretary of State must notify the Planning Authority of the decision and provide a statement containing the information referred to in **para 10.72**. The planning authority should then publicise the decision in the same way as mentioned in **para 10.72**. There is no right of appeal following this decision – except to the High Court, within **6 weeks**, on a point of law.

10.92 IMPLEMENTATION AND MONITORING OF ENVIRONMENTAL IMPACTS

If planning permission is granted the applicant normally has three years in which to implement the permission although this period can be altered by planning condition. The essentially predictive nature of **EIA** indicates that follow-up **monitoring** in order to verify predictions made and assess the actual impact on the environment of the implemented project is a key element of **EIA**. It is recommended that proposed monitoring procedures, methods and systems are included in the **ES** and in the planning application (see **page 101 in Part 9**). This should desirably follow discussions with the planning authority and the expert bodies. The period fixed for monitoring will depend on the nature of the proposal, the types of effect and also the sensitivity of the site.

- 10.93 **Planning Authorities** will wish to **enforce** planning **conditions (10.46)** imposed on the grant of permission, and any **legal obligation (10.53)** entered into by or with the applicant, in order to ensure that **mitigating measures** and other planning requirements are satisfactorily implemented and the environment safeguarded.

Monitoring may identify a need for adjustments or corrective action to be taken with regard to operations or to the mitigating measures and also assists with feedback into future **EIAs**, thus helping to improve prediction methods.

CHART 5

SUBMISSION OF ENVIRONMENTAL STATEMENT TO LOCAL PLANNING AUTHORITY FOR PLANNING APPLICATION ALREADY RECEIVED

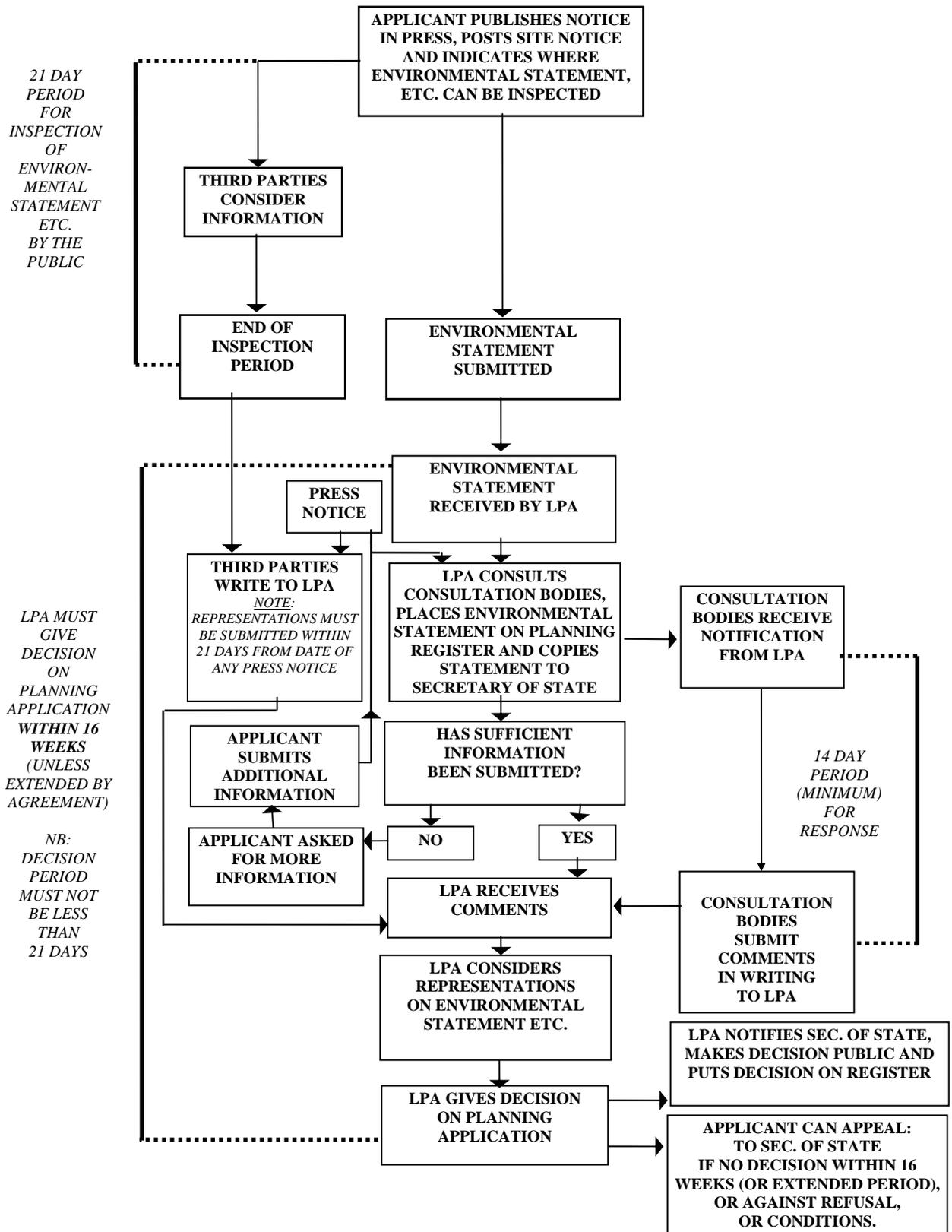
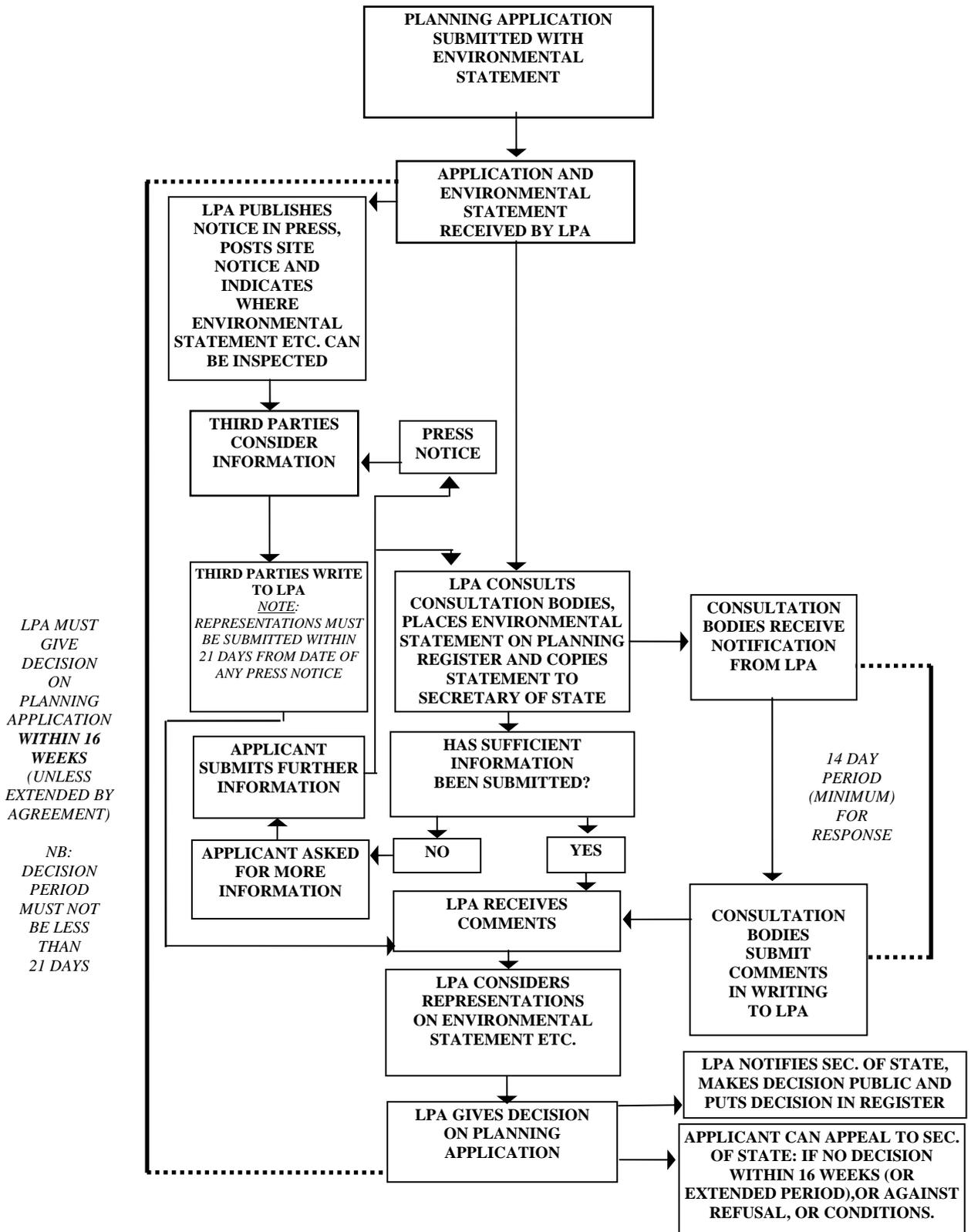


CHART 6

**SUBMISSION OF ENVIRONMENTAL STATEMENT TO LOCAL PLANNING AUTHORITY
IN CONJUNCTION WITH PLANNING APPLICATION**



KEY POINTS/GOOD PRACTICE

- Applicants should **discuss publicity** with the planning authority.
- The **non-technical summary** should be available **separately** and be **free** of charge.
- The planning authority should identify applications with ESs and also ESs submitted following planning applications, in their **weekly lists** of applications.
- Consideration could be given to putting information about applications – including the ES, on the Internet.
- All **consultations** on planning applications at the determination stage should be dealt with by the **planning authority**.
- The applicant should agree **the number of ESs** to be provided early on, with the planning authority.
- It is good practice to send the **whole of the ES** to consultees, rather than parts of it.
- **Parish Councils** should be sent a copy of the **ES** and application when notified of such applications.
- Officers of the planning authority should be aware of the *DOE Good Practice Guide on the Evaluation of Environmental Information*.
- Any **further information** needed to supplement the **ES** should be sought by the planning authority as soon as possible, and provided by the applicant – further publicity will be required at this stage.
- **Planning Conditions** must comply with the criteria in **DOE Circular 11/95**.
- **Planning Obligations** must comply with the criteria in **ODPM Circular 05/2005**.
- The planning officer's **report to Committee** could be included in the documents available for **public inspection** following the planning decision.
- Reference should be made to the *DETR Report on Mitigation Measures*.
- **Appeals are expensive** and can damage public relations: **try to resolve problems without going to appeal**.
- The writer(s) of an ES may be required to give **evidence** at any public inquiries held in order to verify aspects of the ES!
- **Unreasonable behaviour** by any party at an appeal can lead to **costs** being awarded against that party.
- **Monitoring**, if permission is granted, is a key element of **EIA**: the **ES** and planning application should include provisions for this following discussion with the planning authority and the planning authority should seek to enforce conditions and obligations.

PART 11,

CALLED-IN APPLICATIONS AND APPEALS *WITHOUT ESs* :

PROCEDURES WHEN ES IS SUBMITTED

11.1 “CALLED-IN” APPLICATIONS *NOT* ACCOMPANIED BY AN ES

Paras 10.76 and 10.82 explained how planning applications might be ‘Called-in’ for decision by the Secretary of State. **Para 10.83 and 10.91** then set out the procedures for dealing with **Called-in Applications when accompanied by an ES**. This part deals with the case of **Called-in applications and appeals, which are not accompanied by ESs**.

When such an application is **Called-in** for the Secretary of State’s determination, if the Secretary of State considers that the planning application **may require EIA** and no previous Screening Opinion or Direction has been made, then the Secretary of State can:

- seek further information from the applicant, in writing, in order to make a **Screening Direction** on whether EIA is required or not;
- seek information from the **Planning Authority**.

11.2 The Secretary of State should then make a **Screening Direction** within three weeks – or such longer period as required; and then notify and send to:-

- the applicant and
- the planning authority

a copy of the **Screening Direction and, if EIA is required, the statement of reasons**.

The planning authority should place the documents on the Planning Register.

The Secretary of State should also notify the applicant of anyone, including a non governmental environmental organisation, who is considered likely to be affected, or who has an interest in the proposal and who may not otherwise become aware of it through the publicity process.

11.3 An **applicant** receiving a notification that EIA is required and wishing to continue with the application should reply within 3 weeks confirming that an **ES** will be submitted.

If the applicant does not reply, then the Secretary of State will advise the applicant that no further action will be taken on the application; there is **no further right of appeal** in this case.

11.4 If the applicant confirms that an **ES** will be produced, the Secretary of State will notify the **consultation bodies** (identified in **10.18**) including the relevant planning authority, in order that they can be pre-warned that they may be required to supply information to help the applicant complete the **ES**.

The applicant will be advised which consultees have been notified.

The consultees should be provided with the name and address of the applicant and advised of their duty to make relevant information available to the applicant, if required. The public bodies may make a reasonable charge reflecting the cost of making the information available.

11.5 The consideration of the proposal by the Secretary of State will then be suspended pending the receipt of the **ES**.

There is no limit for the preparation of the ES.

- 11.6 If the **Secretary of State** concludes that **EIA is not required**, and there has been no previous formal Screening Opinion or Determination, the planning authority will be informed and requested to place the Screening Direction on the Planning Register. The called-in application will then be dealt with by the Secretary of State in the normal way.
-

11.7 ES SUBMITTED FOR AN EXISTING CALLED-IN APPLICATION

If the appellant produces an **ES**, the appellant should send 3 copies of the **ES** to the **Secretary of State**, who will in turn forward one copy to the planning authority. The planning authority should place the copy of the ES on the Planning Register. The applicants should publicise the ES as referred to in **para 10.7** in **Part 10**◀.

11.8 CONSULTATIONS ON AN ES SUBMITTED ON AN EXISTING CALLED-IN APPLICATION

When sending the **ES** to the Secretary of State, if the applicant has also sent a copy of the ES to a **consultation body**, (see **para 10.18**◀) the applicant should:-

- send a copy of the related planning application etc. to that body (unless it has already been sent it)
 - advise the body that representations should be sent to the Secretary of State
 - inform the Secretary of State which bodies have been sent the ES etc. and when.
- 11.9 When the Secretary of State receives an ES, the applicant will be advised of the number of copies that are required for the Secretary of State to consult any consultation bodies which have not already received a copy direct from the applicant. Upon receipt of those ESs from the applicant, those consultation bodies will be sent a copy of the ES and advised that they make representations.
- 11.10 The Secretary of State will not determine the application until 14 days has expired since the last consultation body was sent a copy of the ES.
- 11.11 The remainder of the procedures for an EIA related called-in application is contained from **para 10.83** onwards in **Part 10**◀.
- 11.12 If no ES is received, the Secretary of State could refuse planning permission – but cannot grant planning permission.

11.13 PLANNING APPEALS *NOT* ACCOMPANIED BY AN ES

When, in considering an **appeal** against a planning decision or a failure to make a decision, the **Secretary of State** considers that the planning application **may require EIA** (and no previous Screening Opinion or Direction, has been made) and the appeal is **not accompanied by an ES**, then the Secretary of State can

- seek **further information** from the appellant, in writing, in order to make a **Screening Direction**, on whether EIA is required or not;
- seek information from the **Planning Authority**.

11.14 The Secretary of State should then make a **Screening Direction** within three weeks – or such longer period as required; and then, notify and send to the

- the appellant and
- the planning authority

a copy of the **Screening Direction** and, **if EIA is required**, the **statement of reasons**.

The planning authority should place the documents on the **Planning Register**.

- The Secretary of State should also notify the appellant of anyone, including a non-governmental environmental organisation, who is considered likely to be affected, or who has an interest in the proposal and who may not otherwise become aware of it through the publicity process.

11.15 Where a Planning Inspector is dealing with an **appeal** against a planning decision or against failure to make a decision, if the Inspector considers that EIA might be required, the matter must be referred to the Secretary of State. The Inspector cannot then determine the Appeal (except by refusing planning permission) until the Secretary of State makes a **Screening Direction** that EIA is not required, or until an ES is submitted. In deciding whether EIA is necessary, the Secretary of State can seek **further information** in writing from the appellant and from the Planning Authority.

The Secretary of State may make a Screening Direction that EIA is required at any time before an Appeal is determined.

11.16 The procedure for The Secretary of State to make a Screening Direction etc. is described in **para 11.14 above** ▲

11.17 An **appellant** who receives a notification that EIA is required and who wishes to continue with the Appeal should reply within 3 weeks confirming that an **ES** will be submitted.

If the appellant does not reply, then the Secretary of State or the Planning Inspector will advise the appellant that no further action will be taken on the appeal; there is **no further right of appeal** in this case.

11.18 If the appellant confirms that an **ES** will be produced, the Secretary of State will notify the **consultation bodies** (identified in **10.18**◀) including the relevant planning authority, in order that they can be pre-warned that they may be required to supply information to help the appellant complete the **ES**.

The appellant will be advised which consultees have been notified.

The consultees should be provided with the name and address of the appellant and advised of their duty to make relevant information available to the appellant, if required. The public bodies may make a reasonable charge reflecting the cost of making the information available.

- 11.19 The consideration of the proposal by the Secretary of State will then be suspended pending the receipt of the **ES**.

There is no limit for the preparation of the ES.

- 11.20 If the Secretary of State concludes that **EIA is not** required, and there has been no previous formal Screening Opinion or Determination, the planning authority will be informed and requested to place the Screening Direction on the Planning Register.

The appeal will then continue to be dealt with in the normal way.

- 11.21 In the case of an appeal in relation to a decision on **Reserved Matters** following an outline permission, the Secretary of State may notify the appellant either that an ES is or is not required, irrespective of whether EIA was sought at the outline permission stage. See also **paragraphs 7.1, 7.23, 9.11 and 10.40**◀

11.22 ES SUBMITTED FOR AN EXISTING APPEAL

If the appellant produces an **ES**, the appellant should send 3 copies of it to the **Secretary of State**, who will in turn forward one copy to the planning authority.

The planning authority should place the copy of the ES on the Planning Register with the existing documentation.

The appellant should publicise the ES as referred to in **para 10.7 in Part 10**◀.

11.23 CONSULTATIONS ON AN ES SUBMITTED ON AN EXISTING APPEAL

When sending the ES to the Secretary of State, if the appellant has also sent a copy of the ES to a consultation body (see **para 10.18**◀) the appellant should:-

- send a copy of the related planning application (etc.) to that body (unless it has already been sent it)
- advise the body that representations should be sent to the Secretary of State
- inform the Secretary of State which bodies have been sent the ES etc.; and when.

- 11.24 When the Secretary of State receives an ES, the appellant will be advised of the number of copies that are required for the Secretary of State to consult any consultation bodies which have not already received a copy direct from the appellant.

Upon receipt of those ESs, from the appellant, those consultation bodies will be sent a copy of the ES and advised that they may make representations.

- 11.25 The Secretary of State or a Planning Inspector will not determine the appeal until 14 days has expired since the last consultation body was sent a copy of the ES.
- 11.26 The remainder of the procedures for an EIA related appeal is contained from **para 10.60** onwards in **Part 10**.◀
- 11.27 If no ES is received, the Secretary of State or Inspector could refuse planning permission – but they cannot grant permission.
- 11.28 **Enforcement appeals** are dealt with in **Part 14**▶ of this Guide.

PART 12,

EIA AND REVIEWS OF CONDITIONS ATTACHED TO MINERALS PERMISSIONS

12.1 REVIEW OF OLD MINERALS PERMISSIONS (ROMPS): PROCEDURES

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2000 apply the EIA regime to applications to **Minerals Planning Authorities** to **determine the conditions** to which a planning permission is subject under:-

- **Registration of old mineral permissions** (Schedule 2 to the Planning and Compensation Act 1991),
- **Review of old mineral permissions** (Schedule 13 of the Environment Act 1995) and
- **Periodic review of mineral permissions** (Schedule 14 of the 1995 Act)

These applications are defined as **ROMP applications**.

12.2 The Regulations came into effect on 15 November 2000. They do not apply to cases decided or started before then. The **DCLG** is considering how the EIA regime might affect review cases which were submitted pre-15 November 2000 and are effectively 'stalled' for want of all or some environmental information requested by the mineral planning authority. It is understood that regulations will be introduced in June 2007 to deal with this issue.

12.3 In brief the Amendment Regulations require **Minerals Planning Authorities to consider the need for an EIA to be undertaken before determining modern planning conditions in relation to existing planning permissions for the winning and working of minerals. (ROMP applications).**

EIA will be required where the remaining development which has been granted by an old permission, is considered by the Minerals Planning Authority, to be likely to have significant environmental effects.

In such cases planning conditions cannot be agreed, nor development consent granted, until the minerals applicant has submitted an **ES**, and its content has been considered and taken into account by Minerals Planning Authority.

12.4 SCREENING OF ROMP APPLICATIONS

The new Regulations remove the current provisions that allow for an operator's submitted scheme of conditions to be deemed to be approved if the Minerals Planning Authority fails to make a determination on it. The New Regulations specify that the deemed consent provisions shall not operate, where EIA may be required unless a **Screening Direction** or **Screening Opinion** has been adopted or made to the effect that **EIA is not required**.

12.5 APPEALS ON NON-DETERMINATION OF ROMP APPLICATIONS, ACCOMPANIED BY AN ES

The Regulations introduce a right of **Appeal** to the **Secretary of State**, should a **Minerals Planning Authority fail to determine planning conditions** within

16 weeks (or any other period agreed in writing), of the receipt of an application accompanied by an ES.

Where an ES or additional information has been required after an application has been submitted – the time period runs from the receipt of the ES or additional information.

In calculating the time period, where an operator has been notified that an ES is required and the Secretary of State has given a **Screening Direction**, no account should be taken of the period before the issuing of the Direction.

12.6 ROMP EIA APPLICATIONS: TIME PERIODS AND SUSPENSION OF DEVELOPMENT

The Regulations extend the period from 3 to 6 weeks (or such other period as may be agreed in writing) for the operator to satisfy the Minerals Planning Authority or the Secretary of State, that the view that an ES is required, is accepted.

12.7 When notifying an operator that an ES or additional information is required, the Minerals Planning Authority or Secretary of State must include a period (which may be extended by agreement) within which the ES must be submitted and by which time the publicity of the ES or additional information, must be undertaken.

12.8 In order to prevent minerals development continuing under pre-review conditions if the operator does not comply with the time periods referred to in **paras 12.6 and 12.7** above, the minerals development is suspended, until such time as the requirements are met. Suspension, dates of commencement and when lifted, must be entered on the register of planning applications.

12.9 LOCAL PLANNING AUTHORITIES' OWN EIA ROMP APPLICATIONS

The Regulations require ROMP applications by local planning authorities to be determined by the Secretary of State.

Minerals Planning Guidance Notes 8, 9 and 14 should also be referred to.

PART 13,

EIA AND PERMITTED DEVELOPMENT: GENERAL PERMITTED DEVELOPMENT ORDER AND LOCAL DEVELOPMENT ORDERS

13.1 PERMITTED DEVELOPMENT

Some planning projects are granted a “**deemed planning permission**” (usually referred to as **permitted development**), by the **General Permitted Development Order (GPDO)**. In addition a Local Planning Authority may make a **Local Development Order (LDO)** which will grant permission for the type of development specified in the LDO and by so doing, removes the need for a planning application to be made by the developer.

This **Part** of the Guide firstly deals with permitted development under the **GPDO – paragraph 13.3 to paragraph 13.5**. It then deals with permission granted by an **LDO – paragraph 13.6 onwards**.

13.2 PERMITTED DEVELOPMENT AND THE GENERAL PERMITTED DEVELOPMENT ORDER

Planning projects granted a “**deemed planning permission**” by the **GPDO** are listed in the **Order** and are mainly either of a minor nature or enable bodies such as statutory undertakers and local authorities, which provide public services, to carry out their activities without the need for specific planning permission.

13.3 The EIA regulations provide that subject to the exclusions in **13.4** below, **Schedule 1 development** or **Schedule 2 development** is not permitted development (PD) unless:

- the **Planning Authority** has adopted a **Screening Opinion** that the development does not require EIA (see **Part 6, para 6.11 etc.** for procedure),
- the **Secretary of State** has made a **Screening Direction** that the development **does not require EIA** (see **Part 6, para 6.28 etc.** for procedures) or
- the **Secretary of State** has given a **Direction exempting** the development from the EIA Regulations.

13.4 Where the:-

- **Planning Authority** has adopted a **Screening Opinion that EIA is required** and no **Screening Direction** to the contrary has been made by the Secretary of State,
- or
- **the Secretary of State has directed that EIA is required,**

then the development is **not permitted development (PD)** and a **planning application together with an ES must then be submitted**.

The submitted application and the ES will be dealt with as described in **Part 10**.

13.5 EXCLUSIONS FROM THE PROVISIONS

Certain types of project are **excluded** from these provisions. These are summarised below. (For further details see **Circular 02/99** and the General Permitted Development Order):-.

- The installation of an overhead transmission line which replaces an existing line, is excluded where it does not require consent under the Electricity Act 1989, because the planning authority has already given an opinion that it would not be likely to have a significant adverse effect.
- Forestry buildings and operations – see the separate **EIA Forestry Regulations**.
- Certain projects begun on or before 1 July 1948.
- Development under local or private act or order – however an **ES** is required by Parliamentary Standing Order for certain projects under local or private acts.
- Harbour works – see separate **EIA Regulations for Harbour Works**.
- Public gas projects – see separate **EIA Regulations for Public Gas Pipelines**.
- Land Drainage Improvement Works by a drainage body – see separate **EIA Land Drainage Improvement Works Regulations**.
- The completion of certain types of development begun before 14 March 1999.
- National Defence Projects; these are excluded by the EC Directive.

Details of the relevant **EIA Regulations** are given in **Appendix D**.

Note: **Circular 02/2006** sets out details of **additional Permitted Development Rights** which apply to the **Crown** and **ODPM Circular 06/2005 (DEFR 01/2005)** considers the procedures surrounding permitted development rights which might potentially affect **Internationally Designated Conservation Sites**.

13.6 PERMITTED DEVELOPMENT AND LOCAL DEVELOPMENT ORDERS

DCLG Circular 01/2006 provides advice on the procedures and purpose of **Local Development Orders (LDOs)**. The detailed legal requirements are contained in Article 2B of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) as inserted by the **Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006 (SI 2006/1062)**.

- 13.7 A Local Planning Authority may make a **Local Development Order** which will grant permission for the type of development specified in the LDO and by so doing, removes the need for a planning application to be made by the developer.
- 13.8 The scope of any LDO should reflect local circumstances and must only be used to implement a **policy contained in one or more development plan documents**.
- 13.9 An **LDO cannot be made** :-
- for development affecting **listed buildings**;
 - for development that is likely to have a significant effect on a **European site** (Special Protection Areas under the Birds Directive and Special areas of Conservation under the Habitats Directive) and is not directly connected with or necessary to the management of the site;
 - for development of the type specified in **Schedule 1** (“EIA development”) to the Town and Country Planning (Environmental Impact Assessment etc)(England and Wales) Regulations 1999.

- 13.10 The Circular points out that although a restriction applies in relation to **Schedule 1 development, Schedule 2 development** is not necessarily prohibited. An LDO can be made to permit such development subject to compliance with EIA requirements. The procedure to be followed before an LDO can be made in respect of **Schedule 2 development** is set out in **paragraph 13.14 below**.
- 13.11 The Circular says that an LDO may be made where there is no known potential developer. In such cases it would be for the local planning authority to decide whether they wished to incur the necessary costs associated with carrying out an EIA themselves. It goes on to say that it is expected that **LDOs** will often be developed in tandem with the formulation of the development plan document to which it relates. Local planning authorities may be able to reduce the potential cost of producing an assessment by preparing it as an extension of the work required in producing a **Strategic Environmental Assessment** for their plan document. Where a local planning authority is aware of interest from a specific developer for development proposed by an LDO it is expected that they would seek to engage the developer in ensuring the requirement to have carried out the assessment is met.

13.12 RESTRICTION OF GRANT OF PLANNING PERMISSION BY LDO

The **Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006 (SI 2006/3295)** set out the legal requirements for EIA and **LDOs**.

These state that a planning authority cannot make an **LDO** which grants planning permission for a **Schedule 2 Development** unless they have adopted a **screening opinion** or the Secretary of State has made a **screening direction** which determines whether EIA is required for the development concerned.

- 13.13 If the screening opinion or direction confirms that the development requires an EIA, then the local planning authority again cannot make a **LDO** unless an ES has been prepared and the authority has taken the environmental information (the information contained in the ES and any **further or any other information** supplied - see **paragraph 10.28** ←, comments of **consultation bodies** and comments from the **public**, and **other bodies**) into consideration and stated in their decision that they have done so.

13.14 SCREENING PROCEDURE

As soon as the LDO has been drafted it should be placed in the planning register. The LPA should then carry out a **screening exercise** in the manner summarised in **paragraph 6.15** i.e. the **5 STEP PROCESS**, in order to conform whether or not EIA is required.

- 13.15 This exercise should be undertaken as soon as possible and prior to any consultation or publicity under the **LDO** regulations etc, since such procedures could be rendered abortive, depending on the outcome of the screening exercise - and it is considered to be good practice and more effective use of resources to carry out the consultation on the LDO in parallel with the consultation etc. required for the ES, when completed, (see **paragraph 13.30**) should one be required.
- 13.16 If it is concluded that the development involved in the LDO comes within **Schedule 1** of the regulations then the LDO for that development should be abandoned since it would be unlawful to pursue it. However it is extremely unlikely that an LDO should seek to grant permission for a Schedule 1 project in view of the inherent large scale nature of such projects.

- 13.17 If the conclusion is that EIA is required the local planning authority must accompany the **screening opinion** with a clear and precise **written statement** of the full reasons for the conclusion that EIA is required.
- 13.18 It should be noted that if it is decided that **EIA is not required**, then no statement of reasons is necessary. However, it is **recommended** that the planning authority keeps on file a note of the reasoning in such cases, in case a similar proposal on a nearby site should arise, to build up a database of expertise and to assist in the event of any challenge to any subsequent decision on the LDO.
- 13.19 The **screening opinion** (and **statement of reasons** if EIA is required) should be placed in the **planning register** with the **draft LDO**.
- 13.20 It should be noted that in contrast with **screening opinions** for potential or actual planning applications there is **no time limit for adopting a screening opinion for a LDO**.
- 13.21 The Secretary of State can override a **screening opinion** of the local planning authority by issuing a **screening direction**.
The Secretary of State can issue a **screening direction** at any time up to the making of the LDO. Thus if a **screening opinion is adopted that EIA is not required**, the process for making the LDO, which involves consultation with numerous bodies and public notification etc. could result in the Secretary of State becoming aware of the proposed LDO. Indeed the Secretary of State is given the opportunity to intervene in the process just before adoption of the LDO. The Secretary of State may then consider that EIA should have been required.
- 13.22 Similarly it could be that the proposed developer (or even the local planning authority itself) may feel that a **screening opinion that EIA is required** will lead to a delay in essential development. The developer could then request the Secretary of State to make a **screening direction** in the hope that it would override the **screening opinion**. As was indicated in **paragraph 6.39** the Secretary of State has wide ranging powers and could exceptionally direct that EIA is not required even though it meets the requirements of Schedule 2.
- 13.23 In making a **screening direction** the Secretary of State will go through the screening process as summarised in **paragraph 6.15** – **the FIVE STEP PROCESS**.
A copy of the **screening direction** will be sent to the local planning authority who will place it (and **statement of reasons**, if EIA is required) in the planning register with the draft LDO.

13.24 PREPARATION OF ES AND SCOPING PROCEDURE

- If EIA is required for the LDO development an **Environmental Statement (ES)** must be provided to inform the local planning authority in making a decision on the LDO.
- 13.25 Those who will be producing the **ES** for the proposed LDO, (which could include officers of the authority itself, consultants acting on behalf of the authority, or proposed developers or their consultants), may wish to know what information should be provide in the **ES**.
- 13.26 A request can be made to the local planning authority asking this question. The local planning authority should provide this **scoping opinion** in writing. If the local planning authority fails to provide a scoping opinion within 5 weeks (or extended agreed period) from the date of the request, the Secretary of State can be requested for a **scoping direction**.

- 13.27 The process of **scoping and producing a scoping opinion** or **direction** is explained in **paragraphs 8.8 to 8.16**. The legal requirements are outlined in **paragraph 8.11**.
- 13.28 A copy of the **scoping opinion or direction** and reasons should be placed in the planning register with the draft LDO.
- 13.29 **Parts 8 and 9** of this Guide explain how an **ES** is produced. It should be noted that the **ES** could take a lengthy period to be produced; during this time no further progress can be made towards adoption of the LDO.

13.30 PROCEDURE WHEN AN ES IS SUBMITTED: PUBLICITY ETC.

Upon receipt of the **ES** the local planning must,

- send 2 copies of it to the **Secretary of State** via the relevant Government Office.
 - send a copy to the **consultation bodies** (see **paragraph 10.18**) advising them that they can make representations.(it is suggested that a copy of the draft LDO is also sent)
 - **notify anyone, (including a non governmental environmental organisation)** who, the authority consider is likely to be affected, or have an interest in the development and who may not otherwise become aware of it through the publicity process, of a local address where a copy of the ES may be obtained and the address for sending representations.
 - Place a copy in the **planning register** with the draft LDO
- 13.31 The local planning authority cannot make the LDO until 14 days after the last copy of the **ES** was served.
- 13.32 The regulations for the making of the **LDO** (see **paragraph 13.12**) also require extensive publicity and consultation with various bodies. It may be more efficient to coordinate this with the ES consultation process thus ensuring that all the same bodies receive copies of the LDO and the ES. If this is done the documentation should clearly indicate that both procedures are being invoked.
- 13.33 The local planning authority is also required to publicise the ES in a **local newspaper** providing the following information:-
- a) name /address of local planning authority
 - b) address/location and nature of the development referred to in the proposed LDO
 - c) that a copy of the draft LDO, and accompanying plans and documents plus the ES may be inspected by the public at all reasonable hours
 - d) a local address where the documents can be inspected and the latest date that they will be available for inspection - not less than 21 days from publication of the notice.
 - e) an address where copies of the ES can be obtained
 - f) that copies may be obtained whilst stocks last
 - g) if a charge is made, the amount (this must be reasonable and reflecting printing/distribution costs)
 - h) that representations should be made to the local planning authority before the date mentioned in d)

Note: The **LDO regulations** also require the **ES** to be notified in a **local newspaper** with the **draft LDO** and **Statement of Reasons for the LDO**. Again it would make sense to combine these requirements. It should be noted however that the time available for making representations under these regulations is **28 days** rather than 14 for the EIA regulations.

The **LDO regulations** also require the **ES**, the **draft LDO** and its **Statement of Reasons** to be published on the planning authority **web site**, together with details of where/when the documents can be inspected and the date for making representations -not less than 28 days from publication.

- 13.34 Where the LDO is site or sites specific, the EIA regulations require in addition **site notices** which are readable without having to go on the land, containing the above information (**paragraph 13.33 above**), to be posted for 7 days in the 28 days immediately prior to submission of the ES.
- 13.35 Copies of the **ES** should be available at the local planning authority's principle offices during normal office hours and such other places within their area as appropriate.
- 13.36 The local planning authority may in writing require evidence to verify any information in the ES.

13.37 FURTHER INFORMATION FOR AN ES: PUBLICITY

If the local Planning authority consider that the ES should contain **further information** in order for it to be an ES, the local planning authority must ensure that it is provided by who ever is producing the ES.

- 13.38 This may be useful in the case of an LDO being developed at the same time as a development plan containing the policy to which the LDO will eventually relate, is also in process of being produced. It might thus be that the policy could be modified during the plan making process and thus the LDO would need to be modified. Then the ES may not entirely relate to the development proposed by the modified policy and LDO. The further information could therefore be sought to ensure that the ES relates to the modified LDO.
- 13.39 The local planning authority must:
- publicise the **further information** in a local newspaper in the same way as the original ES; (The notice should however make clear that it relates to **further information** available in relation to an ES already provided)
 - must send copies of the **further information** to **each person who was sent the original ES**, and also to the **Secretary of State**.
 - Place a copy of the **further information** on the planning register with the draft LDO.
- 13.40 A reasonable charge reflecting printing and distribution costs may be made to the public for copies of the further information.
- 13.41 The local planning authority may in writing require evidence to verify any of the further information in the ES.
- 13.42 The local planning authority will **review the ES** in the same manner as described in **paragraphs 10.24 and 10.25**.

13.43 DECISION ON THE EIA RELATED LDO

Where a local planning authority makes a **LDO** which was accompanied by an **ES**, it must,

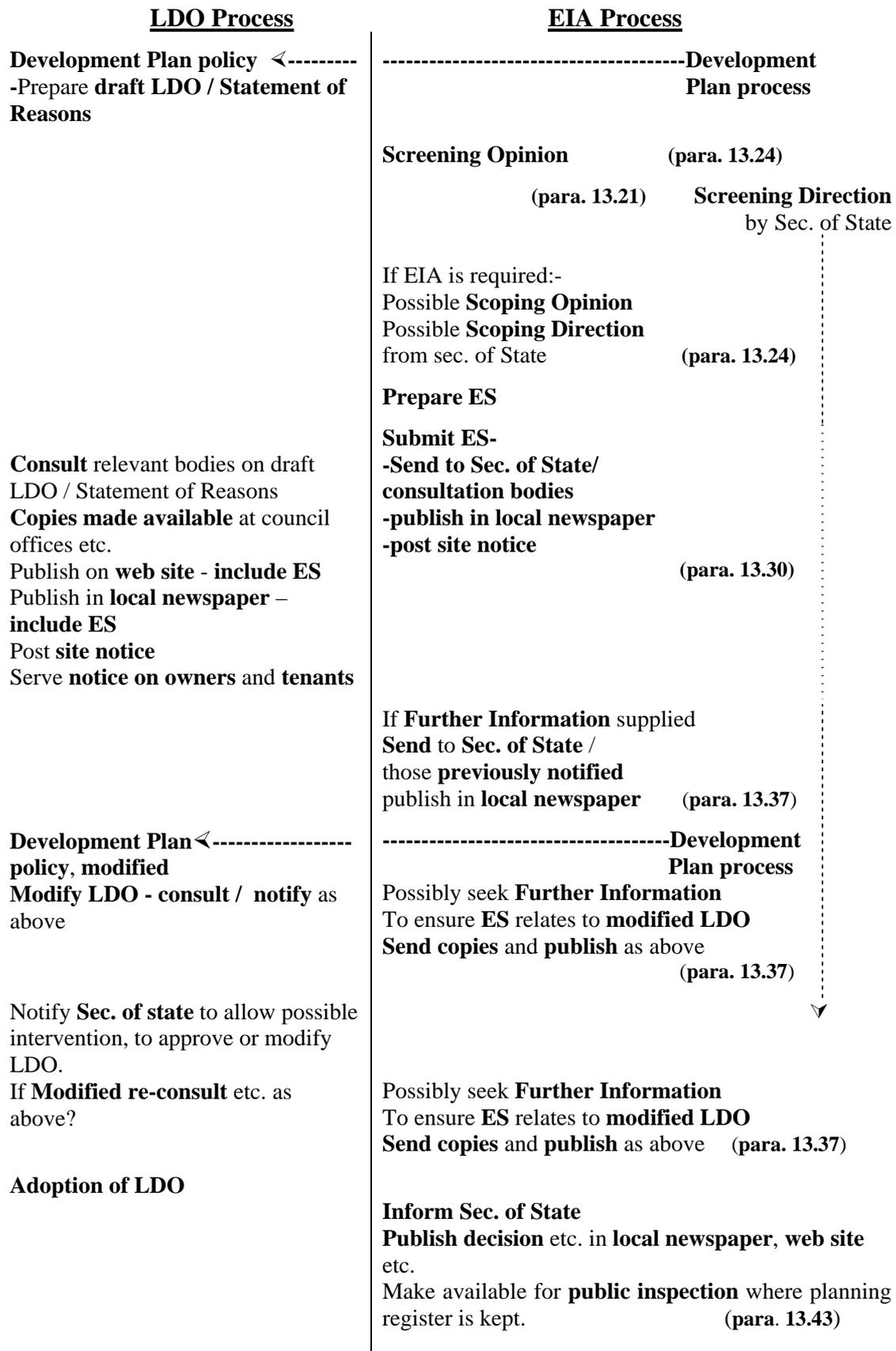
- Inform the **Secretary of State**;
- **publish it in local newspaper** and on any **web site** they might use to publicise planning applications, or by **other reasonable means**;
- make available for **public inspection**, where the planning register is kept, a statement containing –

- the **content of the decision** and any **conditions**;
- the **main reasons** and considerations on which the decision is based, and if relevant, information about the participation of the public;
- a description, where necessary, of the **mitigating measures** i.e. the main measures to avoid, reduce and if possible offset the major adverse effects, and
- information regarding the right to challenge the validity of the decision and procedure for doing so.

The relationship between the LDO procedures and EIA procedures is explained in FIGURE 9 on the next page, 152 ➤

FIGURE 9

DIAGRAM SHOWING RELATIONSHIP BETWEEN LDO AND EIA PROCEDURES



PART 14,

EIA AND ENFORCEMENT APPEALS

This part deals with what is likely to be the very rare case of an **ES** being required as part of the **enforcement of planning control**.

14.1 ENFORCEMENT OF PLANNING CONTROL

Planning Enforcement is concerned with breaches of planning control – primarily where development has taken place without planning permission. The powers which are discretionary can only be invoked within certain periods of time following the various types of breach occurring.

- 14.2 The procedures involve planning authorities serving **Enforcement Notices** in order to remedy breaches of planning control. *Planning Policy Guidance Note 18* states that “the decisive issue for the planning authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest”. See also **ODPM Circular 02/2002**.
- 14.3 The owner or occupier served with an **Enforcement Notice** may **appeal** to the **Secretary of State** before the **Enforcement Notice** takes effect. One ground of appeal can be that planning permission should be granted for the development concerned.
- 14.4 Thus in making a decision on such an appeal, the **Secretary of State** can uphold the appeal and grant planning permission for development which has already taken place. The Regulations, however, provide that if an enforcement appeal involves development that **requires EIA**, then the Secretary of State cannot, in making a decision on the enforcement appeal, grant planning permission unless the **environmental information** (i.e. ES and any further information, and the comments of consultation bodies, the public and other bodies) have been taken into account.
-

14.5 DETERMINING WHETHER EIA IS NEEDED (SCREENING)

When deciding to take enforcement action, the planning authority must decide whether the matters constituting the breach of planning control are:-

- in **Schedule 1** of the Regulations (**Part 4** and **GREEN PAGES**), <
- and if not, whether they are:-
- in **Column 1 of Schedule 2** of the Regulations (**Part 5** and **BLUE PAGES**) < and within a specific sensitive area (identified in **para 3.1 < of this Guide**) or meets a **relevant criterion or exceeds a relevant threshold** in the **second column** of the table in **Schedule 2**;
- and
- whether or not the development is likely to have **significant environmental effects** on the environment. (See **Part 5**.)
- i.e. the **FIVE STEP APPROACH** described in **Figure 3** on **page 14 <** and further detailed in **Part 5**.

Note: If the development is not a Schedule 1 project (STEP 1); and is not a Schedule 2 project (i.e. STEPS 2, 3 and 4), then there is no need to go on to make the EIA determination.

- 14.6 If, as a result of the previous consideration, the planning authority **determines that EIA is required**, they should adopt a **Screening Opinion**. The planning authority should then serve a **'Regulation 25 Notice'**, with the enforcement notice (i.e. to the developer, owner or occupier of the land – as the case may be). The 'Regulation 25 Notice' must include a copy of the **Screening Opinion** and the **statement of reasons**. **It should also require an appellant (appealing on the ground that planning permission should be granted) against the enforcement notice to submit 4 copies of an ES relating to the EIA development, to the Secretary of State.**

The **planning authority** must send a copy of the **'Regulation 25 Notice'** to:

- the **Secretary of State** (The Planning Inspectorate) (with a list of the other bodies who have been sent the Notice; and
- the **consultation bodies** (see 10.18◀) – in order to alert them (and the planning authority) of the need to provide information, relevant to the preparation of an ES, if requested.
- anyone, including a non-governmental environmental organisation, who the planning authority consider is likely to be affected, or have an interest in the Regulation 25 Notice.

The public bodies may make a reasonable charge reflecting the cost of making the information available.

- 14.7 A copy of the **'Regulation 25 Notice'** must be made available for **public inspection**, where the planning register is kept, for a period of 2 years, or until transferral to the register, when and if a planning decision is made, whichever is the sooner.

If the planning authority concludes that the development is **not EIA development and issue a screening opinion to that effect, it will then be free to exercise its discretion on whether to pursue enforcement action or not.**

14.8 SCREENING DIRECTIONS BY THE SECRETARY OF STATE

The recipient of a 'Regulation 25 Notice' may apply to the Secretary of State for a **Screening Direction** on any point referred to in the Notice.

This application must be accompanied by:-

- a copy of the Regulation 25 Notice
- a copy of the enforcement notice
- any additional representations

Copies should be sent to the planning authority.

- 14.9 If the Secretary of State considers that **further information** is needed before a Screening Direction can be made, the applicant must provide it within a reasonable specified period. A copy of the written notification seeking further information will be sent to the planning authority. No Screening Direction will be given until the information is provided.

Any delay in providing additional information will not affect the period for compliance with the enforcement notice or extend the period for submitting an enforcement notice appeal. Thus if the recipient of the enforcement notice wishes to appeal against it, this must be received by the Secretary of State before the date when the enforcement notice becomes effective.

- 14.10 The Secretary of State will send a copy of the Screening Direction to the applicant (and to anyone who has carried out the development) and the planning authority. If it is decided that EIA is **not** required the consultation bodies and others served with the Regulation 25 Notice will be sent a copy of the Direction.
- 14.11 A copy of the **Screening Direction** and, if EIA is required, the statement of reasons, should be made available for **public inspection**, where the planning register is kept, for a period of 2 years, or until transferred to the register, when and if a planning decision is made, whichever is the sooner.

14.12 ENFORCEMENT APPEAL WITHOUT A SCREENING OPINION OR DIRECTION

If the Secretary of State receives an **enforcement appeal without a Screening Direction**, consideration will be given to whether EIA is necessary (i.e. the FIVE STEP SCREENING PROCESS – see **14.5** and **Parts 3, 4** and **5**◀).

- 14.13 If the alleged development is **not** considered to be a **Schedule 1 project** (STEP 1) and **not** a **Schedule 2 project** (STEPS 2, 3 and 4) then it will **not** be necessary to make a Screening Direction; and the Appeal will be dealt with in the normal way.

Otherwise a **Screening Direction** will be made as to whether EIA is necessary or not.

- 14.14 If the Secretary of State considers that further information is needed before a Screening Direction can be made, the appellant will be notified (copy to planning authority) that it must be provided within a reasonable specified period.
- 14.15 If the appellant fails to provide the requested information within the specified period, then the deemed planning application and appeal on the grounds that planning permission should be granted, will lapse at the end of the period.
- 14.16 If a Screening Direction is issued it will be copied to the appellant and the planning authority.
- 14.17 A copy of the Screening Direction and, if EIA is required, the statement of reasons, should be made available for **public inspection** where the planning register is kept, for a period of 2 years, or until transferred to the register, when and if a planning decision is made, whichever is the sooner.

14.18 ENFORCEMENT APPEAL NOT ACCOMPANIED BY AN ES

If the Secretary of State receives an **enforcement appeal without an ES**, consideration will be given to whether EIA is necessary (i.e. the Five Step screening process see **14.5**◀).

- 14.19 If EIA is determined to be necessary, the appellant will be notified (copy to planning authority) within three weeks of receiving the appeal (or such longer period as may be required) that the appellant will be required to submit **3** copies of an **ES** relating to the alleged development within a period specified by the Secretary of State (but see **14.22** below).
- 14.20 If the appellant fails to submit an **ES** in the specified period, the deemed application and appeal on the grounds that planning permission should be granted, will lapse. The Secretary of State will then notify, in writing, the appellant and the planning authority.
- 14.21 A copy of the notification should be made available for **public inspection** where the planning register is kept, for a period of 2 years, or until transferred to the register, when and if a planning decision is made, whichever is the sooner.

14.22 COMBINED PLANNING AND ENFORCEMENT APPEALS

If the appellant has already submitted an ES in connection with an appeal against a refusal of planning permission – or non-determination of an application within the statutory period (see **para 10.60**), which relates to the development, against which enforcement is being taken, and if both appeals are being dealt with together, then the ES already provided will be regarded as supporting both appeals and a separate ES as referred to in **14.19** above will not be required.

14.23 WHEN THE SECRETARY OF STATE RECEIVES AN ES

When the Secretary of State receives an ES, a copy will be sent to the planning authority and notified that the ES will be taken into account in the appeal decision.

- 14.24 Any person/body who received a copy of the Regulation 25 Notice (i.e. **consultation bodies**) will also be so notified and may obtain a copy of the ES if they notify the Secretary of State within **7 days** of receipt of notification.

Comments on the ES should be sent to the Secretary of State.

- 14.25 A copy of the ES shall be made available for **public inspection**, where the planning register is kept, for a period of 2 years, or until transferred to the register, when a planning decision is made, whichever is the sooner.

14.26 PUBLICITY FOR ES

When a planning authority receives a copy of an ES (or further and any other information, see **paragraph 14.28**) from the Secretary of State, in these cases, they should **publish a notice in a local newspaper** stating:-

- name of appellant, and that an appeal has been made to the Secretary of State, against the Enforcement Notice
- address / location of site and nature of the alleged development
- that the ES (and further or any other information) may be inspected by the public at all reasonable hours
- where locally the ES etc. may be inspected
- the last date available for inspection – 21 days from publication
- that representations can be made in writing within 14 days after the publication date, to the Secretary of State, giving the address.

A certified copy of the newspaper notice must be sent to the Secretary of State.

- 14.27 The Secretary of State cannot determine the deemed application or appeal until the 14 day period for representations has elapsed.

14.28 FURTHER AND ANY OTHER INFORMATION AND EVIDENCE

The appellant may be required by the Secretary of State to provide **further information** in connection with the ES, within a specified period.

- 14.29 Should the appellant fail to provide the requested information within the specified time period, the deemed application and appeal on the grounds that planning permission should be granted – will lapse.

The Appellant might also provide Information relating to the ES, which had not been requested by the Secretary of State or Planning Inspector. If such information is considered to be substantive then it is known as **Any Other Information**.

- 14.30 The information provided will be copied to the planning authority and to those persons/bodies who received a copy of the Regulation 25 Notice (i.e. the consultation bodies).

Any further or any other information provided should be publicised in the same way as that for the original ES (**paragraph 14.26** above ◀ and will be made available for public inspection as referred to in **paragraph 14.25**◀).

The Secretary of State may, in writing, require an appellant to produce evidence to verify any information in the ES.

14.31 THE DECISION OF THE SECRETARY OF STATE

The Secretary of State will, in making a decision, take into account the normal planning considerations (i.e. provisions of the development plan) and other material considerations, including representations of the public etc., but also the **ES**, any further and any other information received, any views of the consultation bodies (including the planning authority), the public and other bodies.

- 14.32 The Secretary of State should notify the Planning Authority of the decision and provide a statement containing the information referred to in **para 10.72**◀. The planning authority should then publicise the decision in the same way as mentioned in **para 10.72**◀.

- 14.33 An aggrieved appellant or the planning authority can appeal to the High Court against the Secretary of State's decision, within 4 weeks of the decision, on a point of law.

PART 15

EIA AND LOCAL AUTHORITIES' OWN DEVELOPMENT

- 15.1 The legal provisions for local authorities to make planning applications to themselves are contained in **The Town and Country Planning General Regulations 1992 (as amended)**, (SI 1992/1492; SI 1992/1982; SI 1997/3006 and SI 1998/2800); and explained in **DOE Circular 19/92**.
- 15.2 In the case of a local authority applying to another planning authority for planning permission, the procedures for EIA apply to the applicant authority in the same way as to any other applicant.
- 15.3 Where the local authority is both the **applicant** (alone or jointly) **and** the **determining body** (see **para 3.6** and **3.7**◀), the EIA regulations apply in a slightly modified form.

An example of such a case could be a local road scheme where the local highway authority (the applicant) and the local planning authority (the determining body), will be the same body.

Thus there are no Pre-Application procedures for seeking Scoping Opinions of itself, regarding the content of ESs as referred to in **Part 8**◀.

- 15.4 There is, however, a procedure which allows a planning authority, before making a planning application, to adopt a **Screening Opinion** or request a **Screening Direction** in writing from the Secretary of State about whether EIA is required.

When seeking a Screening Direction from the Secretary of State, the planning authority should provide any **additional information** that is requested. The Secretary of State will make a Screening Direction within 3 weeks or such longer period as may reasonably be required.

The Screening Opinion or Screening Direction should be made available for **public inspection** where the planning register is kept, for a period of 2 years or until transferred to the register together with any related planning decision.

- 15.5 There are no provisions under the **General Regulations** for planning authorities to appeal to the Secretary of State against their own decisions, and therefore the provisions relating to appeals in EIA cases do not apply (**para 10.60**◀).
- 15.6 There could, however, be a situation where a proposal of the planning authority could be **called-in** by the Secretary of State – in which case **para 11.1 to 11.12** may apply◀ and **10.83 onwards**◀ etc. will apply.
- 15.7 The Secretary of State's general powers to make Screening Directions will continue to apply – (see **para 6.39**◀).

The procedures for screening planning applications, received without ESs are the same as in **para 7.1**◀, except that there is no requirement for the planning authority to seek further information of itself before adopting a Screening Opinion.

- 15.8 Otherwise the procedures outlined in this Guide apply in a similar way to that of a normal planning application.

Thus when development requires EIA, the planning authority should prepare an ES (see **Part 8**↵).

Information can be sought from the consultation bodies to assist in this.

15.9 When the ES is received, **publicity** should be undertaken by the planning authority as follows:-

- Where the ES follows an existing planning application the requirements in **para 10.7**↵ etc. should be followed – although the ‘applicant’ will be the ‘planning authority’.
 - Where the ES accompanies the planning application – then **para 10.14**↵ applies.
-

15.10 SUBMISSION OF ES

This section replaces **10.11, 10.12 and 10.13**.

- **3 copies** of the **ES** should be submitted.
 - Where the ES follows an existing planning application, **certificates** regarding posting/publication of notices should be submitted (see **10.9**↵).
 - A copy of the ES, and the planning application etc. should be sent to each **consultation body** (See **paragraph 10.18**); who should be advised that representations may be made to planning authority. But see also paragraphs 10.19 to 10.23
 - **2 copies** of the **ES**, a copy of the planning application etc. should be sent to the **Secretary of State** via the relevant Government Office.
-

15.11 DEALING WITH AN APPLICATION TO WHICH AN ES RELATES

The application cannot be determined until at least **14 days** after the last date on which a consultee has been sent a copy of the ES.

The ES and planning application (or ES, with the existing planning application if submitted separately), must be placed on the Planning Register (together with any pre-application Screening Opinion or Direction.

Para 10.24 to 10.26↵ regarding the period for dealing with the EIA related application continues to apply, but **Para 10.27**↵ regarding appeals does not apply.

Para 10.28 – 10.38◀, regarding further information and publicity, continue to apply.

Para 10.39 – 10.57◀ continue to apply.

Para 10.58◀, regarding the planning decision, continues to apply.

Para 10.60 to 10.73◀, relating to Appeals, does not apply.

Para 10.74, 10.75◀ regarding costs, does not apply.

Para 10.76◀ onwards continue to apply.

- 15.12 In those cases where the determining body is the same body as the applicant, it is strongly recommended that the **distinction and separation between applicant and planning authority is made clear** i.e. the decision to make the application being made by one Committee and the planning decision by another Committee.

It is also strongly recommended that any ES that may be required should be produced by an **organisation independent of the authority**.

15.13 EIA AND LOCAL AUTHORITY PERMITTED DEVELOPMENT

Part 13 dealt with **EIA and Permitted Development**.

- 15.14 In the case of the **applicant being the planning authority** (or jointly with another), in order to confirm whether EIA is required or not, for what otherwise would be permitted development, the planning authority may adopt a **Screening Opinion** or request a **Screening Direction** from the **Secretary of State** on the matter.

Such an application to the **Secretary of State** should include:-

- a site plan
- a brief description of nature and purpose of the proposal and its possible environmental effects
- such other information/representations as are felt necessary.

- 15.15 The Secretary of State may request further information to be supplied within a reasonable, specified period or longer agreed period. The Secretary of State should make a **Screening Direction** within 3 weeks or such longer period as may be required.

- 15.16 The **Screening Opinion** or **Direction** (and if EIA is required, the statement of reasons) will be made available for public inspection where the planning register is kept, for a period of 2 years or until transferred to the register, together with any related planning decision, whichever is the sooner.

- 15.17 Other than the above, the procedure for EIA and local authority permitted development are as outlined in **Part 13**◀.

- 15.18 **Para 12.9**◀ indicates that **Local Planning Authorities' own EIA Renewal of Old Minerals Permissions (ROMP) Applications** should be determined by the **Secretary of State**.

PART 16,

EIA AND SIMPLIFIED PLANNING ZONE SCHEMES AND ENTERPRISE ZONE ORDERS

16.1 **Simplified Planning Zones (SPZs)** and **Enterprise Zone (EZs)** are designed to help secure development or redevelopment in particular areas, by generally speeding up procedures, providing certainty and allowing flexibility to make changes in proposals within the general framework.

SPZs and **EZs** achieve their effects by granting planning permission for the types of development they specify, subject to any conditions or limitations attached.

16.2 The EIA Regulations provide that any **existing or new**

- adopted or approved SPZ
- Orders designating an EZ, or
- approved modified EZ scheme

which can grant planning permission after 14 March 1999, **will not grant planning permission** for any **Schedule 1** development;

and

will not grant planning permission for any **Schedule 2 development, unless the planning authority has adopted a Screening Opinion; or the Secretary of State has made a Screening Direction, that the proposed development does not require EIA.** This requirement will not affect the completion of development begun before 14 March 1999.

16.3 Any Screening Opinions or Directions made in connection with SPZ or EZ development will be made available for **public inspection** where the Planning Register is kept, for a period of 2 years or until transferred to the register with any planning decision, whichever is the sooner.

16.4 The effect of the Regulations is that where EIA is required a planning application will need to be made, accompanied by an ES; and will be dealt with as described in **Part 10**.

PART 17,

ENVIRONMENTAL EFFECTS ACROSS NATIONAL BORDERS

- 17.1 ESs and related planning applications must be sent by the planning authority to the **Secretary of State** within **2 weeks** of receipt. This allows consideration to be given as to whether the proposal is likely to give rise to **significant effects on the environment of other countries in the European Union**. Similarly **Local Development Orders** (see **Part 13**) and **Enforcement Appeals** (see **Part 14**) relating to EIA development will also be the subject of this consideration.
- 17.2 These are likely to be very rare occurrences, but if they do occur the Secretary of State must send information about the proposal or alleged developments to the government of the affected country and invite them to participate in the consultation procedures. A significantly affected country may also request to be sent this information.
- 17.3 If the country wishes to be involved, the Secretary of State will send it copies of all the relevant documents and arrangements will be made for particulars and information to be made available to relevant authorities and the public concerned and for representations to be made. The Secretary of State must also discuss with the country concerned the potential significant environmental effects, mitigating measures and a reasonable period for the consultation exercise.
- 17.4 Details of the proposals or alleged developments will also be published in the London Gazette.
- In the case of planning applications, the Secretary of State will also **Direct** that planning permission may not be granted until consultation has been completed. The Secretary of State has the power to **call-in** such a proposal for decision (see **para 10.83** regarding called-in applications).
- 17.5 The Secretary of State will send a copy of the **decision** and **related documents** that would be put on the planning register, to any Country that has been consulted.
- 17.6 Should the environment in the UK be likely to be significantly affected by a proposal in another country, the Secretary of State will agree with that country how the UK and its public are to be consulted in order that they may fully participate in that country's EIA procedures. The Secretary of State will also arrange for details received, about the decision on the proposal, to be relayed to the authorities and the public concerned.

PART 18, FAILURE TO COMPLY WITH THE EIA REGULATIONS

18.1 THE POSSIBILITY OF COURT PROCEEDINGS

It is possible that proceedings will be initiated by an aggrieved party either through the domestic Courts or by reference to the European Commission.

18.2 DOMESTIC CHALLENGES

Failing to comply with the Regulations may make a decision to grant planning permission unlawful and lead to it being quashed by the Court. Although the Court has the power not to quash planning decisions where there has been procedural impropriety, this discretion is very limited in cases involving **EIA** because of the **duty to comply with EC legislation**. It can only be exercised where there had been "substantial compliance" with the Directive.

18.3 If the project is one to which the Regulations apply it is essential to comply fully with them. It is not sufficient to argue that EIA was not necessary because all of the information that could have been in the ES was available elsewhere and was taken into account before the decision was taken; or that had an ES been available the decision would have been the same.

18.4 In **Berkeley v SSETR**, the House of Lords unanimously emphasized the need to comply with the Regulations. It took the view that when considering compliance with the Regulations it was necessary to consider the EIA Directive. The Lords stressed that the importance of the EIA process extended beyond the decision on the application. Its purpose is to provide individual citizens with sufficient information about the possible effects and give them the opportunity to make representations. The Court was not entitled to decide after the decision had been made that the requirement of an EIA could be dispensed with on the ground that the outcome would have been the same even if these procedures had been followed. In his leading judgment, Lord Hoffman noted that the Directive did not allow Member States to treat "*a disparate collection of documents produced by parties other than the developer and traceable only by a person with a good deal of energy and persistence, as satisfying the requirement to make available to the public the information which should have been provided by the developer*".

18.5 COMPLAINTS TO THE EUROPEAN COMMISSION

Individuals may, and frequently do, complain to the **European Commission** that planning applications **should have been subject to EIA, or that where an EIA was undertaken the procedures were not followed correctly or the information in the Environmental Statement was inadequate**. This can lead to formal legal proceedings between the Commission and the United Kingdom. This can be lengthy and prolonged and can create uncertainty for developers and planning authorities.

18.6 AVOIDING LEGAL CHALLENGE

Nothing can guarantee there will be no legal challenge. But the risk of a challenge being successful can be minimized by taking care to ensure compliance with all of the Regulations. In particular planning authorities should ensure that:

- **Planning applications are properly screened and copies of screening opinions are placed on the planning register;**
- **The Regulations are interpreted in accordance with judgments of the European and domestic courts - they have a wide scope and broad purpose.** For example, housing development should not be excluded because it is not expressly referred to in the Directive or Regulations. If in doubt whether a proposed development falls within scope of the Regulations seek legal advice;
- **Planning conditions designed to mitigate adverse environmental effects are not used as an alternative to a proper EIA or to frustrate the objectives of the Directive and implementing regulations;**
- **Environmental Statements contain all of the information required by Schedule 4 of the Regulations;**
- **All of the likely significant effects that the project will have on the environment have been identified and taken into account prior to a decision to allow the project to go ahead;**
- **The permission that is granted relates only to the project whose environmental effects have been described, assessed and mitigated in the ES.** For instance if the ES describes and assesses the effects of burning a single specific type of fuel in a manufacturing process, the consent for the project should be limited to its operation only with the fuel that has been assessed.
- **Keep a record of decisions and why they have been reached.**

See also **Para 5.21** onwards in **Part 5**, **Para 6.17** in **Part 6**, **Para 9.13** in **Part 9** and **Paragraphs 10.41** and **10.51** in **Part 10**.

PART 19, CONCLUSIONS

19.1 THE BENEFITS OF THE EIA PROCESS

The process of EIA is considered to be a positive way of ensuring that the environment is protected from large scale environmentally insensitive proposals and to achieve environmentally sustainable development and good quality design. The process has the potential for the maximum interchange of information between all parties – including the public, and can save time and resources which must be of benefit. Thus if all party agreement on the nature and scale of likely impacts can be achieved, the decision making process can be simplified enabling it to concentrate on the acceptability of those impacts.

- 19.2 However, whether this potential can be fully realised depends on how the process is carried out.

It is thus hoped that this guidebook will facilitate the EIA process in Essex and perhaps also encourage its voluntary use in those cases where although not statutorily required, a major proposal might still have significant environmental effects.

INTRODUCTION

This appendix brings together some information on a variety of environmental topics which may be relevant to consider when carrying out an **EIA**. These are derived from **Schedule 4** of the EIA Regulations and also from the *DOE ‘Good Practice Guide on the Preparation of Environmental Statements’*.

It is unlikely that all the matters identified will be relevant to any particular proposal.

Each topic is considered under the following sub-headings:-

- potential effects/impacts
- baseline information and prediction
- sources of information/consultees
- mitigation.

It should be remembered that there may well be interaction between these topics in terms of effects; and also that in an **ES** it will be necessary to look at **all phases of the project**, including in particular the construction stage. Each topic area is also likely to be the province of experts – again emphasising the need for co-ordination by the writer of the ES.

The relevant local planning authorities will be important sources of information for Environmental Statements.

In addition local **Universities and Colleges** may also have results of local research which can often be of use. Sometimes useful information will be found in **ESs** for previous projects.

A useful general source of information is *Methods of Environmental Impact Assessment* edited by **Peter Morris and Riki Therivel**.

Note: In this Appendix reference is made to various Planning Policy Statements and Guidance etc. These relate to England only. For Wales, Scotland and Northern Ireland readers should refer to the relevant guidance for those areas.

The Environmental topics covered in this Appendix are:-

1. **EFFECTS ON POPULATION FROM SOCIO-ECONOMIC CHANGES**
2. **EFFECTS ON POPULATION FROM NOISE AND VIBRATION**
3. **EFFECTS ON POPULATION FROM TRAFFIC**
4. **EFFECTS ON POPULATION FROM MAJOR HAZARDOUS INCIDENTS**
5. **EFFECTS ON FAUNA AND FLORA**
6. **EFFECTS ON LAND – GEOLOGY AND SOIL**
7. **EFFECTS ON LAND – MAJOR LAND USES – AGRICULTURE/FORESTRY /RECREATION AND LEISURE**
8. **EFFECTS ON WATER**
9. **EFFECTS ON AIR AND CLIMATE**
10. **EFFECTS ON LANDSCAPE AND VISUAL IMPACTS**
11. **EFFECTS ON MATERIAL ASSETS AND ARCHITECTURAL AND ARCHAEOLOGICAL HERITAGE**

TOPIC 1 - EFFECTS ON POPULATION FROM SOCIO-ECONOMIC CHANGES
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There are many effects which **indirectly** impact on human beings – water pollution, air pollution, changes in the visual environment etc. (covered in subsequent sections) but the following **4 sections** i.e. **Topics 1, 2, 3 and 4** consider some **direct impacts on people**.

● **POTENTIAL EFFECTS/IMPACTS**

The types of effect referred to here will tend to relate to major projects proposed in areas, not necessarily planned to accommodate them.

- **PHYSICAL**
Community Severance
Coalescence of settlements
Community identity
- **DIRECT ECONOMIC**
Local/non-local employment
Characteristics of employment (e.g. skill group)
Labour supply and training
Wage levels
- **INDIRECT/WIDER ECONOMIC/EXPENDITURE**
Employers' retail expenditure
Linked suppliers to main development
Labour market pressures
Wider multiplier effects
Tourism and leisure
- **DEMOGRAPHIC**
Changes in population size; temporary and permanent
Changes in other population characteristics (e.g. family size, income levels, socio-economic groups)
Settlement patterns
- **HOUSING**
Various housing tenure types
Public and private
House prices
Homelessness and other housing problems
- **OTHER LOCAL SERVICES: PUBLIC AND PRIVATE SECTOR**
Educational services
Health services; social support
Others (e.g. Police, Fire, recreation, transport etc.)
Local finances (i.e. impact on local authority finance)

- **SOCIO-CULTURAL**
Life styles/quality of life
Social problems (e.g. crime, illness, divorce)
Community stress and conflict; integration and alienation
Interference to radio/TV etc. reception from new transmitter or other nearby large structures
Access to leisure facilities etc.

● **BASELINE INFORMATION/PREDICTIONS**

Population, characteristics – age/sex/marital status, structure, location
Employment levels, type of jobs, local economy
Travel to work patterns etc.
Service provision – housing, education, health, recreation, utilities.
English Indices of Deprivation – ODPM (now DCLG), 2004

● **SOURCES OF INFORMATION/CONSULTEES**

Local Planning Authorities – Development Plan Documents and other monitoring reports
Office for National Statistics,
DCLG Housing Statistics – to update census information,
Department for Education and Skills,
Regional Bodies – e.g. Regional Assemblies and Economic Development Agencies;
Services providers – local authority departments, transport companies etc., utility services, health bodies, Police – for crime profiles etc.
Regional Tourist Boards and **Local Authority tourist offices** – also for temporary accommodation for construction workers?/leisure facilities etc.

For major retail development a separate **retail impact study** may be necessary. With regard to effects on TV and Radio reception see *PPG 8, Telecommunications – Annex 2*.

● **MITIGATION**

It may be appropriate to provide:

- * additional housing, (see also *PPS 3 Housing*, 2006 and **Guidance on Delivering Affordable Housing**.)
- * additional new services – drainage, schools, health, recreation etc.,
- * new or improved transport facilities see *PPG 13 - Transport*
- * additional employment – see *PPG 4 – Industrial and Commercial Development and Small Firms* and *PPS 6 Planning for Town Centres*,
- * training – new skills for existing work force
- * access facilities

Where new **associated development** (e.g. housing, pipelines etc.) is proposed this will also need to be assessed in terms of environmental impact.

TOPIC 2 - EFFECTS ON POPULATION FROM NOISE AND VIBRATION

This is a very complex topic requiring very specialist skills.

● **POTENTIAL EFFECTS/IMPACTS**

Physical damage
 Annoyance
 Interference with communication
 Health – fatigue, increased heart beat, reduced sleep
 Loss of amenity
 Reduced quality of life and working efficiency
 Impact on sense of well-being
 Physical discomfort
 Disruption and changes in patterns of behaviour

● **NOISE**

Caused by:

Industry – factories, plant, construction, quarries, agricultural activities, etc. eg. gas turbine generators, ventilation and air conditioning etc.

Transport – road, rail, air, waterborne traffic – eg, reversing sirens of vehicles on minerals/waste sites, diesel vehicles etc.

Leisure – clay pigeon shooting, model aircraft flying etc., motor sports, major events eg Concerts – crowd noise etc.

● **VIBRATION**

Caused by:

Industry – surface mineral workings – eg blasting; construction – eg. piling; demolition

Traffic eg. heavy vehicles on site

Transport – roads, railways etc.

● **BASELINE INFORMATION/PREDICTION**

Predicted noise levels and quality of the noise – its special character and tonality, need to be considered against existing ambient noise levels at all sensitive locations and at relevant times and relative to absolute levels being exceeded.

Sensitive locations include occupied premises and gardens, educational establishments or hospitals, and **National Parks, AONBs, heritage coasts** etc.

Noise levels can be influenced by climatic conditions, topography and building layouts. Vibration levels can also be influenced by geology.

● **SOURCES OF INFORMATION/CONSULTEES**

PPG 24, Planning and Noise, and PPS 22 Companion Guide regarding noise and renewable energy projects.

MPS 2, Controlling and Mitigating the Environmental Effects of Mineral Extraction – this may also be relevant for some waste disposal operations.

See also the *Draft National Noise Strategy* (DEFRA) re identification of tranquil areas as a national resource and new *Environmental Noise Regulations*. Also see *Saving Tranquil Places: How to Promote a Vital Asset*, CPRE, 2006.

It is recommended that the most up to date standards published by the **Stationery Office** and/or issued by **The British Standards Institute**, **European Union**, or the **World Health Organisation**, should be consulted. **The Chartered Institute of Building Services Engineers (CIBSE)** and **The Institute of Acoustics (IOA)** will also be able to advise.

For Road Traffic Noise see *Calculation of Road Traffic Noise* (Department of Transport/Welsh Office 1988); and *Manual for Roads and Bridges – Vol 11*. (DfT).

For noise from railway lines see *Calculation of Railway Noise 1995* (Department for Transport).

See also *Report of Noise Review working Party, 1990*. The Stationery Office; (ISBN 0117523437).

See also *The Environmental Effects of Production Blasting from Surface Mineral Working* – DETR (now DCLG), 1998.

Other Useful contacts:

Local Authority Environmental Health Departments.

Highways Departments may also be able to advise

The Association of Noise Consultants.

Meteorological Office re climate effects on noise.

Department for Transport.

Highways Agency

For technical advice on production of noise contours for aircraft noise, see the **Environmental Research and Consultancy Department** – part of the Directorate of Aerospace Policy with the Civil Aviation Authority.

● MITIGATION

Design/engineering – reducing noise at source – quieter machines, acoustic enclosures, improving sound insulation and vibration isolation.

Layout – increasing distances between source and receptor; making use of contours and natural barriers; new barriers – but can be visually intrusive.

Administrative – limiting operating or construction times/days.

Off-site assembly of parts during construction stage

Note: need to consider not only absolute noise level changes but also public perception and tolerance levels which will vary depending on existing noise levels and character of the area.

In addition to direct effects on humans, there are also other potential effects: - Vibration can cause damage to buildings, other structures and also to sensitive equipment in industrial, medical, government and academic complexes.

English Heritage (see *PPG 15*) may be able to advise on vibration effects on historic buildings.

Noise and vibration can also adversely affect the welfare of livestock and other fauna. For information on effects on livestock contact **Department for Environment, Food and Rural Affairs (Land Use Planning Unit)** and **Natural England** on effects of noise on wildlife (see *PPS 9, and related Good Practice Guide*, and also **Topics 5** and **7**).

TOPIC 3 - EFFECTS ON POPULATION FROM TRAFFIC

PPG 13 stresses the Government's aims to reduce the demand for travel, reduce the reliance on the private car and encourage transport with less environmental impact.

● POTENTIAL EFFECTS/IMPACTS

- Noise and Vibration (See **Topic 2**).

- Air pollution (See also **Topic 9**).

e.g. road traffic increase will increase local concentration of carbon monoxide, sulphur dioxide, oxides of nitrogen, particulates and lead; and will be influenced by traffic flows, vehicle speeds (i.e. at road junctions, pollution is likely to be high where there is frequent stopping and starting of vehicles), vehicle types, and engine efficiency.

Sensitive locations include residential areas, schools, hospitals, recreation areas etc. and traffic junctions where traffic may stop and start frequently. Other pollutants include dust and dirt affecting wildlife as well as human beings, and CO₂ which causes enhanced global warming.

- Visual impact

e.g. heavy goods vehicles; or greater flows in sensitive landscapes or townscapes

- Increased pedestrian delay

- Danger to pedestrians, cyclists etc.

- Severance of communities by the above

- Water pollution (see also **Topic 8**) i.e. oily greasy run-off from roads, car parks etc. and salt spray

● BASELINE/PREDICTION

The effects are influenced by the accessibility of the project; and the capacity of the transport networks including public transport, cycling routes and footpaths and by the nature of the project; and the proximity of sensitive locations in terms of occupancy and visual impact.

The times, and types of traffic flows will also affect the level of impact on sensitive areas. All these aspects may need to be investigated.

It is common practice to predict impact at the opening year and 15 years on.

A separate full traffic impact study may be required in complex cases.

● SOURCES OF INFORMATION/CONSULTEES

Local Authorities (Essex County Council publishes an annual *Essex Traffic Monitoring Report*) and **Department for Transport**. Various technical guides can help with calculation of trip forecasts e.g. **Institute of Highways and Transportation Guidelines for Traffic Impact Assessment** 1994, Department for Transport's *Traffic Appraisal Manual* and *National Road Traffic Forecasts*. In addition there are computer databases containing trip generation information e.g. **TRICS**.

Public Transport Undertakings may also need to be approached such as bus, and train companies, **Network Rail**. See also *Guidelines for the Environmental Assessment of Road Traffic* – published by the Institute of Environmental Management and Assessment.

Also see the *Environmental Effects of Traffic Associated with Mineral Workings: Main Report and Best Practice Guide* – DETR (now DCLG), 1998

See also *A Travel Plan Resource Pack for Employers – An Essential Guide to Developing, Implementing and Monitoring a Travel Management Strategy for your organisation* – DETR (now DCLG), 2000; Using *the Planning System to Secure Travel Plans* – DfT, 2002, *Good Practice Guide to Green Travel Plans* -The British Council for Offices-September 2004, and *A Guide on Travel Plans for Developers. ‘Transportenergy’ Best Practice*, DfT, 2006.

Also see *New Stations-A Guide for Promoters* - The Strategic Rail Authority

● MITIGATION

- Reduce scale of project
- Alternative location – where transport network(s) have greater capacity
- Alternative modes of transport- negotiate with public transport operators; encourage cycling – paths, parking etc.; encouraging walking, secure pedestrian links
- Segregation of traffic modes i.e. vehicles, horses, cyclists and walkers etc.
- creation of new public rights of way
- Transfer freight to rail, water, (especially important at construction stage, for plant and materials) [contact freight transport operators and infrastructure providers e.g. **Network Rail, British Waterways**, other **Navigation Authorities** etc.] or pipeline;
- Use smaller vehicles
- Site layout – number/location of access points
- Traffic management or calming
- Spread times of travel;
- Change times of operation
- Noise barriers/double glazing
- Encourage car sharing
- Encourage use of particular routes for construction or delivery traffic
- Interceptors on drains etc.
- Footbridges/subways to overcome community severance

- Change alignments both horizontal and vertical of access roads etc. to reduce visual impact

- Improve specific parts of the network outside the site – junctions, landscaping etc. (a legal obligation may be necessary to achieve this and other measures where the applicant may only have an indirect control).

TOPIC 4 - EFFECTS ON POPULATION FROM MAJOR HAZARDOUS INCIDENTS

The potential of a possible accident creating a major hazardous incident may need to be taken into account in the ES if the incident could affect the environment.

EXAMPLES:

- Possible natural disasters; these could include flooding; fires (e.g. forestry projects), earthquake; landslides etc.
- Structural failure; a dam, bridge, tunnel etc.
- Malfunction of equipment; industrial process – chemical works; release of toxic fumes, possible explosion.
- Movement of hazardous materials and waste.

● **EFFECTS**

These include **actual** danger to human beings and **perceived** danger; the domino effect i.e. close proximity of separate potentially hazardous installations which could affect each other.

Other hazards include danger to aircraft from, for example, birdstrike as a result of landfill sites located close to airports/airfields, etc; and hazards to people who live or work in, or regularly visit areas close to airports etc.

● **BASELINE INFORMATION/PREDICTION**

Location of existing hazardous installations e.g. oil storage, chemical works, gas pipelines, existing and old waste management sites etc.; Areas at risk from flooding etc. – see **Environment Agency** (see **Topic 8**).

Prediction involves highly technical risk assessment.

● **SOURCES OF INFORMATION/CONSULTEES**

Contact **Health and Safety Executive, Local Authority Environmental Health staff and the Environment Agency (for contaminated land etc) and Local Authority Emergency Planning Staff, The Emergency Services; gas, oil, water and electricity public utility/distribution companies, British Pipeline Agency** etc. See also **DfT Circular 1/2002** regarding development within public safety zones at airports.

See also *Guidelines for Environmental Risk Assessment and Management* – DETR (now DCLG), July 2000. Also *DETR Circular 04/2000 Planning Controls for Hazardous Substances* and *ODPM Circular 01/2003 regarding Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas* re need to contact airport operators and Ministry of Defence etc.

Also see *PPS 25 – Development and Flood Risk*, 2006.

See also *PPG 14 Development on Unstable Land – Annex 1* which deals with landslides and unstable slopes and the separate *Annex 2* which covers *subsidence*, and *MPG 5* regarding *Stability in Surface Mineral Workings and Tips*

● MITIGATION

- Relocation away from existing hazardous sites.
- Separation by distance, bunds (to catch escaping fluids etc.) etc.
- Formulation of an emergency plan to deal with potential hazardous incidents.
- Education programmes to deal with perceived risks.

TOPIC 5 - EFFECTS ON FAUNA AND FLORA

The Main aims (see *PPS 9*) are:-

To avoid placing damaging development on or adjoining sensitive sites.

The protection of rare and protected species and habitats.

Using the least sensitive areas for any necessary development.

Seeking to enhance nature conservation interests (see also *Biodiversity Action Plans* page **A13**).

● POTENTIAL EFFECTS/IMPACTS

● DIRECT

- Loss of soils/vegetation,
- Loss/modification of habitats,
- Severance/fragmentation of habitat – roads etc. may affect the movement of wildlife; if scarce species are separated the possibility of survival may be reduced.

- Possible impacts on rare and protected species (e.g. badgers, otters, bats and barn owls) include, loss of roosting/breeding/hibernation sites, loss of foraging/hunting grounds, reduction in prey items/food supply, interruption/bisection of traditional routes, and migration patterns etc.

● INDIRECT

Indirect effects can be complex; effects can be cumulative and influenced by other factors such as temperature and sunlight.

The following can cause ecological effects:-

- Soil pollution – leakage accident, substances deposited on or in land, polluted by precipitation or by migration of polluted groundwater (see **Topic 8**); soil conditions can affect toxicity of pollutants (see **Topic 6**).

- Water pollution caused by accidental spillage or polluting discharges; (see **Topic 8**) – (changes to pH or nutrient levels).

- Altered flows in groundwater and river regimes.

- Air pollution (see **Topic 9**), - chemicals, apparently non-damaging materials can cause chemical changes e.g. alkaline dust from cement factories, and dust from haulage routes can smother plants.

-Micro-climate changes e.g. major urban areas tend to retain more heat than rural areas; Release of heat in cooling water from power stations.

- Lighting (see **Topic 10 and PPS 23**) and Noise pollution (see **Topic 2 and PPG 24**).

- Public disturbance from nearby leisure or residential uses etc. i.e. war games in woods and bike riding etc., increased fire risks. Noisy or visually intrusive development can also impact on the amenity, recreational and educational function of sites.
- Disruption of relationship between habitats and routes used by different species (e.g. Badgers).
- Fragmentation of a habitat e.g. traditional methods of heathland management are difficult to practice on a series of fragmented sites; and it should be noted that minimum sized habitats may be required to sustain a viable species population.
- Other indirect effects can be caused by lateral migration of landfill gas some distance from landfill sites.

● BASELINE INFORMATION/PREDICTION

A habitat survey; to an appropriate level of detail. This should seek to cover fauna and flora at all **relevant seasons** (see **Figure 9** on **page A14**) and in particular, specialist surveys may be required for rare and protected species (see **Figure 10**). **Local specialists** may be able to fill in details if time/season preclude new survey work. The **weather** can also determine visible species. Reference should also be made to **long term trends/previous records**. Terrestrial and aquatic ecosystems should be considered; and also marine environs for example where pipelines are built to discharge effluent to tidal waters.

Identify designated areas e.g. **Sites of Special Scientific Interest, Ramsar sites** (important wetlands) and **Special Protection Areas** under the EC Birds Directive, and **Special Areas of Conservation** under the Habitats Directive, **National Nature Reserves** and also local sites i.e. **Sites of Importance for Nature Conservation (SINCS)** – sometimes known as **County Wildlife Sites, local nature reserves, wildlife corridors** etc.

Evaluation of sites and ecological features can be in terms of size, species richness, and diversity, rarity, typicality and naturalness or ancientness or recreatability.

Size and rarity need to be set in the context of their surroundings and in terms of whether they are of **international, national, regional or local importance**.

Ancient woodland can be identified from county Ancient Woodland Inventories maintained and published by **Natural England**, and old maps. See also *England Forestry Strategy* – 1998 and *Policy Statement on Native and Ancient Woodland*, DEFRA and **Forestry Commission**, June 2005.

Prediction of impacts and assessment of significance of impact should be undertaken by experienced ecologists.

● INFORMATION/CONSULTEES

See *PPS 9 Biodiversity and Geological Conservation*; **Natural England** and related *Good Practice Guide* and *Circular ODPM 06/2005 (DEFRA 01/2005)* for information on designated sites. **Local Authorities** and **Local Wildlife Trusts** for local reserves and local designations and also see *Local Sites, Guidance on their Identification, Selection and Management*, DEFRA, 2006 .

Biodiversity; The UK Action Plan CM 2428) **The Stationery Office**.

Many Planning Authorities like **Essex** (in association with Natural England and the Essex Wildlife Trust) have produced **Biodiversity Action Plans** to protect and enhance priority habitats and species. These documents should be consulted to see whether the project is likely to affect these – including areas which might have the potential for habitat re-creation, or enhancement; and whether any of the actions identified can be delivered via the project.

Note: For **European Protected Species** (see Schedule 2 and 4 of the Conservation (Natural Habitats etc.) Regulations 1994, for details), a Licence is needed from DEFRA (in consultation with the relevant Planning Authority, and Natural England), if any proposals are likely to affect them.

See **Planning for Biodiversity – Good Practice Guide Royal Town Planning Institute**, (1999)

Also **Environment Agency; ITE (part of Centre for Ecology and Hydrology) – Biological Records Centre; Royal Society for the Protection of Birds; Local societies;**

British Trust for Ornithology – Common Bird Census (1983),

‘Guidelines for Baseline Ecological Assessment – Institute of Environmental Management and Assessment, E & FN Spon 1995’

Nature Conservancy Council Guidelines for the Selection of Biological SSSIs (1989),

Nature Conservancy Council Handbook for Phase 1 habitats survey; a technique for environmental audit (1990),

Nature Conservation in Environmental Assessment edited Denise Ramsay (1994) from **Natural England**.

See also from **Natural England** leaflet: - **Environmental Assessment – English Nature’s role and a guide to best practice**, 1995.

Wildlife Impact: The Treatment of Nature Conservation in Environmental Assessment, RSPB, 1995.

See also various **Handbooks on plants** from **Botanical Society of the British Isles**; and **The New Rivers and Wildlife Handbook RSPB, NRA and The Wildlife Trusts**.

RSPB Guide to Mineral Extraction RSPB, 1997

See also **Reclamation of Damaged Land for Nature Conservation, DETR (now DCLG)**, 1996; and **Restoration and Revegetation of Colliery Spoil Tips and Lagoons DETR (now DCLG)**, 1996

See also **Biodiversity Impact: Biodiversity and Environmental Impact Assessment: A Good Practice Guide for Road Schemes – WWF, English Nature, RSPB, The Wildlife Trusts – August 2000**.

Also see **Ancient Woods and Planning Applications, A Guide for Local Authorities in England and Wales: The Woodland Trust 2000**.

Also **PPG 20 Coastal Planning** and **PPS 22 – Renewable Energy** re relation between wildlife and windfarms etc.

and also **Minerals Planning Statement 2**, regarding **Dust emissions**.

Also see **Guidelines for Ecological Impact Assessment in the UK** from The Institute of Ecology and Environmental Management, 2006.

● MITIGATION (see page A16)

FIGURE 10 – POSSIBLE TIMES OF YEAR FOR FIELD SURVEYS – GENERALLY (see Figure 11 for rare and protected species)

Times of year at which field surveys for various groups of organisms are generally best carried out.

There are some exceptions, for example, hay meadows cannot be surveyed for vascular plants after cutting (usually June); and sand dunes should be visited to survey spring annuals before the middle of May.

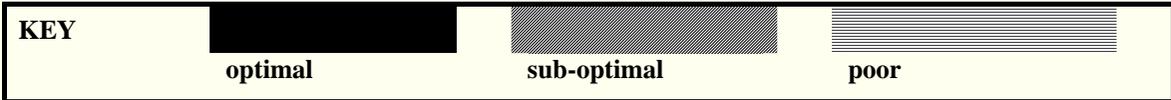


FIGURE 11 – POSSIBLE TIMES OF YEAR FOR FIELD SURVEYS FOR RARE AND PROTECTED SPECIES

BATS: Should not be disturbed, whether during the winter when they hibernate or while roosting in the summer. Surveys will generally consist of looking for signs of bats rather than seeing the animals. If bats are thought to be present **Natural England** should be contacted so that an experienced person can assess the situation.

BADGERS: Badgers breed in October and, as a result, setts should not be disturbed. Although survey work need not necessarily disturb sows or cubs at this time of year, care should be exercised, and encouragement given to survey work outside this period. Any work involving disturbance to a sett between the months of December and June will need to be licensed by **Natural England**.

REPTILES, AMPHIBIANS AND HYMENOPTERA No meaningful survey work will be practicable between the months of November and February. This is because these species will either be over-wintering as eggs/pupa or be holed up somewhere relatively warm and dark, waiting for warmer weather/spring and summer.

	January	February	March	April	May	June	July	August	September	October	November	December
BATS - Winter Hibernacula - Summer Roosts (see note above)												
BADGERS												
REPTILES												
AMPHIBIANS												
BEEES, ANT & WASPS (HYMENOPTERA)												
WOODLAND FLORA												
GRASSLAND FLORA												



● MITIGATION

See *Natural Conditions – Review of Planning Conditions and Nature Conservation*. RSPB 1996 and *paragraph 5.22 of PPS 9, Good Practice Guidance*.

Avoidance:-

- Relocate away from high ecological interest
- Fence sensitive areas
- Time construction or lorry movements etc. to avoid sensitive periods
- Long term management

Reduction:-

- Modify design etc. e.g. reed bed silt traps to reduce polluted waste running directly into sensitive areas
- Preservation of wildlife corridors; tunnels for badgers etc.

Remedies/Compensation:-

- Seeking to relocate species or recreate that which is lost; e.g. soil or turf transfers etc. however, there should be a **presumption in favour of conservation in situ** – ancient woodlands are non-recreatable; new habitats take many years to achieve maturity.
- Only **relocate species or habitats as a last resort**, since success is very difficult to achieve and requires detailed monitoring; but new habitats can be a bonus! – Although they can take decades to achieve maturity.
- Any new planting must be **indigenous** to the area.

Note, water table levels, presence of landfill gas, nature of soil and micro-climate can all be crucial to survival of new planting/habitats.

● POST PROJECT MONITORING

From an ecological perspective monitoring can be of crucial importance, especially where habitats have been relocated or created. For example, a relocated marshy grassland or wetland habitat will need to be regularly monitored to ensure that the site does not dry out thus leading to a change in the species composition. Long term management may also need to be addressed.

TOPIC 6 - EFFECTS ON LAND – GEOLOGY AND SOIL

● POTENTIAL EFFECTS/IMPACTS

- Ground instability; subsidence; landslides, (see also **Topic 4**). In addition the stability of structures can be affected if the development exceeds the load bearing capacity of the soil.
- Loss of, or damage to, geological features such as **Geological SSSIs** and **Regionally Important Geological and Geomorphological Sites (RIGS)**.
- Soil compaction possibly caused by heavy machinery or its use in wet weather, or poor reinstatement of top soil can result in the loss of soil, structure and porosity, which can in turn affect vegetation growth, crop yield and infiltration/run-off of water.
- Physical quality of soils can be reduced by poor mixing, through contamination, by poor reinstatement, and poor management of stockpiles etc.
- Mineral reserves should be safeguarded (reference should be made to the appropriate *Minerals Local Plan or Development Document*).
- Efforts should also be made to reduce the use of fossil fuels, in order to reduce impact on climate.
- Contamination of the ground through poor construction techniques or accidental spillages.
- Release of contaminants to soil, air or water through the disturbance of existing contamination resulting from historic land uses, e.g. old gasworks, mineral workings, industrial sites, landfill sites (see appropriate *Waste Local Plan or Development Document*), sewage sludge etc. High concentrations of such contaminants can be hazardous to human beings and fauna and flora.
- Pile driving, boreholes or excavation can disrupt ground water levels and flows.
- Soil salinity is naturally high in coastal/estuarine marshes – but can have adverse effects when land has been reclaimed e.g. Canvey Island; some salts including natural ones and those from industrial processes and industrial landfill can lead to structural failure of building materials. (See **Building Research Establishment guidelines** e.g. *BRE Digest 363 Sulphate and acid resistance of concrete in the ground*).
- **Excavations and site investigation** could result in the release or migration of landfill gases, or naturally occurring methane, radon or elevated concentrations of metallic substances which may be present due to underlying geology. These may pose a threat to human health. The migration of gases could inhibit plant growth and could be potentially explosive if accumulations occur.
- Groundwater or surface water pollution through the disturbance and release of contaminants.

PPS 23 says that when considering development on land affected by contamination, the principle objective is to ensure that any unacceptable risks to human health, buildings and other property and the natural and historical environment are identified, so that action can be taken to address those risks.

● BASELINE STUDIES/PREDICTIONS

Geotechnical studies should be undertaken.

Desk studies should be undertaken to establish historic land use. If contamination is suspected, further studies such as geological surveys and/or a site investigation may be required. Care should be taken that intrusive techniques such as drilling etc. do not result in the release of contaminants.

Chemical composition of the soil. Where relevant, studies should be undertaken to establish agricultural land quality (**Topic 7**) and groundwater quality (**Topic 8**).

Use of mathematical modelling to predict quantities and extent of contaminants or waste, and the extent and direction of contaminant migration.

Geotechnical modelling to determine structural stability and load bearing capacity of ground.

There will be a need to study the area around a site as well as the site itself, from a geological, soil and hydrogeological point of view.

3D illustrations of geology/soils etc. can be useful in presenting possible effects.

INFORMATION/CONSULTEES

See *PPS 9, Good Practice Guidance and ODPM Circular 06/2005 (DEFRA 01/2005)*. For information on geological SSSIs – contact **Natural England**. For RIGS contact the **local planning authorities, local RIGS groups or local museums**. See also *Local Sites, Guidance on their Identification, Selection and Management, DEFRA, 2006*. There may also be local *Geodiversity Action Plans*.

Local Environmental Health Authorities and the **Environment Agency** can provide advice on contaminated land.

Historic maps, generally held by **local libraries** can give an indication of potentially contaminated historic land uses. **Local Planning Authorities** can advise on the location of old or proposed mineral sites and former landfill sites. The **Environment Agency** as Waste Regulation Authority will also have records of former landfill sites. They can also advise on the aquifer protection zones and surface and groundwater quality.

British Geological Survey – will be able to provide information on or access to maps, memoirs, reports etc.; they also hold borehole records for certain areas. Other contacts include: **Soil Survey and Land Research Centre, Construction Industry Research and Information Association (CIRIA), The Building Research Establishment**.

For Essex see *Soils and their Use in Eastern England*, Hodge, C A H and others, 1984 Bulletin No.13, Soil Survey of England and Wales ISBN (c) 708402976.

Other useful references include:-

British Standards Institute, *BS DD175: 1988 – Code of Practice for identification and investigation of contaminated land*,

Contaminated Land Research Report (CLR) W83 – Documentary Research on Industrial Sites, DOE (now DEFRA),

MAFF Code of Good Agricultural Practice for the Protection of Soils (MAFF and Welsh Office 1993) now DEFRA and The Welsh Assembly. This provides good practical advice on the handling and treatment of soils and their replacement and restoration following disturbance.

For Minerals Development, including onshore oil and gas proposals, see the various **MPG's** and **MPS's** produced by DCLG.

Also see **Environmental Geology in Land Use Planning: Advice for Planners and Developers: Good Practice Guidance, Emerging Issues** – DETR (now DCLG), 1998 and **Guide to Sources of Earth Science Information** – British Geology Survey, 1998

PPG 14 – Development on Unstable Land 1990 and Annex 1 – Landslides and Planning – 1996; and the separate **Annex 2 on Subsidence** - 2002.

MPG 5 – Stability in Surface Mineral Workings and Tips – 2000.
(See also DCLG; Minerals and Waste Planning Division for **National Landslide Database**).

PPS 10 – Planning for Sustainable Waste Management 1999, and **Good Practice Guide**.

PPS 23 – Planning and Pollution Control 2004.

DOE Circular 21/87 Development of Contaminated Land (replaced by the earlier PPG 23 in England),

Waste Management Paper 26 on Landfill, The Stationery Office,

Waste Management Paper 27 The Control of Landfill Gas – The Stationery Office.

Health and Safety Executive; re risks involved in developing contaminated land;

Local Environmental Health Departments.

DOE Circular 17/89, Landfill Sites: Development Control.

Various publications of Inter-Departmental Committee on the Redevelopment of Contaminated Land.; e.g. ICRCL **Guidance on the Assessment and Redevelopment of Contaminated Land, Guidance Note 59/83** (1987)

BSI (British Standards Institute) 1996, **BS7004 Code of Practice for Foundations**.

Various other **CLR Research Reports**

Various **AEA** (previously Warren Spring) **Publications**

Various **Building Research Establishment Publications**

Various **Health and Safety Executive Publications**

See also **DEFRA** for details of research into contaminated land

Also see **Radon Atlas of England and Wales**; National Radiological Protection Board and **BS 21 Radon: Guidance on Protection Measures for New Buildings**.

See also **Codes of Good Agricultural Practice for the Protection of Land and Water**-DEFRA.

The Centre for Sustainability in association with the Minerals Industry Research Organisation has produced:- **How To Make Scoping for EIA Aggregates Applications More Effective**.

Particle analysis may be required for proposed mineral extraction sites. **The Department for Environment, Food and Rural Affairs** may be able to advise on methods of storage of soil for re-use.

See also *DETR Circular 02/2000*, The Environmental Protection Act 1990: Part IIA Contaminated Land

Also see *First Soil Action Plan for England*, DEFRA, May 2004 and *Draft Soil Strategy* from the Environment Agency.

● MITIGATION

- Phasing – early extraction of mineral resource before main development; but consider all the environmental implications of this.
- Ensure site clearance, drainage and site stabilisation works are undertaken in a sensitive manner. **PPS 23** points out the need for **risk assessments** to be carried out on land that is or potentially could be contaminated.
- Use of bio-engineering techniques – roots of fast growing trees/shrubs/reed mats etc. to stabilise the soil as soon as possible.
- Removal of contaminants for disposal elsewhere – will transport create a risk of an accident or increase traffic problems?
- Creation of buffer areas around sensitive geological sites.
- Sealing contaminants into a site.
- Flaring off landfill gas or power generation etc. depending on quality of the gas – but flare or powerlines etc. may be visually unacceptable.
- Use of non-pervious membranes in order to protect groundwater.
- Doming of final land form following landfill to achieve adequate water run off – but can be incongruous in landscape.
- Leachate treatment (See **Topic 8**).
- Physical barriers separating soil types.
- A plan for stripping, storage and replacement of soil – vegetating stored soils may help retain texture etc. and may assist in weed control. (**Department for Environment, Food and Rural Affairs** can advise).
- Geotextile membrane can protect soil from damage of access routes etc.
- Use of artificial maintenance of water tables to protect habitats; prevent erosion etc.
- Management – avoid heavy machinery etc. or vehicles on wet soil – also beware of dust in dry weather – See **Topic 9**.
- Consult with the local **Health and Safety Executive Offices, local Building Control Departments, Environment Agency, local Environmental Health Departments** archaeological and nature conservation advisors, regarding the risks involved in developing contaminated sites. **PPS 23** also points out that remediation itself can cause unwelcome effects that may need to be addressed.
- Monitoring during construction.

TOPIC 7 - EFFECTS ON LAND – MAJOR LAND USES

This appendix deals with effects on major land uses but generally excludes the built environment which is covered in other appendices – principally **Topics 1, 2, 10 and 11**.

(A) AGRICULTURE

Aims –

- (a) protection of the best and most versatile agricultural land from permanent loss.
- (b) protection of the appearance of the countryside.
- (c) stimulate the rural economy.

See *‘PPS 7’-Sustainable Development in Rural Areas*

● POTENTIAL EFFECTS/IMPACTS

- Permanent or temporary loss of the land.
- Spread of disease – livestock and crops.
- Fragmentation/severance of land holdings, reducing viability.
- Disruption of field drainage.
- Removal of hedges leading to soil erosion - (See **Topic 6**) and loss of habitats - (See **Topic 5**).

● BASELINE INFORMATION/PREDICTIONS

Ministry of Agriculture (now DEFRA) Provisional Land Classification Maps give a general indication of land quality but they do not identify grade differences over small areas. For planning project proposals, therefore it is usually necessary to carry out site specific surveys.

For proposals which would result in the permanent loss of agricultural land, the ES should include a justification for the proposal and reasons for the rejection of alternative sites of lesser agricultural quality.

For minerals and waste disposal projects full details of site working and reclamation are required.

Where part or an entire farm is required for development, the assessment may need to consider the type of farming system, the commercial/technical viability at existing and reduced size and any scope for restructuring through diversification or acquisition.

Land ownership and tenure information is likely only to be available from meetings with owners/occupiers.

● INFORMATION/CONSULTEES

The Department for Environment, Food and Rural Affairs; - also Veterinary and Plant Services re spread of diseases – see also leaflet *Preventing the Spread of Plant and Animal Disease – A Practical Guide* – MAFF. 1991 (now DEFRA).

PPS 7, – Sustainable Development in Rural Areas, ODPM (now DCLG) 2004

Also see *First Soil Action Plan for England*, DEFRA, May 2004 and *Draft Soil Strategy* from the Environment Agency

Revised Guidelines and Criteria for Grading the Quality of Agricultural Land in England – MAFF (now DEFRA).

May need to interview farmers concerned.

See *MPG 7* and *Guidance on Good Practice for the Reclamation of Mineral Workings to Agriculture* DETR (now DCLG), 1996.

● MITIGATION

- Relocation of site.
- Fencing livestock.
- Provision of compensatory land.
- Separation/storage of top soil, sub-soil, overburden and any imported soil making materials.
- Replace hedges.
- Thrust bore pipelines under hedges.
- Replacement/improve drainage.

(B) FORESTRY

● POTENTIAL EFFECTS/IMPACTS

- Loss.
- Severance/fragmentation.
- Fire.
- Windblow – separated trees can become more vulnerable to wind damage.
- Air and water pollution (see **Topic 9** and **Topic 8**).
- All these effects can reduce timber production and viability and change visual appearance (see **Topic 10**) and habitats (see **Topic 5**).

● BASELINE INFORMATION/PREDICTION

Need to consider tree types, yield classes, land ownership and tenure, potential loss of timber production, wildlife and landscape aspects (see **Topic 5** and **Topic 10**).

● INFORMATION/CONSULTEES

Forestry Commission, Community Forest Authority or Partnership, (in South West Essex is **Thames Chase Community Forest**), **forestry operators**, Site surveys.

See also *Tree Establishment on Landfill Sites: Research and Updated Guidance* – DETR (now DCLG), 1997, *The Potential for Woodland Establishment on Landfill Sites* – DETR and *Woodland Establishment on Landfill Sites – Site Monitoring* – DETR (now DCLG); and *MPG 7*

● MITIGATION

- Relocate (but cannot relocate **Ancient Woodland** –see **Page A12**)
- Replant – but note time lag. (Choice of species needs to be considered in terms of landscape, ecology, drainage etc.)
- Use linear projects i.e. pipeline/powerline routes, as new access ways or fire protection buffers.
- Deal with air/water pollution at source
- Protection of trees during construction work (see *BS3882 – 1995*).

(C) RECREATION AND LEISURE

● POTENTIAL EFFECTS/IMPACTS

- Loss of facility or part; i.e. parks, common land, rights of way etc.
- Severance/fragmentation of facility –reducing its effectiveness.
- Visual intrusion (see **Topic 10**).
- Noise impacts (see **Topic 2**).
- Loss of habitats (see **Topic 5**).

● BASELINE/PREDICTION

Description of facilities; types of user, public/club etc. level of use and variations; research into visitor attitudes and preferences may be required to help prediction of effects. May need to consider informal footpath routes in addition to formal Rights of Way.

● INFORMATION/CONSULTEES

Local Planning Authorities; including **Rights of Way** staff, **Country Parks**, **local tourism officer** etc.; **Regional Tourist Boards**, Discussions with **Parish Councils**; **Ramblers Association**, **British Horse Society** and other rights of way organisations (See **Appendix C**.)
 For sports uses – contact **Local Authority**; **Sport England**; **Regional Parks** – relevant body e.g. **Lee Valley Regional Park Authority**; Relevant **National Park Authority**.
 See also *Environmental Assessment – The Treatment of Landscape and Countryside Recreation Issues* –Countryside Commission 1991 (now Natural England). Also *PPG 17, Open Space, Sport and Recreation* (and the companion guide – ‘*Assessing Needs and Opportunities*’), *PPG 20 Coastal Planning*, *MPG 7 Restoration of Mineral Workings* and *Good Practice Guide on Planning for Tourism*, DCLG, 2006.

● MITIGATION

- Relocate the development.
- Provide a compensatory area.
- Provide new access routes – bridges/tunnels.
- Provide new rights of way (or realign – note separate legal procedure).
- Screening – new indigenous planting, but note time-lag before the effect is mitigated, therefore suggest pre-project planning; and mounding (but where will be the source of material?) or a combination – provided drainage on mounds can be made to be effective.

TOPIC 8 - EFFECTS ON WATER

● POTENTIAL EFFECTS/IMPACTS

RECREATIONAL (See **Topic 7**)

VISUAL (See **Topic 10**)

NAVIGATIONAL (See **Topic 3**)

HABITATS/FISHERIES (See **Topic 5**)

All of these changes can be an indirect result of the following **DIRECT EFFECTS**.

● **HYDROLOGICAL – SURFACE WATER RUN-OFF**

- Increased surface water run-off can result from the creation of large areas of impervious/semi-impervious surfaces often associated with large developments. This can reduce infiltration to groundwater and increase peak flows in watercourses, possibly increasing flood risk.
- Works to straighten, widen or narrow a channel will alter the capability of a river to carry sediment and can result in erosion or sedimentation.
- Development within the flood plain can increase the occurrence or risk of flooding downstream.
- Altered hydrological regimes can alter the sediment balance of watercourses and result in increased erosion or deposition within the rivers.
- Reduced infiltration can reduce recharge to the aquifer.
- Increased water abstraction from rivers can reduce flows and lead to siltation of channels.
- Increased abstraction from aquifer can result in reduced spring flows.
- Flood defence works have the potential to alter flooding regimes up or downstream of a particular site and the hydraulic and hydrological implications of a scheme should therefore be assessed within any Environmental Impact Assessment.
- Development downstream of a reservoir should take account of future decommissioning of reservoir and consequent changes in flood potential; and also the possible need to change the hazard rating of the reservoir, thus requiring dam improvement works.

● **GROUNDWATER**

Lowering of water tables – either seasonally or permanently can affect habitats, and reduce river flows by causing springs to dry up.

This can be caused by:-

- Groundwater recharge being reduced (i.e. large areas of impervious surfaces etc. as above).

- Extensive trenching for pipes etc. which act as land drains.
- Where abstraction from an aquifer for development exceeds recharge.
- Development can also affect groundwater movement i.e. landfill, major foundations etc.

- **WATER QUALITY IMPACTS: POLLUTION**

See also **Topic 6** regarding **Soil contamination**

Sources include:-

- Discharges from sewage works, industrial plants etc.,
- Storm flows and land run off (from agricultural land, development sites, roads etc.)
- Leaching from landfill sites etc.,
- Deposition from the air (acid rain),
- Drift from pesticides etc.,
- Accidents, dumping,
- Dead/decaying flora and fauna,
- Construction activities; including exploratory drilling etc. See **MPS 1**.

Pollutants can include heavy metals, organic wastes, inorganic wastes, suspended solids, reducing agents, toxic substances, heat and oil, and possibly competing or invasive species.

Effects which are dependent on concentration of pollutants and on character (quality, volume, scale of receiving water body) include:-

- Reduction in dissolved oxygen
- Increased risk of infection, death or affecting reproduction potential of species
- Altering habitat or interfering with food chains
- Decreasing quality available for abstraction to potable water supply
- Effects on groundwater and aquifers
- Reducing aesthetic quality of habitats – including, landscape/visual impacts/smell/nuisance/health – causing indirect effects on recreational use of areas etc.

Note: a pollutant may not be present in toxic concentration but may build up in an aquatic food chain.

Other potential effects include:-

- Dredging – affecting habitats, and navigation, water quality etc.
- Land reclamation – sand and gravel can disrupt aquatic systems.
- Filling – alters habitats, volume and character of water.
- Shoreline modification – changes in habitats, sediment movements – erosion/deposition.
- Impounding – changing habitat type etc.

● BASELINE INFORMATION/PREDICTIONS

Current conditions and character of the water environment – catchment areas, drainage patterns, flow regimes, existence of boreholes, areas liable to flood, (note climatic and seasonal aspects), consequential habitat or geomorphological surveys will also be required; for marine developments, check tides, currents, erosion, deposition etc.

In flood risk areas Flood risk Assessments will be required and as **PPS 25** points out the planning authority will wish to ensure that any new development is appropriately flood resilient and resistant, including safe access and escape routes when required and that any residual risk is safely managed.

Proposals should be checked against appropriate criteria, policies and standards.

Where water is abstracted from a river or stream, the aim should be that when it is returned it should not adversely change the river classification.

For water quality see *EC directives*; also *Environmental Quality standards* for a variety of substances; and informal *River Quality Objectives* – contact the **Environment Agency**. Modelling of the aquatic environment may be useful to aid prediction – a complex and technical procedure.

● INFORMATION AND CONSULTEES

Field studies; see **The Environment Agency** for *Aquifer Protection Zones* and *Potential Flooding Maps; standards and policies* etc.

Contact **water supply** companies regarding water supply issues.

Where flooding and drainage issues arise, in addition to consulting the **Environment Agency**, it may be relevant to contact **Sewerage utility companies, Internal Drainage Boards, the highway authority** and possibly **reservoir owners and operators**.

Contact the **Department for Environment, Food and Rural Affairs (DEFRA)** re coastal protection and fisheries and fish biology (in particular **CEFAS**) and the relevant **Sea Fisheries Committee, Port Authorities, The United Kingdom Hydrographic Office, Crown Estate Commissioners, Government Research Bodies** for marine environment and possibly the **Maritime and Coastguard Agency; British Waterways** re navigable waterways; **Natural England** etc. (see **Topic 5**) for habitats affected. See also **Marine Minerals Guidance Note 1: Guidance on the extraction by dredging of sand, gravel and other minerals from the English sea bed**. – ODPM (now DCLG), 2002.

Also see *Assessment of the rehabilitation of the Seabed after Marine Aggregate Dredging* – ODPM (now DCLG), DEFRA, Crown Estates, -2004,

See **PPS 25: Development and Flood Risk**, 2006 and also *Policy and Practice for the Protection of Floodplains*, 1997, Environment Agency. The Agency is currently compiling maps of relevant floodplains. See also relevant *Shoreline Management Plans and Estuary Flood Management Strategies*. See also **PPS 23 – Planning and Pollution Control**.

Policy and Practice for the Protection of Groundwater Environment Agency 1998; *River Corridor Surveys – Methods and Procedures, Conservation Technical Handbook No.1* – NRA 1992 – now Environment Agency. See also *Environmental Assessment – Scoping Handbook for Projects* – The Environment Agency 2002 and also *Further Guidance Notes and Scoping Guidance Notes* – also available from the Environment Agency.

See also *IPC: Integrated Pollution Control, A Practical Guide*, The Stationery Office.

Also see *The New Rivers and Wildlife Handbook*, RSPB, 1994 and various MAFF (now DEFRA) publications regarding *Inland Flood Defence Works, Control Defences and avoidance of water pollution – e.g. DEFRA Codes of Good Agricultural Practice for the Protection of Land and Water*.

See also *Navigation Restoration and Environmental Appraisal. A Guidance Note*, DETR, 2000.

See also *PPG 20 – Coastal Planning*

The United Kingdom Hydrographic Office should be informed by applicants when work below high water level, starts and finishes and to supply plans, in order that Admiralty Charts can be updated.

Development below high water requires a licence from **DEFRA** with regard to the disposal of wastes at sea.

See also *Reducing the Effects of Surface Mineral Workings on the Water Environment: Good Practice Guide* – DETR (now DCLG), 1998.

Also see *Improving the Flood Performance of New Buildings: Flood Resilient Construction*, - DEFRA, DCLG and Environment Agency, May 2007.

● MITIGATION

- Relocate – avoid floodplains etc.
- Redesign/manage project.
- Increase oxygen levels, artificially
- Use of pumping methods (but can increase CO₂ emissions from use of power generated using oil or gas) to retain water table level.
- Even out discharges of drainage – vegetation, balancing ponds, large storm drains, Including **Sustainable Urban Drainage Schemes (SUDS)** – see *PPS 25* and

PPS 23 and Sustainable Water Management in Land Use Planning, CIRIA, July 2006.

There will be a need to consult **Environment Agency** and **Sewerage Undertakers**.

Also see Highways Agency - *Design Manual for Roads and Bridges* and *Advice*

Note on Vegetative Treatment Systems for Highway Runoff-2001. See also

Construction Industry Research and Information Association (CIRIA) Notes on

this subject.

- Provide new water resource – lake etc.
- Flood defences – bunds.
- Barriers to contamination – membranes etc.
- Oil interceptors.
- Increase sewage/sewerage system capacity.

TOPIC 10 - EFFECTS ON AIR AND CLIMATE

● POTENTIAL EFFECTS/IMPACTS

Pre-construction and construction phases of development can result in the disturbance and generation of dust. It may also be an important issue during the operation phase of some developments such as mineral extraction or certain industrial manufacturing processes.

The combustion of fossil fuels e.g. by coal and oil fired power stations and industrial processes such as smelting, glass manufacture etc. is likely to result in sulphur dioxide, oxides of nitrogen, carbon monoxide and carbon dioxide being released to air.

Chemical processes can result in emissions of various chemicals to air and may result in unpleasant odours. Accidental spillages and emissions should also be considered. Some facilities such as incineration plants can give rise to toxic emissions such as dioxins.

Road traffic, aircraft and boats can all give rise to emissions including volatile organic compounds such as benzene and nitrogen, sulphur dioxide, lead, carbon monoxide, carbon dioxide and particulates e.g. PM 10s.

Emissions of sulphur dioxide, hydrogen chloride and nitrous oxides can contribute towards acid deposition affecting acidity of soils and surface waters. This is a regional scale, transboundary issue.

The release of chlorine based compounds, particularly man-made chlorofluorocarbons and halons is contributing towards the depletion of the ozone layer.

High nitrogen oxide levels are implicated in ozone production. Ground-level ozone is a threat to health due to its effect on people's respiratory performance; it can also lead to a reduction in crop yield.

The release of methane from landfill sites can present a potential hazard with risks of asphyxiation or explosion.

Odours and gases released from large scale agricultural activities; for example manure and slurry storage.

Particularly important will be the effect on **Air Quality Management Areas** (see **opposite**), or on other areas where air quality is likely to be poor and also the impact of proposals in rural areas with low existing background pollution levels.

Indirect effects include damage to human health, flora and fauna, effects on visibility and the erosion of building materials. The magnitude of the effect will depend on a number of factors including the type and concentration of pollutants, the proximity of sensitive receptors, the period of exposure, topography and weather.

In the longer term greenhouse gas emissions e.g. methane, carbon dioxide and nitrous oxide releases can contribute to global warming and climate changes.

PPS 23 says that major developers can be asked for an energy statement and data on expected **CO₂** emissions.

● BASELINE STUDIES/PREDICTION

Collation of existing relevant air quality data (derived from national or local monitoring networks) and local meteorological data including information on wind speed and direction. Field surveys may also be required.

It should be noted that **seasonality and prevailing climatic conditions** can affect the concentration of some pollutants. For example, sulphur dioxide levels may be at their highest in the winter when buildings are heated; calm weather can result in temperature inversions which can inflate baseline readings for some pollutants; and wet or windy weather may result in suppressed readings.

Mathematical modelling is used to predict pollutant dispersal taking into account topography, weather, existing or proposed pollution sources, trends and concentrations etc.

● INFORMATION/CONSULTEES

In fulfilment of the Environment Act 1995 the Government has adopted the **Air Quality Strategy** for England, Scotland, Wales and Northern Ireland. The **Air Quality Regulations 2000** as amended have set health-based air quality standards and objectives which should be achieved by particular dates. These include **Benzene, 1,3 Butadiene, Carbon monoxide, Lead, Nitrogen dioxide, Particles (PM₁₀) and Sulphur dioxide**.

Local Environmental Health Authorities are required under the related **Local Air Quality Management (LAQM)** system to periodically review air quality and to assess present and likely future quality against the objectives in the Regulations, and if necessary to declare **Air Quality Management Areas (AQMAs)** and formulate **Action Plans** to address the issues. Local Authorities are required to include key information in a **public register**.

Local Environmental Health Departments (and some **County Councils – including Essex** which seeks to co-ordinate the approach to air quality) are therefore useful sources of information.

See also *Environment Circular 15/97, Local Air Quality Management Policy Guidance – LAQM.PG (03) and Technical Guidance – LAQM.TG (03) available from DEFRA and Internet (<http://www.defra.gov.uk/environment/airquality/laqm.htm>)*. For up to date guidance see www.uwe.ac.uk/aqm/review/guidance_0.5.html

See also *PPS 23 - Planning and Pollution Control, PPG 13 - Transport, PPS 6 – Planning for Town Centres, PPG 4 - Industrial and Commercial Development and Small Firms*.

Also see *Development Control: Planning for Air quality, NSCA, November 2006*. Reference should also be made to *Local Transport Plans* produced by **local highway authorities**.

The **EC** are also developing various standards and the **World Health Organisation** has produced non-mandatory air quality standards.

For information on maximising energy efficiency (and therefore reducing emissions), in buildings and industrial processes see “Best Practice” programmes run by the Government’s **Energy, Environment and Waste Directorate**.

See also *Clean Air Act 1993*, and *Environmental Protection Act 1990*; and *PPS 22 – Renewable Energy*.

See also *Environmental Effects of Dust from Surface Mineral Workings*, DETR (now DCLG), 1996 (Vol. 1 – Summary and best practice; Vol. 2 Technical report).

Also see *IPC: Integrated Pollution Control, A Practical Guide*, The Stationery Office.

See also *Air Quality and Land Use Planning – Good Practice Guide*, Royal Town Planning Institute, (1999)

For Climate issues see information from **the Government's UK Climate Impacts Programme Various Climate Change Scenarios for the United Kingdom** produced by **Climatic Research Unit, University of East Anglia, Hadley Centre for Climate Prediction and The Meteorological Office.**

Also see *Living with Climate Change in the East of England*-The East of England Sustainability Round Table and *The Planning Response to Climate Change: Advice on Better Practice* –ODPM (now DCLG) 2004.

See also *Creating a Standard for a Corporate CO₂ Indicator, Working Document* from UNEP and NPI – available from DEFRA.

Other useful contacts are:-

DEFRA

The Environment Agency,

Government Research bodies such as AEA Technology (previously Warren Spring Laboratory)

The Meteorological Office for historic and forecast information on weather conditions affecting air quality.

See also *Radon Atlas of England & Wales*, **National Radiological Protection Board.**

Dealing with Radon Emissions in Respect of New Development: Survey Report and Recommended Framework for Planning Guidance – **British Geological Survey**, and *Radon Good Practice Guide* – available from **Radon Policy Branch of DEFRA** (See **Appendix C** for address).

See also *Minerals Planning Statement No 2*, re **Controlling Dust Emissions.**

● **MITIGATION**

Possible mitigation measures include:

- Replacement of CFC's by suitable alternatives;
- Damping down of roads to avoid fugitive dust, wheel washers to prevent dust being carried off-site by vehicles;
- Covering lorries;
- Good housekeeping including adequate maintenance of equipment to maintain efficiency;
- Use of energy efficient methods of building construction and management;
- Use of renewable energy (e.g. wind, wave or solar power), or combined heat and power technology (Note: these developments will have their own associated environmental impacts which would need to be addressed);
- Flare or use methane from landfill sites;
- Use of low sulphur fuels, e.g. natural gas and other cleaner fuels for vehicles;
- Reduce traffic, traffic management, promotion of public transport, cycling etc - (see **Topic 3**);
- Use of electrostatic precipitators or filters to reduce particulate emissions, NO_x emission control e.g. burner design, stream injection, regeneration systems;
- Use of tall stacks and heated plumes to promote plume rise and facilitate atmospheric dilution (Note: this may have an associated visual impact – see **Topic 10**).
- Woodland planting to absorb CO₂ (Greenhouse gas).

TOPIC 10 - EFFECTS ON LANDSCAPE, AND VISUAL IMPACTS

● POTENTIAL EFFECTS/IMPACTS

● DIRECT EFFECTS INCLUDE:

altering, obscuring or removing an element or elements that make up the landscape or otherwise intruding into the visual scene.

PPS 23 refers to the need to limit and where possible reduce the adverse effects of light pollution on local amenity, rural tranquillity and nature conservation.

● INDIRECT EFFECTS INCLUDE:

traffic generation (see **Topic 3**), air pollution affecting vegetation etc. (**Topic 9**) and effects from changes in the water environment affecting vegetation, springs, streams, thus affecting their visual character, etc.

There is also the need to take into account the **public perception** of change in the landscape or visual environment. For instance the local community may become used to a particular feature which “outsiders” may perceive as a detraction. Therefore it is also important to identify the particular “public” concerned.

● BASELINE INFORMATION/PREDICTION

Firstly there will be a need to identify the **landscape character of the area**. Where a landscape assessment has already been carried out for a statutory or advisory plan, (depending on its scale) there may not be a need to do much further work; otherwise a landscape assessment will be appropriate.

Seasonal variations in the appearance of the landscape will need to be taken into account in planning the necessary survey work. Where the project involves significant areas of new lighting, the night-time situation may need to be assessed.

The assessment of the landscape should include its **history, cultural associations and likely future trends** – for the landscape changes over time and at any one time is a product of interaction between the underlying physical (geological and hydrological) and biological structure and land use management (and also climate).

The status of the landscape in terms of **policy designations** (e.g. **National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts, Ancient Landscapes, Historic Parks/Gardens**, and **local designations** contained in development plans/documents should be identified, as also should any particular **management regime and rarity value**.

The purpose is to classify broad tracts of countryside into distinct landscape types. The work should involve a balance between objective mapping and quantifying etc. and subjective assessment of aesthetic characteristics and people’s reaction to it.

Elements should include:

Landform; topography, geology, surface and underground drainage systems, soils, geomorphological processes (erosion, deposition, landslips etc.)

Land cover; main vegetation, land use characteristics, management systems, water cover.

Landscape elements; key slopes, skylines, buildings, structures, trees, hedges, ponds, transport routes etc.

The interaction between these provides the overall character of the area; which can be described using maps, sketches, photomontages etc.; with written descriptions of the aesthetic character of the area including things like the tranquillity (see also work by CPRE on **Tranquillity - see page A4**) or remoteness of the area.

The next stage is to define the **zone of visual influence** of the project – this may also need to consider construction sites (if separate) and new or more heavily used access routes. This involves identifying the points at which the site/s can be seen by the public – i.e. dwellings, parkland, rivers, roads/lay-bys, rights of way and other transport systems, and considering the degree of visibility from these points; and who will be able to see the project – residents, visitors etc.

Against this background, and from representative viewpoints as identified above, the visual impact of the project should be considered in terms of its **scale, form, profile, height, colour, reflectivity, materials (i.e. whether vernacular or not), and location in terms of skylines and sensitive features; and also any visual effects of increased traffic** etc.

In order to assess the public (residents, visitors etc.) perceptions to the changes, **opinion surveys** may be required.

The assessment will need to take account of **seasonal, diurnal, and weather variations**.

There are various methods of simulating the appearance of the proposal for presentation purposes:-

Scale drawings – useful but do not show clearly the project in its visual setting.

Sketches – could be perceived to be inaccurate.

Computer simulation – accurate but in the past have been poor in fine detail and colour and texture – although technology is improving.

Three dimensional models/photographs – difficult to assess detail, colour and texture in its landscape context.

Colour photomontages – a useful approach; but need to be careful that camera position and lens configuration accurately simulate the human eye.

In descriptions the scale of the project can often be more easily appreciated if it can be related to an **existing feature** in the landscape. For example, ‘twice as high as St Pepsi’s Cathedral as shown in photograph x’.

● SOURCES OF INFORMATION/CONSULTEES

Local planning authority; national park authority (if relevant) (policy on National Parks is contained in *PPS 7*); **Natural England; English Heritage; Environment Agency** for information on riverine landscapes; **National Trust; Local Groups** including **CPRE, British Astronomical Society** – re affect on the night sky of lighting.

For **Areas of Outstanding Natural Beauty** see *PPS 7* and contact the relevant **local authorities** or **Management Board** or **Partnership/project Organisation**.

Also **Regional Tourist Boards** and **Local Authority Tourist Offices**.

See also *Landscape Assessment Guidance* 1993; *Design in the Countryside (CCP418)* 1993; *Wind Energy Development and Landscape* 1991, and *Environmental Assessment – The Treatment of Landscape and Countryside Recreation Issues* 1991 – all published by Countryside Commission (now Natural England); *River Landscape Assessment – Conservation Technical Handbook No. 2* – NRA, 1993 (now Environment Agency), and *Guidelines for Landscape and Visual Impact Assessment* Landscape Institute and Institute of Environmental Management and Assessment E & FN Spon 1995; and *Starry Starry Night* – a leaflet from CPRE; *Lighting the Environment – A Guide to Good Urban Lighting* – CIBSE; and *Lighting in the Countryside: Towards Good Practice* 1997, the Stationery Office.

See *PPG 20, Coastal Planning* re **Heritage Coasts** etc

See also *PPG 8* regarding *Telecommunications masts etc.* and *PPS 22 and Companion Guide* regarding *Renewable Energy* – e.g. windfarms etc

Also see *Landscape Character Assessment : Guidance for England and Scotland* – Countryside Agency (now Natural England) and Scottish National Heritage and *Visual Assessment of Windfarms: Best Practice*, Scottish Natural Heritage.

See also *Assessing the Effect of Road Schemes on Historic Landscape Character*, The Highways Agency, 2007.

● MITIGATION

- Relocate or redesign to avoid skylines, or sensitive features; or use existing topography, or vegetation to screen or soften the appearance.

- Vegetation screening – on and off site tree planting etc. – use indigenous species; off site may be more effective than on-site in some cases. Note the delay in planting being effective; therefore try to implement at an early stage; acknowledge the interim situation before maturity and include management measures to ensure that the planning remains effective.

Note – off-site planting may need to be secured by a legal obligation.

- Mounding – needs to be sympathetic to the landscape character; where will material come from/and how?; will there be drainage effects and consequent effects on vegetation etc.?

- Lower into ground – drainage effects?

- Minimise contrasts with landscape – form, style, colour, profile, finish, reflectivity etc.

- Lighting – avoid sensitive or exposed areas; consider times of use, low level systems, and shielding.

See also “*Sense of Place*”, advice on reducing the visual impact of high voltage power lines, produced by the **National Grid**

TOPIC 11 - EFFECTS ON MATERIAL ASSETS AND ARCHITECTURAL AND ARCHAEOLOGICAL HERITAGE

Cultural heritage is generally irreplaceable and includes issues of **history, archaeology, architecture and urban design**; and links with the **landscape** – both urban and rural (see **Topic 10**).

Material assets are difficult to define, but could include **resources** like minerals, water, agricultural land, forestry, recreational areas etc. (which have already been dealt with under **Topics 6, 7 and 8**) and also things like **infrastructure** and the **built urban environment** not necessarily covered in the term cultural heritage, because they are not necessarily of specific historic or architectural interest; but are nevertheless still important to appreciate and value for themselves and their contribution to the modern human environment.

The general aim is to preserve and enhance the cultural heritage and to safeguard material assets.

● POTENTIAL EFFECTS/IMPACTS

These can include:-

Loss/destruction e.g. demolition of a historic building; disturbance to an archaeological feature etc.

Visual intrusion; impinging on the setting, character, or appearance of Conservation Areas, historic buildings, archaeological monuments and sites etc., by inappropriate location or design.

Sound intrusion: noise during construction work or resulting from development can jeopardise the future of a theatrical venue for instance.

Public access: loss of direct public access, reduction in parking or disruption/reduction of public transportation can have a major impact on the viability of a theatre.

Physical damage: i.e. vibration from nearby traffic or construction work etc.

Air pollution: i.e. acids affecting masonry – staining and erosion.

Water table fluctuations affecting archaeological remains, i.e. saturated timber can often retain its integrity – but can be damaged if it dries out.

Water pollution (see **Topic 8**) and **soil contamination** (see **Topic 6**) can also affect archaeology.

Recreation pressures – improved public access, ecological damage (see **Topic 5**) – and consequent impact on landscapes etc.

● BASELINE INFORMATION/PREDICTION

- **ARCHAEOLOGICAL REMAINS;** where nationally important remains (whether scheduled or not) and their settings, are affected by proposed development, there is a **presumption in favour of their physical preservation in situ.**

Remains include **Scheduled Monuments** (which require a separate consent from the Secretary of State for Culture, Media and Sport for anything that might affect them); **Areas of Archaeological Significance** and **local archaeological sites** – sometimes identified in Development Plans/Documents although the **Sites and Monuments Records** (see under Sources of Information) is likely to be a more up to date source of information.

Maritime Archaeology – i.e. historic shipwrecks etc. – requiring a separate licence from the Secretary of State for Culture, Media and Sport.

There are also **World Heritage Sites** in England (see *PPG 15*) – designated by **UNESCO**; there are no additional controls but inclusion in the list highlights their international importance. Additional sites are being investigated.

Specialist consultants may be required to carry out detailed desk top or field studies and evaluations. (See *PPG 16*).

- **BUILDINGS OF SPECIAL ARCHITECTURAL AND HISTORIC INTEREST (LISTED BUILDINGS) AND BUILDINGS OF LOCAL INTEREST; CONSERVATION AREAS** (some can cover large areas – including rural areas) – it should be noted that trees in such areas are ‘protected’ and that non-listed buildings in conservation areas require Conservation Area Consent before they can be demolished.
- **HISTORIC LANDSCAPES;** - may be identified in designated areas – National Parks, AONBs etc.; or may be defined in development plans/documents – e.g. Ancient Landscapes in Essex.
- **HISTORIC PARKS AND GARDENS;** contained in a *Register* by **English Heritage**.
- **HISTORIC BATTLEFIELDS** see *Register* published by **English Heritage**. (In Essex we have the site of the Battle of Maldon)

All the above are subject to on-going evaluation and designation; therefore it is very important to that up-to-date information is sought; i.e. the absence of current records for an area does not mean there is no archaeological or historic interest in that area.

- **BUILT URBAN AND RURAL ENVIRONMENT**

In addition to listed buildings and designated conservation areas there will be many more buildings, settlements, structures and other features which are valuable contributions to the urban and rural scene.

See *PPS 1* re design and *Good Practice Guide on Urban Design – “By Design”* May 2000 and also the various local authority Design Guidance documents – e.g. *The Essex Design Guide for Residential and Mixed Use Areas*.

Note; **Design and Access Statements** are now required for most planning applications – see *DCLG Circular 01/2006* and *Design and Access Statements: How to Write, Read and Use Them*, CABE, June 2006.

Photomontages may be useful to show how the project does or does not fit in to its setting.

● SOURCES OF INFORMATION/CONSULTEES

Local Planning Authorities;

English Heritage,

National Monument Records, including national library of air photographs.

The Council for British Archaeology.

Local Sites and Monuments Records are held by **County Councils** in England.

Commission for Architecture and the Built Environment. (CABE)

Field studies or trial excavations etc. may be required; these should be carried out by trained archaeologists.

Local bodies, trusts and specialist bodies – the **Ancient Monuments Society**, the **Council for British Archaeology**, the **Society for the Protection of Ancient Buildings**, the **Georgian Group**, the **Victorian Society**, the **Twentieth Century Society**, the **Garden History Society**, and the **Civic Trust** etc. may be able to provide useful information.

Also **Regional Tourist Boards** and **local authority tourist offices**.

See also *PPG 15 Planning and the Historic Environment (as amended by DETR Circular 01/2001 and ODPM Circular 09/2005 [DEFRA Circular 01/2005]); PPG 16 Archaeology and Planning*, and *Joint Nautical Archaeology Policy Committee, Code of Practice for Seabed Development* – Crown Estate Commissioners 1995; and *Marine Aggregate Dredging and the Historic Environment* issued by English Heritage and British Marine Aggregates Producers' Association and *Code of Practice* by British Archaeologists and Developers Liaison Group and CBI – for mineral operations. See also *Marine Minerals Guidance Note 1: Guidance on the extraction by dredging of sand, gravel and other minerals from the English sea bed*. ODPM, 2002

Also see *PPG 20 Coastal Planning*

See also *Guidance on Tall Buildings* – English Heritage and CABE – 2003

See also *Buildings in Context: New Development in Historic Areas* – English Heritage and CABE; and *Conservation of the Historic Environment – Good Practice Guide* – RTPi

See also *Planning and Access for Disabled People*-ODPM 2004, *By Design, Safer Places: The Planning System and Crime Prevention*-ODPM 2004, *Creating Excellent Buildings*-CABE, 2004 and *Creating Successful Master Plans*-CABE, 2004.

Also *Transport and the Historic Environment*-English Heritage, 2004 (see **Topic 3**)

Also see many other guidance documents by **CABE**.

● MITIGATION

- Recognise possible problems early in planning and site selection process and avoid the problems (e.g. preservation in situ), leaving a suitable buffer area around the site.

- Physical relocation of the monument. In the case of nationally important monuments, buildings and landscapes there should be a general presumption in favour of their preservation unless it can be shown that the need for a particular development in a sensitive location is unavoidable and outweighs the significance of the feature.

- As a last resort, recording the remains prior to loss may be accepted. It may also be necessary to require a watching brief by a trained archaeologist during site preparation etc.

- In the case of visual intrusion, consider reduction of degree of exposure, by location, screening and detailed design.

AAET

- (a) the winning and working of minerals in, on or under land (whether by surface or underground working) or the erection of any building, plant or machinery –
 - i. which it is proposed to use in connection with the winning and working of minerals or with their treatment or disposal in or on land adjoining the site of the working; or
 - ii. which a person engaged in mining operations proposes to use in connection with the grading, washing, grinding or crushing of minerals;
- (b) the use of land, or the erection of any building, plant or machinery on land, for the carrying out of any process for the preparation or adaptation for sale of any mineral or the manufacture of any article from a mineral where –
 - i. the land forms part of or adjoins a site used or proposed to be used for the winning and working of minerals; or
 - ii. the mineral is, or is proposed to be, brought to the land from a site used, or proposed to be used, for the winning and working of minerals by means of a pipeline, conveyor belt, aerial ropeway or similar plant or machinery, or by private road, private waterway or private railway;
- (c) the carrying out of searches and tests of mineral deposits or the erection of any building, plant or machinery which it is proposed to use in connection with them;
- (d) the disposal of mineral waste;
- (e) the use of land for any purpose required in connection with the transport by rail or water of aggregates (that is to say, any of the following, namely –
 - i. sand and gravel;
 - ii. crushed rocks;
 - iii. artificial materials of appearance similar to sand, gravel or crushed rock and manufactured or otherwise derived from iron or steel slags, pulverised fuel ash, clay or mineral waste),or the erection of any building, plant or machinery which it is proposed to use in connection with them;
- (f) the erection of any building, plant or machinery which it is proposed to use for the coating of roadstone or the production of concrete products or artificial aggregates, where the building, plant or machinery is to be erected in or on land which forms part of or adjoins a site used or proposed to be used –
 - i. for the winning and working of minerals; or
 - ii. for any of the purposes mentioned in sub-paragraph (e) above;
- (g) the erection of any building, plant or machinery which it is proposed to use for the manufacture of cement;

- (h) the carrying out of operations in, on, over or under land, or a use of land, where the land is or forms part of a site used or formerly used for the winning and working of minerals and where the operations or use would conflict with or prejudice compliance with a restoration or afteruse condition;
- (i) the carrying out of operations in, on, over or under land, or any use of land, which is situated partly in and partly outside a National Park;
- (j) the carrying out of any operation which is, as respects the area in question, a prescribed operation or an operation of a prescribed class or any use which is, as respects that area, a prescribed use or use of a prescribed class.

Note: “The winning and working of minerals” includes the extraction of minerals from a mineral working deposit.

The following have also been prescribed as county matters, in England only, by the Town and Country Planning (Prescription of County Matters) Regulations 2003 (SI No. 1033)

- (a)
 - i. the use of land;
 - ii. the carrying out of building, engineering or other operations;
 - iii. the erection of plant or machinery used or proposed to be used, wholly or mainly for the purposes of recovering, treating, storing, processing, sorting, transferring or depositing of waste;
- (b) the use of land or the carrying out of operations for any purpose ancillary to any use or operations specified in paragraph (a) above, including the formation, layout, construction or alteration of a vehicle access to any public highway

See also Good Practice Guidance to PPS 10, Sustainable Waste Management **and Annex A of PPS 10**, for further clarification.

Also see **para. 4.4 of Annex 4 of MPS 1** regarding the **Underground Storage of Natural Gas** and County Matter status.

In Essex further clarification is provided in “Development Involving County Matters – Guidance Notes” produced by the Essex Planning Officers’ Association, available from Essex County Council, Planning section.

APPENDIX C – USEFUL ADDRESSES

These are divided into the following categories:-

- (a) Statutory Consultees
- (b) Statutory Consultees – Rights of way Organisations
- (c) Statutory Consultees – Amenity Organisations
- (d) Non-statutory Consultees
- (e) Other Expert Bodies and Useful Contacts

For addresses of Cable TV, Gas, Electricity and Water Supply, Sewerage Undertakings, Pipelines, Telephone and Public Transport Undertakings in Essex, see “*County, District and Undertaker Contacts*” produced every year by the Highways and Transport Service Group of Essex County Council.

(a) STATUTORY CONSULTEES

(For addresses of Planning Authorities in Essex see [page 19](#))

BRITISH WATERWAYS BOARD

British Waterways

Head Office

Willow Grange

Watford

Hertfordshire

WD17 4QA

Tel: (01923) 201120

www.britishwaterways.co.uk

CIVIL AVIATION AUTHORITY (CAA)

For Civil Aerodromes:-

Aerodrome Standards Department

2W South Area, Aviation House

Gatwick Airport South

West Sussex

RH6 0YR

Tel: (01293) 573264

(For noise issues see [page C7](#))

For civil technical sites and records of air navigation obstructions:-

CIVIL AVIATION AUTHORITY

Directorate of Airspace Policy

CAA House

45-59 Kingsway

London

WC2B 6TE

Tel: (020) 7453 6599

www.caa.co.uk

COAL AUTHORITY, THE

200 Lichfield Lane

Mansfield

Nottinghamshire

NG18 4RG

Tel: (01623) 427162

www.coal.gov.uk

CROWN ESTATE COMMISSIONERS

Head Quarters

16 New Burlington Place

London

W1S 2HX

Tel: (020) 7851 5000

www.thecrownestate.co.uk

ENGLISH HERITAGE

Headquarters

23 Savile Row

London

W1S 2ET

Tel: (020) 7973 3000

www.english-heritage.org.uk

ENGLISH HERITAGE

East of England Region

Brooklands House

24 Brooklands Avenue

Cambridge

CB2 2BU

Tel: (01223) 582700

(For other regional offices see web site)

ENGLISH HERITAGE***National Monuments Records Centre***

Kemble Drive
Swindon, SN2 2GZ
Tel: 01793 414700

NATURAL ENGLAND***Head Office***

1 East Parade
Sheffield
S1 2ET
Tel: (01142) 418920
www.naturalengland.org.uk

NATURAL ENGLAND***For Essex, Hertfordshire and London***

Harbour House
Hythe Quay
Colchester
CO2 8JF
Tel: (01206) 796666
(For other local offices see web site)

ENVIRONMENT AGENCY***Headquarters***

Rio House
Waterside Drive
Aztec West
Almondsbury
Bristol, BS32 4UD
Tel: (08708) 506506
www.environment-agency.gov.uk

For the Essex area:-

Anglian Region, Eastern Area Office

Cobham Road
Ipswich
IP3 9JE
Tel: (08708) 506506

Thames Region, NE Area Office

Apollo Court
2 Bishops Square Business Park
St Albans Road West
Hatfield
Herts. AL10 9EX
Tel: (08708) 506506

For other areas see web site

FORESTRY COMMISSION England

Great Eastern House
Tenison Road
Cambridge
CB1 2DV
Tel: (01223) 314546
www.forestry.gov.uk

FORESTRY COMMISSION***East of England Conservancy***

Santon Downham
Brandon
Suffolk IP27 0TJ
Tel: (01842) 815544
For other areas see web site

GARDEN HISTORY SOCIETY, THE

Station House
Church Lane
Wickwar
Gloucestershire
GL12 8NB
Tel: (01454) 294888

HEALTH AND SAFETY EXECUTIVE

Wren House, Hedgerows Business Park
Colchester Road
Chelmsford
CM2 5PF
Tel: (01245) 706200
www.hse.gov.uk

For other local offices, HQ and other divisions including Inspectorate of Mines, Nuclear Safety, Railway Inspectorate etc. see web site. (Explosives Inspectorate can also be contacted at this address)

LEE VALLEY REGIONAL PARK AUTHORITY

Myddleton House
Bulls Cross
Enfield
Middlesex
EN2 9HG
Tel: (01992) 717711
www.leevalleypark.org.uk

LOCAL HIGHWAY AUTHORITY (ESSEX)

Highways and Transportation Service
Essex County Council
County Hall
Chelmsford
Essex
CM1 1QH
Tel: (08457) 430430
www.essexcc.gov.uk

(For other Local Highway Authorities see Municipal Year Book)

MINISTRY OF DEFENCE

The Head of Safeguarding
Defence Estates
Blakemore Drive
Sutton Coldfield
West Midlands
B75 7RL
Tel: (0121) 3113818
www.defence-estates.mod.uk

NETWORK RAIL

40 Melton Street
London
NW1 2EE
Tel: (020) 7557 8000
www.networkrail.co.uk

**SECRETARY OF STATE FOR
CULTURE, MEDIA AND SPORT**

Heritage Division
Trafalgar Place
2-4 Cockspur Street
London
SW1Y 5DH
Tel: (020) 7211 6000
www.culture.gov.uk

**SECRETARY OF STATE FOR TRADE
AND INDUSTRY (DTi)**

Licensing and Consents Unit
Bay 173
1 Victoria Street
London
SW1H 0ET
Tel: (020) 7215 5000
Power Stations (020) 7215 2880
Power Lines (020) 7215 2786
www.dti.gov.uk

**SECRETARY OF STATE FOR
TRANSPORT*****FOR HIGHWAYS MATTERS***

For most of Essex, consultations should be to

HIGHWAYS AGENCY

Manton Lane
Manton Industrial Estate
Bedford
MK41 7LW

and for the area within the M25, contact:

HIGHWAYS AGENCY

Federated House
London Road
Dorking
Surrey
RH4 1SZ
(For other areas see web site)
www.highways.gov.uk

SPORT ENGLAND***East***

Crescent House
19 The Crescent
Bedford, MK40 2QP
Tel: (08548) 508508
*For headquarters and other regional addresses
see: - www.sportengland.org*

THEATRES TRUST, THE

22 Charing Cross Road
London
WC2H 0QL
Tel: (020) 7836 8591
www.theatretrust.org.uk

**(b) STATUTORY CONSULTEES –
RIGHTS OF WAY
ORGANISATIONS (See DOE
Circular 2/93)**

AUTO - CYCLE UNION LIMITED, THE
ACU House
Wood Street
Rugby
Warwickshire
CV21 2YX
Tel: (01788) 566400

BRITISH DRIVING SOCIETY

83 New Road
Helmingham
Stowmarket
Suffolk
IP14 6EA
Tel: (01473) 892001
www.britishdrivingsociety.co.uk

BRITISH HORSE SOCIETY, THE

Stoneleigh Deer Park
Kenilworth
Warwickshire
CV8 2XZ
Tel: (08701) 202244
See web site for local contacts:-
www.bhs.org.uk

BYWAYS & BRIDLEWAYS TRUST

P O Box 117
Newcastle-upon-Tyne
NE3 5YT
Tel: (0191) 236 4086
www.bbtrust.org.uk

CHILTERN SOCIETY

The White Hill Centre
White Hill
Chesham
Bucks HP5 1AG
Tel: (01494) 771250
www.chilternsociety.org.uk

CYCLISTS' TOURING CLUB

Parklands
Railton Road
Guildford
Surrey GU2 9JX
Tel: (0870) 873 0060
www.ctc.org.uk

OPEN SPACES SOCIETY

25A Bell Street
Henley-on-Thames
Oxfordshire
RG9 2BA
Tel: (01491) 573535
www.oss.org.uk

**PEAK AND NORTHERN FOOTPATHS
SOCIETY**

23 Turncroft Lane
Offerton
Stockport SK1 4AB
Tel: (0161) 4803565
www.peakandnorthern.org.uk

RAMBLERS' ASSOCIATION

Second Floor
Camelford House
87-90 Albert Embankment
London
SE1 7TW
Tel: (020) 7339 8500
See web site for local contacts-
www.ramblers.org.uk

**(c) STATUTORY CONSULTEES –
AMENITY ORGANISATIONS –
(See PPG 15, DETR Circular 01/2001
and ODPM Circular 09/2005)**

ANCIENT MONUMENTS SOCIETY

St Ann's Vestry Hall
2 Church Entry
London
EC4V 5HB
Tel: (020) 7236 3934
www.ancientmonumentsociety.org.uk

**COUNCIL FOR BRITISH
ARCHAEOLOGY, THE**

St. Mary's House
66 Bootham
York
YO30 7BZ
Tel: (01904) 671417
www.archaeology.co.uk

GEORGIAN GROUP, THE

6 Fitzroy Square
London
W1T 5DX
Tel: (08717) 502936
www.georgiangroup.org.uk

**SOCIETY FOR THE PROTECTION OF
ANCIENT BUILDINGS, THE**

37 Spital Square
London
E1 6DY
Tel: (020) 7377 1644
www.spab.org.uk

TWENTIETH CENTURY SOCIETY

70 Cowcross Street
London
EC1M 6EJ
Tel: (020) 7250 3857
www.c20society.org.uk

VICTORIAN SOCIETY, THE

1 Priory Gardens
Bedford Park
London
W4 1TT
Tel: (02089) 941019
www.victorian-society.org.uk

(d) NON-STATUTORY CONSULTEES

**COMMISSION FOR ARCHITECTURE
AND THE BUILT ENVIRONMENT
(CABE)**

1 Kemble Street
London
WC2B 4AN
Tel: (020) 7070 6700
www.cabe.org.uk

**ENVIRONMENTAL HEALTH
AUTHORITIES**

*(For addresses of Local Authority
Environmental Health Officers – See
Municipal Year Book)*

**ESSEX POLICE (POLICE ARCHITECTURAL
LIAISON OFFICER)**

PO Box 2
Headquarters
Springfield
Chelmsford CM2 6DA
Tel: (01245) 491491
*(For other Police forces see Municipal Year
Book)*
www.essex.police.uk

**FORESTRY COMMISSION RESEARCH
STATION**

Alice Holt Lodge
Wrecclesham
Farnham
Surrey GU10 4LH
Tel: (01420) 22255
www.forestry.gov.uk

NAVIGATION AUTHORITIES

(See also **BRITISH WATERWAYS –
page C1** and the **ENVIRONMENT
AGENCY – Head of Recreation and
Navigation at Rivers House, Bristol – page C2.**

**CHELMER AND BLACKWATER
NAVIGATION AUTHORITY**

See **The Inland Waterways
Association – Page C9**

**PORT OF LONDON AUTHORITY
(PLA)**

London River House
Royal Pier Road
Gravesend
Kent
DA12 2BG
Tel: (01474) 562200
www.portoflondon.co.uk

For information on other Inland
Navigation Authorities see:-
<http://www.aina.org.uk/>

**(e) OTHER EXPERT BODIES AND
USEFUL CONTACTS**

**AEA ENERGY AND ENVIRONMENT
Previously Netcen**

Offices at Harwell (Didcot), Ayrshire, Cardiff,
Cheshire and London
Tel: (0870) 190 1900, (0845) 345 3302,
(0870) 190 6608, (0870) 190 8281,
(0870) 190 6911
www.aeat.co.uk

**ASSOCIATION FOR INDUSTRIAL
ARCHAEOLOGY**

School of Archaeological Studies
University of Leicester LE1 7RH
Tel: (0116) 252 5337
www.industrial-archaeology.org.uk

AIR QUALITY ARCHIVE

The UK National Air Quality Information Service, NETCEN now AEA (see page C5)
Sponsored by DEFRA, Scottish Executive,
Welsh Assembly Government and DoE
(Northern Ireland)

www.airquality.co.uk

ASSOCIATION OF NOISE CONSULTANTS

105 St. Peter's Street
St. Albans
Herts. AL1 3EJ
Tel: (01727) 896092

www.association-of-noise-consultants.co.uk

BIOTECHNOLOGY AND BIOLOGICAL SCIENCES RESEARCH COUNCIL

Polaris House
North Star Avenue
Swindon SN2 1UH
Tel: (01793) 413200

www.bbsrc.ac.uk

There are various institutes supported by the Council – see web site

BOTANICAL SOCIETY OF THE BRITISH ISLES

C/o Department of Botany
Natural History Museum
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London SW7 5BD
Tel: (020) 7942 5002

www.bsbi.org.uk

BRITISH ASTRONOMICAL ASSOCIATION

Burlington House
London W1J 0DU
Tel: (020) 7734 4145

www.britastro.org/baa/

BRITISH ECOLOGICAL SOCIETY

26 Blades Court
Putney
London SW15 2NU
Tel: (020) 8871 9797

www.britishecologicalsociety.org

BRITISH GEOLOGICAL SURVEY

Information Services Group
Keyworth
Nottingham NG12 5GG
Tel: (0115) 936 3143

www.bgs.ac.uk

BRITISH TOURIST AUTHORITY (Visit Britain)

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Black's Road
Hammersmith
London W6 9EL
Tel: (020) 8846 9000

For Regional Tourist Boards see web site-

www.visitbritain.com

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Tel: (01842) 750050

www.bto.org

BRITISH WATER

1 Queen Anne's Gate
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Tel: (020) 7957 4554

www.britishwater.co.uk

BRITISH WIND ENERGY ASSOCIATION

Renewable Energy House
1 Aztec Row, Berners Road
London N1 0PW
Tel: (020) 7689 1960

www.britishwindenergy.co.uk

BUILDING RESEARCH ESTABLISHMENT

Bucknalls Lane
Watford WD25 9XX
Tel: (01923) 664000

Also for Fire Research Station

For Radon -Tel: 664829)

www.bre.co.uk

CENTRE FOR ECOLOGY AND HYDROLOGY

Polaris House
North Star Avenue
Swindon,
Wiltshire SN2 1EU
Tel: 01793 442516

*See, www.ceh.ac.uk for other CEH sites:-
Banchory, Bangor, Dorset, Edinburgh,
Lancaster, Monks Wood, Oxford and
Wallingford.*

**CENTRE FOR ENVIRONMENT,
FISHERIES AND AQUACULTURE
SCIENCE (CEFAS)***(an agency of DEFRA)*

Burnham Laboratory
Remembrance Avenue
Burnham-on-Crouch, Essex CM0 8HA
Tel: (01621) 787200

For other laboratories see web site:

www.cefasc.co.uk**CHARTERED INSTITUTE OF
ENVIRONMENTAL HEALTH**

Chadwick Court
15 Hatfields
London SE1 8DJ
Tel: (020) 7928 6006

www.cieh.org**CHARTERED INSTITUTION OF
BUILDING SERVICES ENGINEERS
(CIBSE)**

Delta House
222 Balham High Road
London SW12 9BS
Tel: (020) 8675 5211

www.cibse.org**CHARTERED INSTITUTION OF WATER
AND ENVIRONMENTAL
MANAGEMENT**

15 John Street
London WC1N 2EB
Tel: (020) 7831 3110

www.ciwem.org**CIVIC TRUST (THE)**

Essex Hall
1-6 Essex Street
London WC2R 3HU
Tel: (020) 7539 7900

www.civictrust.org.uk**CIVIL AVIATION AUTHORITY***For noise issues:-*

Environmental Research and Consultancy
Department
- Part of Directorate of Airspace Policy
CAA House
45-59 Kingsway
London WC2B 6TE
Tel: (020) 7453 6599

www.caa.co.uk**CLIMATIC RESEARCH UNIT**

School of Environmental Science
University of East Anglia
Norwich NR4 7TJ
Tel: (01603) 592722
www.cru.uea.ac.uk

CONSERVATORS OF EPPING FOREST

The Warren
Nursery Road
Loughton
Essex IG10 4RW
Tel: (020) 8532 1010
www.cityoflondon.gov.uk

**CONSTRUCTION INDUSTRY
RESEARCH AND INFORMATION
ASSOCIATION (CIRIA)**

Classic House
174 – 180 Old Street
London EC1V 9BP
Tel: (020) 7549 3300
www.ciria.org.uk

**COUNTY EMERGENCY PLANNING
OFFICER (ESSEX)**

County Hall
Chelmsford CM1 1LX
Tel: (08457) 430430
*(For other Local Authority Emergency
Planning Officers see Municipal Year Book)*

COUNTY SURVEYORS SOCIETY

The Chair changes annually, see web site:-
www.cssnet.org.uk

**CPRE -
CAMPAIGN TO PROTECT RURAL
ENGLAND**

128 Southwark Street
London SE1 0SW
Tel: (020) 7981 2800
www.cpre.org.uk

CPRE

ESSEX BRANCH
79 Springfield Road
Chelmsford
Essex CM2 6JG
Tel: (01245) 268667

DEDHAM VALE AND STOUR VALLEY PROJECT (AONB ETC.)**C/o SUFFOLK COUNTY COUNCIL**

Endeavour House
8 Russell Road
Ipswich
Suffolk IP4 1LZ
Tel: (01473) 264263

www.dedhamvalestourvalley.org

DEPARTMENT OF COMMUNITIES AND LOCAL GOVERNMENT (DCLG)

Eland House
Bressenden Place
London SW1E 5DU
Tel: (020) 7944 4400

www.communities.gov.uk

DEPARTMENT FOR EDUCATION AND SKILLS**Headquarters**

Sanctuary Buildings
Great Smith Street
London SW1P 3BT
Tel: (01928) 794274

(See also Government Offices for Regions)

www.dfes.gov.uk

DEPARTMENT FOR TRANSPORT**Headquarters**

Great Minster House
76 Marsham Street
London SW1P 4DR
Tel: (020) 7944 9643

www.dft.gov.uk

DEPARTMENT FOR TRANSPORT**Civil Aviation Division**

Floor 1/22 *(See DfT Circular 1/2002)*

Great Minster House
76 Marsham Street
London SW1P 4DR

DEFRA , for Radon

see Radioactive Substances Division

Ashdown House
123 Victoria Street
London SW1E 6DE
Tel: (020) 7944 6266

DRINKING WATER INSPECTORATE

55 Whitehall
London SW1A 2EP
Tel: (020) 7082 8024
www.dwi.gov.uk

EAST OF ENGLAND DEVELOPMENT AGENCY (EEDA)

Business Centre
Station Road, Histon
Cambridge CB4 9LQ
Tel: (01223) 713900

www.eeda.org.uk

(For other Regional Development Agencies see Telephone Directory)

EAST OF ENGLAND TOURIST BOARD

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Suffolk IP7 5DN
Tel: (01473) 822922

www.eetb.org.uk

For other Regional Tourist Boards see

www.visitbritain.com

E.I.A. UNIT**INSTITUTE OF BIOLOGICAL SCIENCE**

University of Wales, Aberystwyth
Edward Llwyd Building
Aberystwyth
Ceredigion SY23 3DA

Tel: (01970) 622345

www.aber.ac.uk/biology/dept

ENGLISH PARTNERSHIPS**Headquarters**

110 Buckingham Road
London SW1W 9SA
Tel: (020) 7881 1600

For Regional Offices see web site:

www.englishpartnerships.co.uk

ENVIRONMENTAL PLANNING AND DEVELOPMENT**External Affairs Office****School of Environment and Development****The University of Manchester**

Oxford Road
Manchester M13 9PL
Tel: (0161) 275 0969

<http://www.sed.manchester.ac.uk/planning/research/themes/environmentalplanning/>

ESSEX AMBULANCE SERVICE NHS**TRUST Now EAST OF ENGLAND****AMBULANCE SERVICE**

Broomfield
Chelmsford
Essex CM1 7WS
Tel: (01245) 443344

www.essexambulance.nhs.uk

(For other local services see Telephone Directory)

ESSEX BRIDLEWAYS ASSOCIATION

18 Dukes Avenue
Grays
RM17 5AQ
Tel: (01375) 385469

ESSEX COUNTY FIRE & RESCUE SERVICE

Rayleigh Close
Rayleigh Road
Hutton
Brentwood CM13 1AL
Tel: (01277) 222531

www.essex-fire.gov.uk

(For other Fire Authorities see Municipal Year Book)

EAST OF ENGLAND STRATEGIC HEALTH AUTHORITY

Victoria House
Capital Park
Fulbourn
Cambs. CB1 5XB
Tel: (01223) 597500

www.eoe.nhs.uk

(For health authorities in other areas see the Municipal Year Book)

ESSEX WILDLIFE TRUST

Joan Elliot Visitor Centre
Abbotts Hall Farm
Great Wigborough
Colchester
Essex CO5 7RZ
Tel: (01621) 862960

www.essexwt.org.uk

For other local trusts see

www.wildlifetrusts.org

EUROPEAN COMMISSION

Environment Directorate General
B-1049 Brussels
Belgium
Tel: (+32-2) 295 83 12
<http://ec.europa.eu/>

FOOD STANDARDS AGENCY

Aviation House
125 Kingsway
London
WC2B 6NH
Tel: (020) 7276 8000
www.foodstandards.gov.uk

GOVERNMENT OFFICE FOR THE EAST OF ENGLAND (GO-EAST)

Eastbrook
Shaftesbury Road
Cambridge CB2 2DF
Tel: (01223) 372500

www.go-east.gov.uk

(For other Regional Government Offices see Municipal Year Book)

HADLEY CENTRE FOR CLIMATE PREDICTION

Meteorological Office
FitzRoy Road
Exeter EX1 3PB
Tel: (0870) 900 0100

www.metoffice.com/research/hadleycentre

INLAND WATERWAYS ASSOCIATION (THE)

PO Box 114
Rickmansworth WD3 1ZY
Tel: (01923) 711114

www.waterways.org.uk

INSTITUTE OF ACOUSTICS (IOA)

77a St Peter's Street
St Albans
Hertfordshire AL1 3BN
Tel: (01727) 848195

www.ioa.org.uk

INSTITUTE OF ECOLOGY & ENVIRONMENTAL MANAGEMENT (IEEM)

45 Southgate Street
Winchester
Hants SO23 9EH
Tel: (01962) 868626

www.ieem.org.uk

INSTITUTE OF ENVIRONMENTAL MANAGEMENT AND ASSESSMENT (IEMA)

St Nicholas House
70 Newport
Lincoln LN1 3DP
Tel: (01522) 540069

www.iema.net

INSTITUTION OF CHEMICAL ENGINEERS

Davis Building
165-189 Railway Terrace
Rugby CV21 3HQ
Tel: (01788) 578214
www.icheme.org

INSTITUTION OF CIVIL ENGINEERS

One Great George Street
Westminster
London
SW1P 3AA
Tel: (020) 7222 7722
www.ice.org.uk

INSTITUTION OF ENVIRONMENTAL SCIENCES, THE

Suite 7
38 Ebury Street
London SW1W 0LU
Tel: (020) 7730 5516
www.ies-uk.org.uk

INTERDEPARTMENTAL COMMITTEE ON THE REDEVELOPMENT OF CONTAMINATED LAND

PAPERS from:-
DEFRA PUBLICATIONS
C/o IFORCE LTD
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Orchard Lane
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Tel: (020) 8957 5000

INTERNATIONAL INSTITUTE FOR ENVIRONMENT & DEVELOPMENT

3 Endsleigh Street
London WC1H 0DD
Tel: (020) 7388 2117
www.iied.org

KENT & ESSEX SEA FISHERIES COMMITTEE

The Ice House
Military Road
Ramsgate
Kent CT11 9LG
Tel: (01843) 585310
www.defra.gov.uk/fish/sea/others/sfc.htm

LGC – (previously, LABORATORY OF THE GOVERNMENT CHEMIST)

Queens Road
Teddington
Middlesex TW11 0LY
Tel: (020) 8943 7000
www.lgc.co.uk

LANDSCAPE INSTITUTE

33 Great Portland Street
London W1W 8QG
Tel: (020) 7299 4500
www.landscapeinstitute.org

MARINE CONSERVATION SOCIETY

Unit 3 Wolf Business Park
Alton Road
Ross-on-Wye HR9 5NB
Tel: (01989) 566017
www.mcsuk.org

MARINE ESTATES

Crown Estate Commissioners
See page C1

MARINE FISHERIES AGENCY

3-8 Whitehall Place
London
SW1A 2HH
Tel: (020) 7270 8328
<http://www.mfa.gov.uk/contact/hq.htm>

MARINE SCIENCE

See
www.marine.gov.uk/marine%20sciences.htm

MARITIME AND COASTGUARD AGENCY (MCR) (an Agency of DfT)

Tutt Head
Mumbles
Swansea
West Glamorgan SA3 4HW
Tel: (0870) 600 6505
www.mcga.gov.uk

METEOROLOGICAL OFFICE

Air Pollution Consultancy Group
FitzRoy Road
Exeter
Devon EX1 3PB
Tel: (0870) 900 0100
www.metoffice.gov.uk

**NATIONAL AIR TRAFFIC SERVICES
(for Civil Technical Sites)**

Navigation Services Section
Room NG1, Spectrum House
Gatwick Airport South
West Sussex
RH6 OLG

**NATIONAL ENGINEERING
LABORATORY**

East Kilbride
Glasgow G75 0QU
Tel: (013552) 20222

NATIONAL PHYSICAL LABORATORY

Hampton Road
Teddington
Middlesex TW11 0LW
Tel: (020) 8977 3222
www.npl.co.uk

**NATIONAL PLAYING FIELDS
ASSOCIATION**

Unit 8
Mercia Business Village
Torwood Close
Westwood Business Park
Coventry CV4 8HX
Tel: (0204) 76465800
www.npfa.co.uk

**NATIONAL RADIOLOGICAL
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(Now part of **Health Protection Agency**)

Chilton
Didcot
Oxfordshire OX11 0RQ
Tel: (01235) 831600
www.hpa.org.uk/radiation/

**NATIONAL SOCIETY FOR CLEAN AIR
AND ENVIRONMENTAL PROTECTION
(NSCA)**

44 Grand Parade
Brighton BN2 9QA
Tel: (01273) 878770
www.nasca.org.uk

NATIONAL TRUST

36 Queen Anne's Gate
London SW1H 9AB
Tel: (01793) 817400
www.nationaltrust.org.uk

**NATURAL ENVIRONMENT RESEARCH
COUNCIL (NERC)**

Polaris House
North Star Avenue
Swindon
Wilts SN2 1EU
Tel: (01793) 411500
www.nerc.ac.uk
see next column:-

*The component institutes of NERC include:-
British Geological Survey
Centre for Ecology and Hydrology
Centre for Coastal and Marine Sciences*

NATURAL HISTORY MUSEUM

Cromwell Road
South Kensington
London SW7 5BD
Tel: (020) 7942 5000
www.naturalhistorymuseum.org.uk

**OFFICE FOR NATIONAL STATISTICS
(ONS)**

Customer Contact Centre, Room 1.015
Cardiff Road
Newport NP10 8XG
Tel: (0845) 603 7788

For Census information:-

Census Customer Services
Titchfield, Fareham
Hants PO15 5RR
Tel: (01329) 813800
www.statistics.gov.uk

ORDNANCE SURVEY (OS)

Romsey Road
Maybush
Southampton SO16 4GU
Tel: (023) 8030 5030
www.ordnancesurvey.co.uk

**OXFORD BROOKES UNIVERSITY
Impacts Assessment Unit**

Gypsy Lane Campus
Headington
Oxford OX3 0BP
Tel: (01865) 483401
www.brookes.ac.uk/schools/be/oisd/environment/iau

PLANNING INSPECTORATE, THE

Room 3/01, Kite Building
 Temple Quay House
 2 The Square
 Bristol
 BS1 6PN
 Tel: (0117) 372 6372
www.planning-inspectorate.gov.uk

ROYAL INSTITUTE OF BRITISH ARCHITECTS

66 Portland Place
 London W1B 1AD
 Tel: (020) 7580 5533
www.riba.org

ROYAL INSTITUTION OF CHARTERED SURVEYORS

12 Great George Street
 London SW1P 3AD
 Tel: (0870) 333 1600
www.rics.org

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS (RSPB)*Headquarters*

The Lodge
 Sandy
 Beds SG19 2DL
 Tel: (01767) 680551
www.rspb.org.uk

RSPB (East of England Regional Office)

Stalham House
 65 Thorpe Road
 Norwich
 Norfolk NR1 1UD
 Tel: (01603) 661662
 (For other regions see web site)

ROYAL TOWN PLANNING INSTITUTE (RTPI)

41 Botolph Lane
 London EC3R 8DL
 Tel: (020) 7929 9494
www.rtpi.org.uk

ROYAL YACHTING ASSOCIATION

RYA House
 Ensign Way
 Hamble
 Southampton
 SO31 4YA
 Tel: (023) 8060 4100
www.rya.org.uk

NATIONAL SOIL RESOURCES INSTITUTE

Previously Soil Survey and Land Research Centre
 Cranfield University, Silsoe Campus
 Bedford MK45 4DT
 Tel: (01525) 863000
www.silsoe.cranfield.ac.uk/nsri

STATIONERY OFFICE, (THE) (TSO)

St. Crispins
 Duke Street
 Norwich NR3 1PD
 Tel: (01603) 622211
www.tso.co.uk

STRATEGIC RAIL AUTHORITY

55 Victoria Street
 London SW1H 0EU
 Tel: (020) 7654 6000
 Ceased to exist on 1st December 2006.

SUFFOLK COAST & HEATHS (AONB) PROJECT

Dock Lane
 Melton
 Woodbridge
 Suffolk IP12 1PE
 Tel: (01394) 384948
www.suffolkcoastandheaths.org

THAMES CHASE COMMUNITY FOREST

The Forest Centre
 Broadfields Farm
 Pike Lane
 Upminster RM14 3NS
 Tel: (01708) 641880
www.thameschase.org.uk

TRANSPORT RESEARCH LABORATORY (TRL)

Crowthorne House
 Wokingham
 Berkshire RG40 3GA
 Tel: (01344) 773131
www.trl.co.uk

UK CLIMATE IMPACTS PROGRAMME

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 South Park Road, Oxford OX1 3QY
 Tel: (01865) 285717
www.ukcip.org.uk

**UNIT OF COMPARATIVE PLANT
ECOLOGY**

Department of Animal and Plant Sciences
The University of Sheffield
Western Bank, Sheffield S10 2TN
Tel: (0114) 222 4766
www.shef.ac.uk/~nuocpe/ucpe

**UNITED KINGDOM HYDROGRAPHIC
OFFICE (THE)**

Chart Branch 1B
Admiralty Way
Taunton
Somerset TA1 2DN
Tel: (01823) 337900
www.ukho.gov.uk

**UPKEEP – THE TRUST FOR TRAINING
AND EDUCATION IN BUILDING
MAINTENANCE**

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WC1E 7BT
Tel: (020) 7631 1677
www.upkeep.org.uk

WATER RESEARCH CENTRE (WRC)

Frankland Road
Blagrove
Swindon
Wiltshire
SN5 8YF
Tel: (01793) 865000
<http://www.wrcplc.co.uk/>

WILDLIFE TRUSTS, THE

(Royal Society for Nature Conservation)
The Kiln
Waterside
Mather Road
Newark
Nottinghamshire
NG24 1WT
Tel: (0870) 0367711
www.wildlifetrusts.org

**WORLD HEALTH ORGANISATION
(WHO)**

Headquarters
Avenue Appia 20
1211 Geneva 27
Switzerland
Tel: (0041) 22 791 21 11
www.who.int

WORLD WILDLIFE FUND

Panda House
Weyside Park
Godalming
Surrey
GU7 1XR
Tel: (01483) 426444
www.wwf.org.uk

APPENDIX D – BIBLIOGRAPHY

This Bibliography contains details of publications dealing with EIA and related planning matters generally. For specialist publications see **Appendix A**, under Environmental Topics.

- **COUNCIL DIRECTIVE 85/337/EEC** OF 27 JUNE 1985 ON “THE ASSESSMENT OF THE EFFECTS OF CERTAIN PUBLIC AND PRIVATE PROJECTS ON THE ENVIRONMENT”. It is reproduced in Appendix 7 of the DoE booklet, Environmental Assessment: A Guide to the Procedures (see below). This has been amended by **DIRECTIVE (97/11/EC)**
- The following **GOVERNMENT REGULATIONS**, implementing the EC Directive have been made:-

FOR PLANNING PROJECTS

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended (SI No.293, 2000/2867 [This deals with Old Minerals Permissions] and 2006/3295). *For Wales, SI 3099/2006 (W.283) amends these regulations.*

The Town and Country Planning (General Permitted Development) Order 1995 (SI No. 418) – as amended – (SI Nos. 1997/366, 1998/462, 1999/1661, 2001/2718, 2005/85, 2005/2935 and 2006/221).

The Town and Country Planning (General Development Procedure) Order 1995 (SI No. 419) – as amended - (SI Nos. 1996/1817, 1997/858, 2000/1627, 2002/828, 2003/2047, 2004/1434(W.147), 2004/3340, 2005/2087, 2006/1062 and 2006/2375). [*For Wales also see Amendment Order 2006/3390 (W.310)*]

The Town and Country Planning (Mayor of London) Order 2000 (SI No. 1493)

In Scotland: see Environmental Impact Assessment (Scotland) Regulations 1999 as amended–Town and Country Planning, Roads and Bridges and Land Drainage – (SSI No. 1, 2002/324 [this deals with Old Minerals Permissions] and 2006/614.)

In Northern Ireland: see *The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (SR.No 73)*

In Northern Ireland Old Minerals Permissions are likely to be dealt with by amendments to the Regulations.

FOR OTHER PROJECTS:-

The Channel Tunnel Rail Link (Assessment of Environmental Effects) Regulations 1999 (SI No. 107) [This deals with the 1988 Regulations]

The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 as amended (SI No. 360 and SI No. 2007/933) (*applies to the whole of the UK*).

The Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 (SI No. 367) (*applies to England, Scotland [see SSI No 2006/614 amendment for Scotland] and Wales*)

The Highways (Assessment of Environmental Effects) Regulations 1999 as amended (SI No. 369 and SI No. 2007/1062) (*applies to England and Wales*).

The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (SI No 1672) (*applies to England, Scotland and Wales*).

APPENDIX D – BIBLIOGRAPHY

The Environmental Impact Assessment (Land Drainage Improvement Works) (England and Wales) Regulations 1999 (SI No 1783) - as amended – (SI 2005/1366 and SI 2006/618).

The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 as amended (SI No. 2228 and 2006/3106).

The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (SI No 2892) (*applies to England, Scotland and Wales*). – as amended – (SI 2006/657).

The Harbour Works (Environmental Impact Assessment) Regulations 1999 as amended (SI No. 3445, 2000/2391 and 1518/2007 –see below) (*applies to England, Scotland and Wales*).

The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (SI No 1927)

The Pipe-Line Works (Environmental Impact Assessment) Regulations 2000 (SI No 1928) (*applies to England, Wales and Scotland*)

The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (England) Regulations 2001 as amended (SI No. 3966 and 2006/2522).

The Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 as amended (SI No. 164 and 2006/3124)

The Transport and Works (Assessment of Environmental Effects) Regulations 2006 (SI No. 958) (*applies to England and Wales*), in association with The Transport and Works (Applications and Objections Procedure) (England) Rules 2006, SI 2006/1466.

The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007 (SI No 1067) (these apply to waters around the UK (*but excluding Welsh territorial waters and most waters around Scotland*). *Separate Regulations are proposed for Wales and Scotland*).

The Marine Works (Environmental Impact Assessment) Regulations 2007 (SI No 1518). These apply to the waters around the UK- amending the Harbour regulations and applying the EIA regime to navigational safety works and deposits on the sea bed - *except in Northern Ireland in relation to harbour works (see separate regulations) and works for navigational safety*.

In Northern Ireland: The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (SR No. 89)

The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2001 (SR No. 394)

The Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003 (SR No.136)

The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005 as amended (SR No. 32 and 2006/483).

Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) 2006 (SR No. 90)

The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland 2006) (SR No.518).

The Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations (Northern Ireland) 2007 (SR No.23).

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In Scotland: The Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999 as amended (SSI No 43 and 2006/614)

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (SSI No 320)

The Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003 (SSI No. 341.

The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 as amended (SSI 582 and 2006/614).

In Wales: *The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Wales) Regulations 2002 (as amended) (SI No. 2127 and 2007/203).*

RELATED REGULATIONS

Conservation (Natural Habitats &c) Regulations 1994 (SI No 2716)

CIRCULARS ON EIA

DETR Circular 02/99 “Environmental Impact Assessment”.

DOE Circular 15/92 “Publicity for Planning Applications” (paras 15-16).

In Wales see:- Welsh Office Circular 11/99 Environmental Impact Assessment.

In Scotland see:- *Scottish Executive Development Department Circular 15/99 The Environmental Impact Assessment Regulations 1999*

Scottish Office Planning Circular 1/2003. The Environmental Impact Assessment (Scotland) (Amendment) Regulations 2002 : Review of Old Minerals Permissions

In Northern Ireland see:- *Development Control Advice Note No 10 (Revised)*

CIRCULARS ON RELATED MATTERS

DOE Circular 17/89 “Landfill Sites: Development Control”

DOE Circular 2/93 “Public Rights of Way”.

DOE Circular 8/93 “Awards of Costs Incurred in Planning and Other (including CPO) Proceedings”.

DOE Circular 15/93 – “The Town and Country Planning (Shopping Development) (England and Wales) (No. 2) Direction” 1993.

DOE Circular 9/95 “General Development Order Consolidation 1995”.

DOE Circular 11/95 “The Use of Conditions in Planning Permissions”.

DOE Circular 6/96 “Environmental Protection Act 1990 Part II Special Waste Regulations 1996”.

DOE Circular 14/96 “Environmental Protection Act 1990 Part II Special Waste (Amendment) Regulations 1996”.

Environment Circular 15/97 “Part IV The Environment Act 1995 Local Air Quality Management: Guidance for Local Authorities.”

Environment Circular 09/98 “The Town and Country Planning (Playing Fields) (England) Direction 1998.”

DETR Circular 07/99 “The Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.”

GOL Circular 02/2000 Strategic Planning for London

DETR Circular 02/2000 Environmental Protection Act 1990: Part IIA Contaminated Land

DETR Circular 04/2000 "Planning Controls for Hazardous Substances".

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APPENDIX E – LIST OF ABBREVIATIONS

AEA	Atomic Energy Authority
ACU	Auto Cycle Union
AONB	Area of Outstanding Natural Beauty
BC	Borough Council
BRE	Building Research Establishment
BS	British Standard
CAA	Civil Aviation Authority
CABE	Commission for Architecture and the Built Environment
CBI	Confederation of British Industry
CEFAS	Centre for Environment, Fisheries and Aquaculture Science (An executive agency of DEFRA)
CFC	Chlorofluorocarbons
CIBSE	Chartered Institution of Building Services Engineers
CIRIA	Construction Industry Research and Information Association
CLR	Contaminated Land Research
CO ₂	Carbon Dioxide
CPRE	Campaign to Protect Rural England
DC	District Council
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, Media and Sport
DoE	Department of the Environment (now DCLG or DEFRA)
DEFRA	Department for Environment, Food and Rural Affairs
DETR	Department of the Environment, Transport and the Regions (now DfT, DCLG or DEFRA see below)
DFES	Department for Education and Skills
DfT	Department for Transport
DTLR	Department for Transport, Local Government and the Regions (now DfT or DCLG)
DTi	Department of Trade and Industry
DTp	Department of Transport (now DfT; see above)
EA	Environmental Assessment (aka EIA, Environmental Impact Assessment)
EC	European Commission
EEC	European Economic Community (now known as the European Union)
EEDA	East of England Development Agency
ES	Environmental Statement (aka EIS, Environmental Impact Statement)

ESAs	Environmentally Sensitive Areas
ETSU	Energy Technical Support Unit (Harwell)
EU	European Union
FSA	Food Standards Agency
GDPO	General Development Procedure Order
GLA	Greater London Authority
GO EAST	Government Office for the East of England. Other Regional Government Offices have similar abbreviations.
GPDO	General Permitted Development Order
Ha	Hectare
HSE	Health and Safety Executive
ICE	Institution of Civil Engineers
IEEM	Institute of Ecology and Environmental Management
IEMA	Institute of Environmental Management and Assessment
IOA	Institute of Acoustics
IPPC	Integrated Pollution Prevention and Control
ITE	Institute of Terrestrial Ecology (part of Centre for Hydrology and Ecology)
Km	Kilometres
LAQM	Local Air Quality Management
LDO	Local Development Order
LPA	Local Planning Authority
LT	London Transport
m ²	Square metres
MAFF	Ministry of Agriculture, Fisheries and Food (now DEFRA)
MFA	Marine Fisheries Agency (An executive agency of DEFRA)
MoD	Ministry of Defence
MPG	Minerals Planning Guidance Note
MPS	Minerals Policy Statement- replace MPGs
NERC	Natural Environment Research Council
NETCEN	National Environmental Technology Centre (see AEA Technology)
NNR	National Nature Reserve
NHS	National Health Service
NO _x	Nitrogen oxides
NPFA	National Playing Fields Association
NRA	National Rivers Authority (now Environment Agency)

NSAs	Nitrate Sensitive Areas
NSCA	National Society for Clean Air and Environmental Protection
NVZs	Nitrate Vulnerability Zones
ODPM	Office of the Deputy Prime Minister – now DCLG
ONS	Office for National Statistics
OS	Ordnance Survey
PAN	Planning Advice Note (in Scotland)
PD	Permitted Development
PLA	Port of London Authority
PPG	Planning Policy Guidance Note
PPS	Planning Policy Statement (replaces PPG's)
RDA	Regional Development Agency
RIBA	Royal Institute of British Architects
RICS	Royal Institution of Chartered Surveyors
RIGS	Regionally Important Geological/Geomorphological Sites
RPB	Regional Planning Body
RPG	Regional Planning Guidance
RSPB	Royal Society for the Protection of Birds
RSS	Regional Spatial Strategy - replace RPGs
RTPI	Royal Town Planning Institute
RYA	Royal Yachting Association
SAC	Special Area of Conservation
SI	Statutory Instrument
SINC	Site of Importance for Nature Conservation (sometimes known as County Wildlife Sites)
SPA	Special Protection Area – under the EC Birds Directive
SPG	Supplementary Planning Guidance
SR	Statutory Rule (in Northern Ireland)
SRA	Strategic Rail Authority
SSI	Scottish Statutory Instrument
SSSI	Site of Special Scientific Interest
TAN	Technical Advice Note (in Wales)
TPO	Tree Preservation Order
TSO	The Stationery Office
UK	United Kingdom
UNESCO	United Nations Educational, Scientific and Cultural Organisation

WFAs	Water Fringe Areas
WHO	World Health Organisation
WWF	World Wildlife Fund



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