



Report of	Meeting	Date
Chief Executive	Central Lancashire Strategic Planning Joint Advisory Committee	Tuesday 20 June, 2023

## Technical Consultation on the Environmental Outcomes Report: a new approach to environmental assessment

Is this report confidential?	No
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Is this decision key?	No
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### Purpose of the Report

1. To inform members on the recent consultation on the introduction of the Environmental Outcomes Report (EOR) and the existing approaches which this new system is intended replace.

### Recommendations

2. To note the contents of the report.

### Reasons for recommendations

3. The report does not require any decisions, it is for information only.

### Other options considered and rejected

4. Not applicable

### Summary of the consultation proposals

5. The Department for Levelling Up, Housing and Communities (DLUHC) sought views on a proposed new system of environmental assessment ('Environmental Outcomes Reports') to replace the current EU-derived environmental assessment processes of Strategic Environmental Assessment and Environmental Impact Assessment during a 12 week consultation from 12<sup>th</sup> March to 9<sup>th</sup> June 2023.
6. The Levelling Up and Regeneration Bill is seeking powers to implement a new domestic framework for environmental assessment. DLUHC consulted on the use of powers in the Bill and sought views from stakeholders across environmental assessment regimes. The consultation sought views on how this new framework could

work as a replacement to the existing environmental assessment regimes that have been transposed into domestic law from the Environmental Assessment of Plans and Programmes Directive and the Environmental Impact Assessment Directive.

7. The consultation focused on the technical elements of the process to be introduced, with further detail on the system to be implemented to follow.

### **Summary of the EOR consultation**

8. Formal environmental assessment has been required in the UK since the 1980s but there remain questions as to how effective these processes have been in managing environmental issues. The Levelling Up and Regeneration Bill intends to secure powers to replace the current processes set out in EIA and SEA Directives with a new system of Environmental Outcomes Reports (EORs)
9. The Government is committed to improving what already exists and will ensure the new system provides as much overall environmental protection as the current system.
10. This consultation sets out DLUHC's initial thinking on how the powers in the Bill could be used to deliver a more effective system. It also shows how EORs propose to benefit from other measures in the Levelling Up and Regeneration Bill; including the move from a document-based system towards interactive information, use of common data standards, and the increased data accessibility requirements which form part of the Government's digital reforms.
11. Further consultation will follow in the coming months to design and develop the detail of the system to be delivered through secondary legislation.
12. The new system will be an outcomes based approach, ensuring plans and development support the Government's goals set out in the Environmental Improvement Plan.
13. To maximise efficiencies and reduce duplication, the government will identify opportunities to take a single approach across regimes wherever possible. For all regimes EORs will cover, as a minimum – biodiversity and environmental quality (including visual impacts).
14. Part 6 of the Levelling Up and Regeneration Bill seeks to secure powers to implement a new system of environmental assessment known as Environmental Outcomes Reports. This will allow the government to replace the EU-derived Strategic Environmental Assessment and Environmental Impact Assessment processes with a streamlined system that places greater focus on delivering the Government's environmental ambitions. Clause 142 of the Bill enshrines the commitment to non-regression in law and ensures that the new system provides as much overall environmental protection as the current system. Habitats Regulations Assessment (HRA) not covered by this proposal.
15. The consultation notes inefficiencies with the existing system, with comments it's a box ticking exercise, with the information presented overly lengthy and the findings are not used properly.

16. The introduction of outcomes-based approach to the Environmental Outcomes Reports allows the government to reflect its environmental priorities directly into plan-making and decision-making process on the largest developments.
17. The consultation seeks views on how this new framework could work as a replacement to the existing environmental assessment regimes that have been transposed into domestic law from the Environmental Assessment of Plans and Programmes Directive and the Environmental Impact Assessment Directive.
18. Government states that leaving the European Union gives the UK a once in a lifetime opportunity to create an improved framework of environmental assessment which properly reflects our country's needs and the unique characteristics of our environment. These reforms will ensure the value and rigour of environmental assessment is retained whilst allowing us to push for better environmental outcomes.
19. The system proposes to simplify and streamline the assessment process to make it more effective as a tool to support the delivery of our environmental commitments.
20. The government propose that by re-focusing assessment, it will allow communities to better engage and fully understand the environmental effects of a development and be confident that problems will be addressed if they arise. By setting clear outcomes and clarifying process, developers will be able to embed environmental considerations from the outset and be supported to deliver the best possible environmental outcomes. A reformed system will ensure decision-makers are equipped with the information they need to make informed choices that support sustainable development.
21. The change in approach includes a move from a document based system towards interactive information, use of common data standards and increased access to data inline with the Governments digital reforms.
22. It will replace 18 existing forms of legislation, out of which of relevance to planning are:
  - The Environmental Assessment of Plans and Programmes 2004
  - The Town and Country Planning (TCPA) (Environmental Impact Assessment) Regulations 2017
23. The approaches put forward will replace the existing system of EIA for development management and sustainability appraisals /strategic environmental assessment for Local Plans. The Government feels the existing systems are inefficient and often result in duplication of effort, and are not useful in providing information on the impact of the proposal on the environment for the decision maker which should be the purpose of the assessment.
24. The consultation consists of 26 questions set around a discussion of the proposals. However, there is still a significant amount of information regarding the new system to come forward via secondary legislation, therefore a full understanding of the proposals is not possible at this time.

## **The Process**

25. The new systems aims to simplify the assessments which Councils will need to undertake when preparing Local Plans which is supported, as well as requiring the assessments for planning applications to show meaningful considerations of issues has been accounted for.
26. A national set of indicators is proposed which are still to be defined and consulted. We welcome the opportunity to comment on the suitability of these indicators when they are published to ensure they are fit for purpose and cover sufficient scope to inform decision making at the local scale.
27. The consultation notes that further thought is still needed on how the issue of climate change will be addressed, particularly measuring carbon emissions, with the government seeking suggestions of approaches which could be used.
28. The consultation is seeking to have a single regime for all areas, however that raises concern that some aspects of the consultation are more focused on the process of EIA to support a planning application and may not work as well for supporting the Local Plan process. An example of this is the requirement for proportionate reporting against outcomes. Further detail on this process would be required to understand how it would work in practice, and it should not result in additional burdens to the Councils in carrying out monitoring. It is also not clear when this refers to a planning application if the reporting is a role for the LPA or the planning applicant.
29. The issue of climate change is linked to the Governments National Adaption Program (NAP3). Whilst this helps to bring the key issues of climate change to the forefront, it is considered that key changes in addressing climate change need to come via the National Planning Policy Framework (NPPF) or other primary legislation in order for change to be effectively delivered through the planning regime.

### **The Environmental outcomes Report**

30. The consultation is proposing a change in the consideration of reasonable alternatives, suggesting it is the process of decision making that would be the alternative and not necessarily different sites. As this currently tends to be consideration of sites, the consultation asks if further clarification of the approach should be provided in the guidance to be produced on what the consideration of reasonable alternative will entail.
31. The consultation is also seeking views on how the design of the new process will ensure alternatives are considered early on.
32. The process of screening is to be strengthened, however as this applies to both Local Plan and planning applications, more detail is needed to understand the changes proposed, and whether this element will be just for planning applications or for Local Plans also, this is an area where a single regime may not work in practice..

### **Mitigation**

33. The approach to mitigation is discussed, however the information put forward again links more to planning applications than Local Plans. The importance of mitigation should address both processes.
34. To know mitigation is ineffective, it proposed to monitor sites regularly which is supported in principle, however it needs to be clear who will undertake this monitoring, and if the councils, can we charge for it similar to the approach for minerals and waste sites currently, an approach which is suggested.
35. The requirements for dynamic and remedial actions to be taken where monitoring shows mitigation to be ineffective is also put forward, however no detail is provided on who is responsible for undertaking the monitoring and identifying this.

### **Monitoring**

36. The consultation discusses a more formal and robust approach to monitoring. The suggestions put forward again appear to link more towards developments being delivered than the Local Plan process. Local Plans currently undergo annual monitoring against a specific set of indicators, as such it is felt that further monitoring requirements should not be required for them.
37. Questions around the cost for monitoring and means of incentivising better assessment in practice are asked. The need for financial incentives for both, higher/stricter fines for sites which fail to mitigate effectively and funding for LPAs to carry out the monitoring could be options considered here.

### **Data**

38. The Government are proposing to make environmental data available publicly for use. The suitability of the data for the purpose it was produced are factors which need to be considered when assessing if can be used to support EORs. It must also be up to date and fit for purpose and ideally free for LPAs.
39. Currently licensing of data can present a barrier to councils accessing it, along with knowing exactly where the data is held and accuracy of it. As such having a validated list of data sources which government have approved as fit for purpose would assist with this.

### **Reporting on outcomes**

40. The EOR process is considering the need for reporting on the performance of a plan or project against outcomes.
41. Any new process should not add further burdens of monitoring on Councils, and the consultation asks for views on whether this will increase work for the planning teams. The consultation is not specific on who would carry out the reporting, is this the LPA or the developers. Further detail on this process when released will assist with understanding this requirement better.

### **Transition period**

42. The Government is considering what transition period should be imposed, with 6 months, 1 year and 2 years proposed. This may be an area again which differs by regimes, with plan making being linked to wider reform changes and the review of plans as they happen naturally. The time needed for Planning Applications may also need further consideration once detailed requirements are brought forward via secondary legislation to understand what time frame will be needed and to ensure Councils have the resources in place to undertake any additional work.

### **Next Steps**

43. The three Councils have each prepared their individual response to this consultation and will continue to review and responds to further updates to this process as they are released.

### **Climate change and air quality**

44. The work noted in this report has an overall positive impact on the Council's Carbon emissions and the wider Climate Emergency and sustainability targets of the Council.
45. The report impacts on the following activities in a positive way although details of specific benefits is to evolve as further guidance on the EOR is prepared:
- a. Net carbon zero by 2030,
  - b. Air quality,
  - c. Flooding risks,
  - d. Green areas and biodiversity.

### **Equality and diversity**

46. The government has published an EIA along with the consultation. There are no implications at this stage as it is unclear when these new requirements will come into force for planning.

### **Risk**

47. The proposals for the EOR are still being formulated. There is the potential for additional work for the Councils to carry out in regards to implementing the legislation when it is introduced, which could require further resources for the planning teams, however this is unknown at this time.

### **Background documents**

There are no background papers to this report

### **Appendices**

There are no appendices.

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