



EXECUTIVE SUMMARY

SITA UK are pleased to respond to CLG's call for comments on the requirement in the Localism Bill for pre-application consultation with communities, prior to the submission of certain planning applications.

The waste management sector has estimated that by 2020 the UK needs an injection of £10 billion of investment in treatment facilities for municipal waste diverted from landfill, together with a further £10-15 billion if C&I waste currently going to landfill is also to be diverted and treated. Significant investment and job creation opportunities hang in the balance if we accept a planning system that currently is hindering the delivery of infrastructure.

Due to the potentially controversial nature of waste management projects, SITA UK and others in the sector see pre-consultation as an integral part of the planning process. As the CLG note acknowledges, major players such as SITA UK already carry out extensive pre-application consultation with local communities when proposing major new infrastructure in an area. At the outset of a project, we carry out an analysis to decide what level of consultation is appropriate. This depends on the location of a facility, proximity of neighbours, current usage of the site, traffic levels, prior history of the site and a range of other factors. We also take on board any feedback we receive from members of the community before we finalise our planning applications.

While the guide explains that communities will not have a veto on subsequent submissions, the CLG note nevertheless takes a rather naive view that pre-application discussions "will" reduce local opposition. Although a developer may take all reasonable steps to consult, at the end of the process opposition may be just as vociferous. Pre-consultation should not be regarded by CLG as some sort of silver bullet.



SPECIFIC COMMENTS ON THE REQUIREMENT TO PRE-CONSULT COMMUNITIES

1. WHEN SHOULD CONSULTATIONS BEGIN?

Planning authorities are required to specify sites suitable for the locating waste management facilities in their local development frameworks. As such, in contemplating a planning application the waste management sector is in effect responding to a need previously identified by the local authority, on a site identified by the local authority on behalf of the local community it serves.

Where developers apply on previously designated sites, it should be the duty of the planning authority to clear the path for subsequent developers, by undertaking consultations with local communities before sites are designated in the development plans. While acknowledging our obligation to consult in turn when a planning application is contemplated, community engagement should in fact commence well before this point in the development arc.

We also submit that when sites have been designated for a specific duty in the local development framework on the basis of successful community consultation, there should be an explicit presumption in favour of granting planning permission, on the understanding that technical and environmental matters are appropriately dealt with by the applicant. Too often, developers submitting planning applications on designated sites are challenged on fundamental issues of need and site suitability, matters which should have been addressed by the planning authority during the course of plan preparation.

2. THE TWO-HECTARE CRITERION

It is important to strike a sensible balance to ensure communities do not suffer from consultation fatigue. Notwithstanding the proposed criteria (non-residential development > 10,000 m² floorspace or > 2 hectares) projects that have no or minimal impact on local communities – perhaps because they are far away from local residents or because they propose a subtle change to an existing activity such as a change of use – attract very little interest from members of the public.

We do not believe there is a one size fits all approach to pre-consultation, but instead, would recommend that were the proposed development to fit the above spatial criteria, then the developer would be required to agree the level of community consultation with the relevant local authority (also see below).

The proposed legislation, applied to site areas of 2 hectares or more, would impact on most of the developments our sector undertakes. We note in passing that at paragraph 2, page 12 of the impact assessment, a 2 hectare site is regarded as being among the "most strategic applications". Yet it appears that other than for facilities with an energy output of 50 MW or more, our activities are not strategic enough to be included for consideration by the Major Infrastructure Planning Unit, although their infrastructures invariably occupy areas greater than 2 hectares.

Furthermore, the threshold of 2 hectares is incompatible with the definition of major development used by local authorities in the submission of their quarterly returns.



3. SAFEGUARDS AGAINST A REFUSAL TO COOPERATE

Despite the best efforts of developers to consult with local communities, it is often the case that such invitations to engage (either pre- or post-application) are rebuffed, for fear that to engage in a positive atmosphere with a developer might give the impression that the community (or community action groups specifically set up to oppose the application) acquiesced to the development, weakening their chances of launching a successful appeal at a later stage. Refusal to cooperate might also be used as a delaying tactic, especially if the Local Authority insists on a positive outcome of sorts before deeming the planning application as duly made, or before recommending the application for approval.

The regulations and CLG guide should clarify the bounds of reasonableness in relation to the obligation for a developer to engage in pre-application consultations, specifying the extent of the “community” expected to be consulted, what might be considered to be an adequate level of consultation, when the process of pre-application consultation might reasonably be brought to a close, and spelling out that a refusal to engage, despite the developer’s best efforts, cannot constitute grounds for refusing to register an application as duly made, or for not considering it in a positive light.

The regulations must also clarify what weight the planning authority should place on the consultation responses when determining the application. It would be naïve to imagine that for contentious developments pre-application consultation will lead to the successful resolution of all objections.

4. OTHER MATTERS IMPINGING ON PRE-APPLICATION CONSULTATION

We comment on a number of other issues that would concern developers:

- Publicity associated with the consultation - We would prefer that the type of publicity developers choose is agreed with the local authority after the particular circumstances of the proposal and the locality surrounding the site are fully considered. In our experience this very much depends on local circumstances, choosing between a variety of tools including leafleting, public relations, advertising, posters and networking with local groups. The cost of advertising in the local press can amount to several hundred pounds or higher; however, this is not always an effective way to get a message across to a local community. A local parish magazine, for example, may be a much more effective medium.
- Timetable – We do not believe it possible to stipulate a general timetable. Every project is different. In some areas, the developer needs to carry out a range of events, each looking at different aspects of a development due to the interest or levels of concern in a community. Other projects may attract very little interest, so it is more appropriate to limit the number of face-to-face events that are held. Other factors to consider include holiday periods, elections, etc.



- Industrial areas - In areas designated for industrial use, where there are no nearby residents, the need for consultation is less relevant as it can be very difficult to generate any interest in a proposal. We understand that enterprise zones are being proposed, which will speed up industrial developments in certain areas, so we would expect consultation also to be expedited in these areas.
- Collaboration between the developer and others on design – While we do our best to consult on a proposed design, it is often difficult to accommodate the views of third parties when designing highly engineered facilities, where a range of complex building and environmental factors have to be taken into account.

SITA UK
18 March 2011