AARHUS CONVENTION COMPLIANCE COMMITTEE
ACCC/C/2013/90

RIVER FAUGHAN ANGLERS LTD **Communicant**

-and-

UNITED KINGDOM **Party Concerned**

COMMENTS ON DRAFT FINDINGS OF COMPLIANCE COMMITTEE

Paragraph references to the Draft Findings document are given thus – "DFxx"

DF26

1. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 regulated environmental impact assessment (EIA) procedures in Northern Ireland as they applied to the regulation of development at the Chambers site at the dates of the events referred in paragraphs 33 to 45 of the Draft Findings.

2. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 were revoked by regulation 40 of and Schedule 5 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 (SI 2012 No. 59).

3. At the time of writing, EIA procedures in Northern Ireland are regulated by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (SI 2017 No. 83) ["the 2017 Regulations"]. Part 4 (regulations 12 to 17) of the 2017 Regulations now regulate the determination by the responsible district council or by the Department for Infrastructure ["the Department"] of whether the development to which a planning application relates constitutes "EIA development" and accordingly requires an environmental impact assessment. Regulation 34 of the 2017 Regulations now regulates the determination by the responsible district council or by the Department of whether development carried out or continued in breach of planning control constitutes EIA development and so falls to be subject to environmental impact assessment as

"unauthorised EIA development" in accordance with the procedures set out in Part 9 (regulations 31 to 40) of the 2017 Regulations. The definition of "EIA development" is set out in regulation 2(2) of the 2017 Regulations and includes Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location. "Unauthorised EIA development" is defined in regulation 31 of the 2017 Regulations as "EIA development for which planning permission or subsequent consent has not been granted".

DF28

4. Articles 67B(3) and 83A of the Planning (Northern Ireland) Order 1991 have now been repealed by virtue of section 253 of and Schedule 7 to the Planning Act (Northern Ireland) 2011 ["the 2011 Act"].

5. Section 131(1) of the 2011 Act now provides –

> For the purposes of this Act—
> (a) carrying out development without the planning permission required; or
>
> (b) failing to comply with any condition or limitation subject to which planning permission has been granted,
>
> constitutes a breach of planning control.

6. Section 132(1) of the 2011 Act now provides –

> Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 5 years beginning with the date on which the operations were substantially completed.

7. Section 169 of the 2011 Act now regulates the process in Northern Ireland for making an application for, determination and grant of a certificate of lawfulness of existing use or development (commonly known as a CLEUD). Section 169(2) of the 2011 Act provides –

> For the purposes of this Act uses and operations are lawful at any time if—
>
> (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

DF29

8. The Planning (General Development) Order (Northern Ireland) 1993 was revoked on 1 April 2015 by virtue of article 32 of and Schedule 4 to the Planning (General Development Procedure) Order (Northern Ireland) 2015 (SI 2015 No. 72). Article 13 of and Schedule 3 to the Planning (General Development Procedure) Order (Northern Ireland) 2015 (SI 2015 No. 72) states the consultation procedures which a council or the Department must follow before determining an application for planning permission including, by virtue of article 13(6), the duty, in determining the application, to take into account any response from any consultee.

DF30

9. In their current amended terms, the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013 provide that in an Aarhus Convention case, the court shall order that any costs recoverable from an applicant shall not exceed £5,000 where the applicant is an individual and £10,000 where the applicant is a legal person or an individual applying in the name of a legal entity or unincorporated association. The court may decrease those specified amounts if it is satisfied that not doing so would make the costs of the proceedings prohibitively expensive for the applicant. The court shall order that the costs recoverable from a respondent shall not exceed £35,000. The court may increase that specified amount if it is satisfied that not doing so would make the costs of the proceedings prohibitively expensive for the applicant.

DF103-104/166 & 174(a) and (f)

10. The Committee is asked to consider the following matters in relation to its draft findings and recommendations in DF103-04, 166, and 174(a) and (f).

11. It is factually incorrect to state that there was a "decision to permit" the existing lagoons once they had been constructed. The Party concerned has not decided to grant

permission for the existing lagoons to be retained. The planning permission granted on 13 September 2012 (DF450) was a decision to permit new replacement lagoons to be constructed away from the flood plain of the River Faughan. It was a condition of that planning permission that the existing lagoons must be decommissioned and removed from the site by no later than 31 October 2013. The decision of the Planning Appeals Commission on 2 April 2012 to allow Chambers' appeal against the enforcement notice regarding the existing lagoons (DF40) was based on the statutory time limit of 4 years within which enforcement action was required to be taken under article 67B(3) of the Planning (Northern Ireland) Order 1991 (DF28). The Planning Appeals Commission was bound by that statutory time limit. The Planning Appeals Commission did not decide to grant planning permission for the retention of the existing, unauthorised lagoons. By virtue of the operation of the statutory time limit, the question whether planning permission should be granted to retain the existing, unauthorised lagoons (and, if so, on what terms and conditions), did not arise for decision by the Planning Appeals Commission.

12. In *R (Evans) v Basingstoke and Deane Borough Council* [2013] EWCA Civ 1635, [2014] 1 WLR 2034, the Court of Appeal held that a statutory time limit on taking enforcement action was not in principle incompatible with the Party concerned's obligation to ensure compliance with Council Directive 85/337/EEC ["the EIA Directive"]; and that the precise nature of such a time limit was therefore a matter which fell within the principle of procedural autonomy for the Party concerned, provided that the time limit complied with the principles of equivalence and effectiveness. The Court further held that the applicable time limit under challenge in that case (10 years) did comply with both principles: it applied equally to EIA and non-EIA development alike and provided ample time for enforcement action to be taken to remedy breaches of the EIA Directive by the kinds of development to which it applied (unauthorised changes in the use of land and non-compliance with conditions attached to planning permission). See [24]-[32] of the Court of Appeal's judgment.

13. Under the provisions of the Planning (Northern Ireland) Order 1991, the applicable statutory time limit on taking enforcement action in the present case was 4 years (DF28). That was the applicable time limit for taking enforcement action against a breach of planning control comprising unauthorised operational development (i.e.

carrying out building, engineering, mining and other operations without the required planning permission).

14. Had the applicable time limit for taking enforcement action not expired, the question whether to grant planning permission to retain the unauthorised, existing lagoons at the site would have fallen to the Planning Appeals Commission to decide in accordance with the provisions of article 71 of the Planning (Northern Ireland) Order 1991. Prior to that question being decided, the EIA procedures under Part 7 (regulations 20-28) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 would have governed the determination whether the unauthorised existing lagoons constituted EIA development (see regulation 22) and, if so, would have provided for public participation prior to the decision whether to grant retrospective planning permission (and if so, on what terms and conditions) was made: see in particular regulation 27. Regulation 21 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 prohibited the Planning Appeals Commission from granting planning permission under article 71 of the Planning (Northern Ireland) Act 1991 in respect of unauthorised EIA development unless it had first taken environmental information into consideration, and stated in its decision that it had done so.

15. It would have been open to the Communicant to bring a claim in the High Court for judicial review of a decision by the Planning Appeals Commission to grant planning permission under article 71 of the Planning (Northern Ireland) Act 1991, on the grounds that the decision was vitiated by an alleged failure to fulfil the EIA procedures (including as to public participation) required under Part 7 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999.

16. It follows that the Communicant's systemic complaint is on analysis, a complaint as to the existence and effect of the statutory time limit on taking enforcement action enacted by article 67B(3) of the Planning (Northern Ireland) Order 1991 (DF28). The Committee is asked to consider the decision and reasoning of the Court of Appeal in *R (Evans) v Basingstoke and Deane Borough Council* [2013] EWCA Civ 1635, [2014] 1 WLR 2034 (paragraph 11 above), confirming that statutory time limits for taking enforcement action are compatible with the EIA procedures under the EIA Directive

and consistent with the principles of EU law. The Committee is asked also to consider that the provision of limitation periods for taking legal action in both public and private law is a common and accepted element of any developed legal system.

DF119-122 & 174(c)

17. The Committee is asked to consider the following matters in respect of its draft findings and recommendations in DF 119-122 and DF 174(c).

18. The legislative framework for development management in Northern Ireland is now set out in the 2011 Act.

19. Section 24(1) of the 2011 Act requires development consent, in the form of planning permission, for development to have been sought and obtained before the development is carried out. However, the 2011 Act provides two procedures under which development carried out without the required planning permission may been given consent on a retrospective basis –

    (1) Under section 55(1) of the 2011 Act, on an application made to a council or to the Department, planning permission may be granted for development carried out before the date of the application. Where the application concerns EIA development, regulation 4 of the 2017 Regulations applies and prohibits the grant of planning permission under section 55(1) of the 2011 Act unless an environmental impact assessment has been carried out in respect of that development.

    (2) Under section 145(1)(a) of the 2011 Act, on the determination of an appeal against an enforcement notice made under section 143, the Planning Appeals Commission may grant planning permission in respect of the whole or part of the matters stated in the enforcement notice as constituting a breach of planning control. Where the matters stated in the enforcement notice constitute unauthorised EIA development, regulation 33 of the 2017 Regulations prohibits the grant of planning permission under section

145(1)(a) of the 2011 Act unless an environmental impact assessment has been carried out in respect of that development.

20. Regulatory procedures which provide for consent to be granted retrospectively for EIA development have been held to be lawful in principle both by the European Court of Justice under EU law and by the Court of Appeal under English law.

21. In *Case C-215/06 Commission v Ireland* the ECJ was asked to determine whether the existence in the Irish planning law of a power to grant planning permission retrospectively for EIA development carried out without having first been subject to environmental impact assessment in accordance with Directive 85/337/EEC[1] ["the EIA Directive"], resulted in the conclusion that the EIA Directive had not been properly implemented in Irish law [34/35].

22. The CJEU dealt with that issue in [54]-[58] and [61]. In particular, at [57] and [61] –

> 57 While Community law cannot preclude the applicable national rules from allowing, in certain cases, the regularisation of operations or measures which are unlawful in the light of Community law, such a possibility should be subject to the conditions that it does not offer the persons concerned the opportunity to circumvent the Community rules or to dispense with applying them, and that it should remain the exception.
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> …
>
> 61 It follows from the foregoing that, by giving to retention permission, which can be issued even where no exceptional circumstances are proved, the same effects as those attached to a planning permission preceding the carrying out of works and development, when, pursuant to Articles 2(1) and 4(1) and (2) of Directive 85/337 as amended, projects for which an environmental impact assessment is required must be identified and then – before the grant of development consent and, therefore, necessarily before they are carried out – must be subject to an application for development consent and to such an assessment, Ireland has failed to comply with the requirements of that directive.

23. In *R (Ardagh Glass Limited) v Chester City Council* [2010] EWCA Civ 172 ["*Ardagh*"], the Court of Appeal in England followed *Commission v Ireland* and

[1] Now Directive 2014/52/EU – the CJEU's reasoning in the *Ireland* case is unaffected by the amendments made subsequently to the substantive provisions of the EIA Directive.

determined that, subject to certain conditions, there can be exceptional circumstances in which development consent may be granted retrospectively for EIA development.

24. At [31] Sullivan LJ endorsed, as correct in law, the statements of practical approach made by the judge at first instance that are quoted in [27]-[28] of his (i.e. Sullivan LJ's) judgment in *Ardagh* -

> 27. In paragraph 102 of the judgment the judge said that retrospective planning permission could lawfully be granted for EIA development provided the decision taker, whether the local planning authority or the Secretary of State, made it plain:
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> > "that a developer would gain no advantage by pre-emptive development and that such development will be permitted only in exceptional circumstances."
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> 28. In paragraph 103 the judge referred to the approach to be adopted by the Secretary of State on an appeal against an enforcement notice, but his observations are equally applicable to a local planning authority considering an application [for retrospective planning permission]:
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> > "The [decision-taker] can and in my view should also consider, in order to uphold the Directive, whether granting permission would give the developer an advantage he ought to be denied, whether the public can be given an equal opportunity to form and advance their views and whether the circumstances can be said to be exceptional. There will be no encouragement to the pre-emptive developer where the [decision-taker] ensures that he gains no improper advantage and he knows he will be required to remove his development unless [he] can demonstrate that exceptional circumstances justify its retention."
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> ....
>
> 31. .....there is a discretion to grant retrospective planning permission conferred by section 73A and section 177 [of the Town and Country Planning Act 1990], but there is no requirement that planning permission shall be granted. It is therefore perfectly possible for the decision taker to ensure that the discretion is exercised so as to conform with the ECJ's judgment. To that end, I would endorse those passages which I have set out in paragraphs 102 and 103 of the judge's judgment. They accord with the ECJ's judgment in the Ireland case and, if the decision taker exercises his discretion in accordance with that guidance, there will, in my judgment, be no breach of community law.

25. In *R (Padden) v Maidstone Borough Council* [2014] EWHC 51 Admin ["*Padden*"], the English High Court was asked to determine a legal challenge to the validity of planning permission granted retrospectively for the retention on site of 650,000 m3 of waste material imported for the purpose of remodelling the site and creating artificial lakes. The main ground of legal challenge was that the development was EIA development and the local planning authority had failed to consider whether there were exceptional

circumstances that justified the grant of planning permission for EIA development retrospectively.

26. In [56]-[58], the Judge directed himself in accordance with the ECJ's judgment in *Commission v Ireland* and the practical guidance endorsed by Sullivan LJ at [28] in *Ardagh*. At [60], the Judge said –

> 60. The Claimant thus submits that retrospective permission for EIA development should only be granted first in exceptional circumstances and secondly if the developer does not obtain any improper advantage from the pre-emptive development. That seems to me to be a fair summary.

27. The Judge went on at [75]-[76] to quash the grant of retrospective planning permission in that case, on the grounds that the local planning authority, Maidstone Borough Council, had failed to consider those questions.

28. In *Re Donnelly's Application for Judicial Review* [2017] NIQB 84 ["*Donnelly*"], the High Court of Northern Ireland (McBride J) at [44] adopted the principles stated by the Court of Appeal in the *Ardagh* case and applied by the English High Court in the *Padden* case as follows –

> 44. (Padden) v Maidstone Borough Council [2014] EWHC 51 at paragraph [60] accepts that retrospective permission for EIA development (with the environmental assessment carried out after the development has started) is permitted only in exceptional circumstances and if the developer does not obtain any improper advantage from the pre-emptive development.

29. The main issue in the *Donnelly* case, which concerned planning permission granted for underground gold mining operations near Omagh, was whether the true effect of the planning permission under legal challenge before the High Court was retrospectively to authorise unauthorised EIA development. Following a detailed analysis of the evidence, McBride J held in [98]-[99] that this was not the true effect of the planning permission and that, as a result, the principle stated in the *Padden* case did not fall to be applied. Had she reached the contrary conclusion on the facts, it is clear from [44] that she would then have gone on to consider whether the planning permission had been granted in circumstances which fulfilled the principles stated in [60] of the *Padden* case.

30. These cases establish the following legal principles under EU, English and Northern Irish law –

(1) Regularisation of unauthorised EIA development (i.e. EIA development carried out without environmental impact assessment and development consent having first been obtained), by the application of national rules which allow for the grant of planning permission on a retrospective basis, is in accordance with EC law: see *Commission v Ireland* at [57] and [61].

(2) In order to conform with the principles of EC law stated by the ECJ in *Commission v Ireland*, the decision taker must be satisfied that there are exceptional circumstances that demonstrably justify the grant of planning permission retrospectively and that the pre-emptive developer has not gained and, as a result of the grant of retrospective planning permission, will not gain an advantage that he ought not to enjoy.

(3) The guidance endorsed by the Court of Appeal in *Ardagh* at [28] provides an authoritative statement of the lawful approach required of decision takers in the exercise of their powers to grant planning permission for EIA development on a retrospective basis –

> The [decision-taker] can and in my view should also consider, in order to uphold the Directive, whether granting permission would give the developer an advantage he ought to be denied, whether the public can be given an equal opportunity to form and advance their views and whether the circumstances can be said to be exceptional. There will be no encouragement to the pre-emptive developer where the [decision-taker] ensures that he gains no improper advantage and he knows he will be required to remove his development unless [he] can demonstrate that exceptional circumstances justify its retention.

31. In order to fulfil these conditions, the High Court in Padden at [75] emphasised the vital importance of ensuring that the environmental statement submitted by the applicant is founded upon the environmental baseline as it was <u>before</u> any part of the unauthorised development was carried out at the site.

32. Public participation in the EIA process in respect of unauthorised EIA development is guaranteed by regulations 18, 19 of the 2017 Regulations, following the making of a planning application under section 55 of the 2011 Act; and by regulation 39 of the 2017 Regulations, prior to a decision on appeal against an enforcement notice under section 145 of the 2011 Act.

33. Regulation 4 of the 2017 Regulations prohibits the grant of planning permission for EIA development unless an environmental impact assessment has been carried out in respect of that development. Regulation 33 of the 2017 Regulations prohibits the Commission from granting planning permission under section 145(1) of the 2011 Act in respect of unauthorised EIA development unless an environmental impact assessment has been carried out in respect of that development.

34. A decision to grant planning permission retrospectively (whether under section 55 or section 145 of the 2011 Act) will be open to legal challenge on the basis that it has not demonstrably been taken in conformity with the principles stated in *Commission v Ireland* and the *Ardagh* case: see *Padden* (England) and *Donnelly* (Northern Ireland).

DF125-151 and DF174(d)

35. The Party concerned observes that there is no reason to draw adverse inferences as to the sufficiency of the Court's own assessment of the legality of the procedures which preceded the decision to grant planning permission on 13 September 2012 (DF45) merely from the fact that the Court relied on the evidence given in judicial review proceedings by a competent witness on behalf of one of the parties to those proceedings (DF138 and DF149). The Court's acceptance of such evidence is no basis for drawing the adverse inference that the Court did not properly evaluate that evidence in the light of all the evidence adduced by both parties, and the submissions advanced on behalf of both parties, including as to questions of consistency and credibility. Under the established procedures of the court in judicial review proceedings, it was open to either party to apply to the court for permission to cross examine witnesses as to alleged inconsistencies and as to their credibility.

36. For these reasons, the Party concerned observes that DF150 is in substance a finding that judicial review is systemically incapable of fulfilling the obligations of the Party concerned under article 9(2). The Party concerned does not agree with that finding. The Party concerned, however, notes DF151 of the Committee's drafting findings and recommendations and accordingly does not make any detailed comments on the Committee's analysis of the systemic legal framework for judicial review in DF125-151, reserving its position on them in the context of communication ACCC/C2017/156.

DF152-154 and DF174(e)

37. The Committee is invited to review its draft findings and recommendations in DF152-154 and DF174(e) in the light of its adopted findings and recommendations on the same question in paragraphs 83-84 and 87 of ACCC/C/2010/45 and ACCC/C/2011/60 (United Kingdom), in particular –

> 84. The Committee notes that the right of an applicant to appeal to the Secretary of State for Communities and Local Government or to the Secretary of State's Planning Inspectors are not procedures under article 9, paragraph 2, of the Convention. They are instead procedures by way of which an applicant whose planning decision has been refused may appeal that decision before an executive body, not constituting a court of law or independent and impartial body established by law. This is so even though in the course of such an appeal members of the public concerned may be heard. If the procedure results in a retaking of the decision at stake, the, depending on the proposed activity under consideration, it engages article 6 of the Convention…

38. The role of the Planning Appeals Commission is to perform a similar function to Planning Inspectors in England and Wales. Both are planning specialist bodies whose function is to entertain and to determine appeals by applicants for planning permission or developers appealing against enforcement notices issued against unauthorised development. Neither is a court of law. The Party concerned observes that the right of such persons to appeal to the Planning Appeal Commission under the procedures enacted in sections 58 and 143 of the 2011 Act are, likewise, not procedures under article 9(2) of the Convention.

DF172 & 174(g)

39. The Party concerned draws the Committee's attention to the provisions of Part 8 (sections 42-52) of the Local Government Act (Northern Ireland) 2014 in respect of public access to council meetings and documents. The High Court in England has taken

a strict approach to compliance with the corresponding requirements of sections 100A-K of the Local Government Act 1972: see *R (Joicey) v Northumberland CC* [2014] EWHC 3657; [2015] PTSR 622 at [51].

DF175

40. As to DF175(a), the Party concerned refers to the current statutory framework and legal principles set out in paragraphs 17 to 35 of these observations. Insofar as that statutory framework and those legal principles are founded upon the EIA Directive and principles of EU law, they are EU Retained Law for the purposes of the European Union (Withdrawal Act) 2018.

41. As to DF175(b), the Party concerned refers to the current statutory framework and legal principles set out in paragraphs 10 to 16 of these observations. Insofar as that statutory framework and those legal principles are founded upon the EIA Directive and principles of EU law, they are EU Retained Law for the purposes of the European Union (Withdrawal Act) 2018.

42. As to DF175(c), the Party concerned refers to paragraphs 38 to 39 above and to the Committee's adopted findings and recommendations in paragraphs 83-84 and 87 of ACCC/C/2010/45 and ACCC/C/2011/60 (United Kingdom).

43. Insofar as administrative and practical measures are concerned in respect of draft recommendations DF175(a) and (b), the Party concerned draws attention to the following matters.

44. Enactment of the 2017 Regulations followed the restructuring of the Northern Ireland planning system in April 2015. The change from a unitary, central government planning system to one of local government responsibility for planning at council level reflected the enhanced democratisation of planning across Northern Ireland.

45. As part of its commitment to support sound environmental decision-making across the two-tier planning system the Department has developed an Environmental Governance Work Programme ["EGWP"]. The EGWP has a strong capacity building, engagement and support for local councils acting as planning authorities and recognises the opportunities that exist to enhance good practice.

46. Following the 2017 EIA Regulations, the Department undertook a programme of awareness raising and staff training for all councils in Northern Ireland in relation to the requirements of EIA procedures and the management of EIA development.

47. In April 2019 the Department concluded a procurement process to appoint an external environmental impact and governance expert to assist in the development and delivery of the capacity building strand of the EGWP. A two-year contract was subsequently awarded to external consultants to deliver a specific environmental governance training, guidance and capacity building programme for planning staff across the two-tier planning system.

48. To inform the development of the work programme a staff survey was undertaken in early 2019 for planning staff across both tiers of the planning system. A number of specific priority staff training needs were identified in the areas of EIA screening, EIA legislation and enforcement related to EIA projects.

49. This area of work has seen the development of two levels of tailored EIA training:

    (1) Core EIA Awareness - covering the key principles and requirements of the 2017 Regulations, including discussion of key practical challenges and how to overcome them; and
    (2) Advanced EIA training - providing a greater depth of knowledge around specific areas (e.g. screening, scoping, environmental case law).

50. The training also focuses on the practical application of the obligations and requirements of the EIA Directive transposed into domestic legislation, including in cases of unauthorised EIA development and retrospective EIA applications.

51. To date 120 planning staff across all planning authorities have participated in the training. Those who have completed the Advanced EIA training now participate in an Environmental Officers Forum intended to provide a mechanism to learn from experience, discuss current and ongoing issues and share good practice.

52. In September 2020 both levels of EIA training received accreditation by the Institute of Environmental Management and Assessment (IEMA). In the light of COVID-19 restrictions the Core EIA Awareness training was converted to on-line delivery so that training could continue during the pandemic. The on-line course also received IEMA accreditation.

53. The Department is committed to delivering an enhanced focus on the management and enforcement of retrospective planning applications and unauthorised EIA development. The Department engages with planning authorities to understand how EIA obligations are to be addressed in accordance with the legal principles stated in these observations.

54. Under the EGWP the Department is also supporting the development of a suite of guidance documents on key elements of EIA procedures. The guidance is being developed in conjunction with the contracted external EIA expert and quality assured with Senior Counsel. The first element of guidance is nearing completion and is focussed on the management and enforcement of unauthorised EIA development in accordance with the legal principles stated in paragraphs 30 to 34 of these observations. It is expected to be published by September 2021. Subsequent guidance will be developed focussed on: EIA screening; EIA scoping; and mitigation and monitoring measures.

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