

MANSTON: IMPLICATIONS OF NEW ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS<sup>1</sup> FOR RSP'S 2018 CONSULTATION

The new regulations are a “do minimum” implementation of changed EU law on this topic. Nevertheless, there are some potentially important angles:

KEY NEW REQUIREMENTS	WHAT WE SHOULD EXPECT RSP TO ADDRESS
<p>Assessment must now consider significant<sup>2</sup> effects on the environment from:</p> <p><b>a) major accidents and disasters</b>  <b>b) waste</b>  <b>c) use of natural resources</b>  <b>d) impacts on and resilience to climate change</b>  <b>e) impacts on cultural heritage and landscape</b></p>	<ul style="list-style-type: none"> <li>• Aviation accidents and terrorist attacks. Public safety zones.</li> <li>• Environmental implications associated with proposed aircraft recycling proposal (safety of end-of-life aircraft, fires and toxic waste handling, and disposal issues)</li> <li>• Urbanising Impact of hangar etc developments on Thanet central landscape plateau</li> <li>• Thorough consideration of impact on Ramsgate heritage.</li> </ul>
<p>The wording in the earlier regulations on consideration of alternatives has been beefed up so that the Assessment must include “a <b>description of the reasonable alternatives</b> (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, <b>and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.</b>”</p>	<ul style="list-style-type: none"> <li>• Why Manston when we have EMA etc? Need thorough evidence-based analysis</li> <li>• Quantified comparison of environmental effects (for alternatives)</li> <li>• Consideration of implications of appropriating brownfield site (esp. Northern Grass) and potential environmental impact on greenfield sites</li> </ul>
<p>Environmental terms are broader: “<b>human being</b>” has been replaced by “<b>population and human health</b>”, “<b>fauna and flora</b>” has been replaced by “<b>biodiversity</b>”</p>	<ul style="list-style-type: none"> <li>• Consideration of loss of positive effects of the environment on human health as well as negative effects of pollution etc</li> <li>• Proper consideration of biodiversity/interdependence issues</li> </ul>
<p>The Regulations introduce a new requirement for EIAs to be produced by “<b>competent experts</b>” The authority must also ensure it has sufficient expertise to review the Environmental Statement. ('competent' is undefined)</p>	<ul style="list-style-type: none"> <li>• Requirement may help us insist on answers vouched for directly by accountable ‘on-board’ experts</li> </ul>
<p>The <b>current minimum timeframe for public consultation is increased</b> for DCO projects from 28 days to “no shorter than 30 days” for both new applications <u>and</u> submission of further environmental information.</p>	<ul style="list-style-type: none"> <li>• To note.</li> </ul>

<sup>1</sup> <http://www.legislation.gov.uk/uksi/2017/572/made>

<sup>2</sup> “significant” is DCLG’s qualifier and some commentators suggest that, even after BREXIT, it may be subject to challenge as an unwarranted limitation of the scope of the EU Directive which the regulations purport to transpose into UK law

N.B. DCLG guidance says the aim of an EIA is to ensure that planning applications are considered in the full knowledge of the likely significant effects and to ensure that the public are given early and effective opportunities to participate in the decision making procedures. That all places a premium on detailed information about flight paths and types and times of traffic. But this seems likely to continue to remain largely absent for this consultation.