

EIA Scoping: EIA Procedures and Consultee Engagement



Context

Aberdeenshire's Planning Team have seen various occasions when an interested party or Community Council has sought to take part in the environmental impact assessment (EIA) scoping opinion process as a consultee. Such requests have become increasingly common, especially when parties have become aware that a developer has made a scoping request, or that the planning authority is in the process of developing a scoping opinion.

This case study relates to an occasion where an interested party was dissatisfied with the approach the planning authority took in managing submissions from statutory consultees submitted after the scoping opinion had been issued.

This case study demonstrates the approach taken by Aberdeenshire's Planning Team and seeks to highlight the need to support planning officers in clarifying approaches to managing EIA's real-world application, especially when the issue in question is not clearly defined within the 2017 Regulations.

What Happened

The developer of an offshore wind farm sought planning permission from Aberdeenshire Council for the onshore underground infrastructure and substation related to their wider national scale project.



Prior to making their application, the developer made an EIA scoping request to the council to inform the scope and level of detail to be included in their EIA report.

The national scale offshore wind farm project had been in the public domain for some time, as a result there was awareness amongst interested parties of the forthcoming application. Upon receipt of the scoping request, Aberdeenshire Council's Planning Team followed the EIA regulatory requirements, including consulting bodies set out under Regulation 17(4).

The planning authority recognised the production of a scoping opinion for the proposed infrastructure development would take longer than the standard 35 days and a longer period was agreed with the developer as per Regulation 17(7). Despite the longer scoping period, a number of statutory consultees had not responded to the scoping consultation by the time the planning authority needed to issue its scoping opinion. The scoping request was therefore duly considered and scoping opinion issued, with two statutory consultee responses outstanding (Nature Scot and Ministry of Defence).

Following the issue of the planning authorities scoping opinion, the Planning Team received responses from both Nature Scot and Ministry of Defence. The responses were then issued to the developer as a 'Scoping Addendum' to provide the developer with access to the environmental comments received from these bodies.

An issue arose after the scoping opinion and addendum had been issued, when an interested party indicated they were dissatisfied with the Planning Service's process. The interested party queried the procedure taken by the planning authority in relation to the process taken after adopting its scoping opinion and the subsequent addendum that contained the outstanding statutory consultee responses. The interested party made a number of environmental information requests (EIR) that queried the approach taken by the planning authority. In particular, if the issuing of further information after the formal scoping opinion complied with the Regulations and whether by issuing the addendum, the planning authority had superseded its original scoping opinion via Regulation 17(12).

While there is no formal means for an interested party to challenge the EIA process at the scoping stage, the issues raised in the EIR led the planning authority to confirm if the procedures it had taken was lawful.

Managing late consultee responses in producing the Planning Authority's Scoping Opinion

In this case the scoping opinion was issued following an extension of time that had been agreed with the developer, however at that time two consultee responses remained outstanding. Following the later receipt of those consultation responses an addendum was issued, which included only the two consultee responses. Following the interested party's queries, the Planning Team sought advice from the Council's internal legal team regarding the provision within the legislation for seeking an extension of time and/or the use of addendums in relation to the EIA scoping procedures.



The Planning Team has made use of addendums on various previous EIA scoping requests, when consultees have not responded within the requested timescale, and no issues have previously been highlighted regarding this approach either by developers or interested parties. However, following discussion internally, it was agreed that in future situations where there is a late consultee response, an extension of time should be sought, and the decision issued on receipt of outstanding consultee comments where possible.

Managing an interested party seeking a role in the Planning Authority's Scoping Opinion

From the outset of the planning authority's consideration of the developer's scoping request, the interested party was advised to contact the developer to share any relevant environmental information during the pre-application consultation period/events. The interested party were also advised that the appropriate time to submit comments to the planning authority was at the application stage.

The EIA Regulations do not provide the public or interested parties with a right to be consulted or input into a planning authority's scoping opinion, nor do they have the right to seek a scoping direction from the Scottish Ministers.

Overall Result

The EIR requests received from the interested party were time consuming but acted to highlight a gap in internal guidance for planning officers in relation to the use of extensions of time and use of an addendum during the production of an EIA scoping opinion.

Consideration of this issue coincided with the development and provision of internal best practice guidance for EIA being published within the Planning Service. Following a review of the internal processes, the EIA Best Practice Procedural Guidance was finalised in December 2025, including advice for planning officers seeking an extension of time when producing a scoping opinion. The Council's internal EIA Best Practice Guidance will be routinely reviewed and updated accordingly.

Lessons Learned

While the EIA Regulations set out the core procedures, they do not cover every eventuality that a planning officer will face in undertaking their EIA duties. There are useful lessons to learn from the sharing of Aberdeenshire's EIA scoping experiences discussed in this case study.

The public are increasingly aware of and interested in the EIA process and can raise concern/seek clarification when a planning authorities actions relate to matters not clearly covered in the



Regulations. Planning officers must therefore be confident in their understanding of the EIA Regulations and related processes and can be helpfully supported through guidance. Key takeaways from this case study are:

- Planning authorities are required to consult the consultation bodies and where relevant, other bodies set out in Regulation 17(4)(a to d) before forming a scoping opinion.
- The bodies consulted by the planning authority (in relation to EIA scoping) are not obligated to respond.
- Where a consultee does not respond before the planning authority issues its scoping opinion, then their views will be absent from that opinion; however, the developer could pursue the consultee views separately as part of their pre-application activities.
- Where a consultee's response arrives after the planning authority has issued its scoping opinion, it is not unreasonable for the planning authority to pass this information on to the developer.
- Agreeing an extension of time with the developer may be the preferred route for processing of a scoping request where consultees have not replied, but there is nothing within the Regulations that explicitly discourages use of an addendum. The approach is likely to be case specific and informed by consultees predicted timescale to supply a response.
- Where a planning authority issues a scoping opinion, the developer's EIA report must then be 'based on' that opinion. This does not limit the environmental issues considered in examining the application, nor does it affect the planning authority's ability to request supplementary information from the developer.

Further Information

Further information about EIA scoping including scoping request and opinion process can be found on the National Planning Hub [Scoping webpage](#). On this page you will find:

- An overview of the scoping process
- The slides and recording from the National Planning Hub's webinar on scoping
- A downloadable diagram: *Practical steps for planning officers in making a Scoping Opinion*
- A downloadable EIA Explainer Article: *How EIA Identifies Impacts, Describes Effects and Evaluates Significance*

The page also provides links to relevant governmental and statutory body guidance on the EIA scoping process.

This case study has been prepared in collaboration by Aberdeenshire Council and the National Planning Improvement Team at the Improvement Service. We publish good practice case studies identified through our work on the National Planning Improvement Framework and the National Planning Hub. They aim to support the sharing of good practice and build collaboration across the



National Planning Improvement



sector in addressing common challenges. Please email us at npi@improvementservice.org.uk if your authority has a good practice case study to share.

