Written evidence from the Institute of Environmental Management and Assessment on the House of Lord's Built Environment Committee consultation on The Impact of Environmental Regulations on Development

About IEMA

IEMA is the professional body for those people working in environmental management and in corporate sustainability roles. IEMA's growing membership of over 20,000 professionals work at the interface between organisations, the environment and society in a range of critical roles (for example from sustainability directors through to climate change leads and in consultancy and advisory roles). We also work with a range of corporate partners. Our professional members are active across all sectors in the UK, for example from construction and manufacturing through to logistics, facilities, and across financial, retail, food, consultancy and the wider service and public sector.

Executive summary

IEMA hosted a workshop for members and other relevant experts outside of the membership, with most of them being from the built environment sector and including the local authority sector, to develop this response. Based on the discussions that took place, we have answered specific questions where we feel we can add most value and a summary of our recommendations are as follows:

- Government agencies must provide information, guidance and practical examples, in a timely fashion (more quickly than currently) that supports stakeholders to feel confident to start to implement and take advantage of new environment requirements.

- Environmental regulations are not primarily seen as a cost but considered, communicated, and treated like an investment in resources for the future and in the economy.

- Regulations, requirements, and their relationships across government agencies are better communicated by using, for example, websites for stakeholders with easy links to relevant environmental regulations and guidance, including within and across nations.

- Local authorities are resourced and upskilled sufficiently to undertake environmental monitoring to ensure good outcomes for the environment.

Question 2

What is the single biggest challenge for developers and promoters in fulfilling environmental requirements? How could this be resolved?

In IEMA's response to last year's Defra Environmental Targets consultation[1], IEMA stated that the legally binding targets are an opportunity to set a clear direction for the environment and support business planning. There are many challenges for developers and in the context of the fast-paced introduction of environmental requirements, the biggest challenge is lack of certainty, especially around biodiversity net gain requirements.

The pace of change to implement the environmental requirements is fast and all the information needed by developers is not being provided in a timely fashion. For example, there is still secondary legislation due on, for example, biodiversity net gain and ELMS (Environmental Land Management Schemes). In biodiversity markets, landowners are not sure if they should invest in ELMs or biodiversity units due to lack of information. That this information is not provided in a timely fashion is slowing down action by developers who feel they don't have the right information.

The communications on environmental requirements are complex. Information on requirements can be hard to find. Environmental policy and regulations are not linked in communications, for example, when talking about biodiversity, climate is not referenced (and vice versa). Requirements and policy differ regionally and across UK nations (alongside language used, for example, biodiversity credits and units).

Policy changes within Government also create uncertainty (for example, requirements linked to the Retained EU Law Bill due to expire at the end of 2023). Politics also creates uncertainty, for example, food security or housing for a local authority might be considered more important than biodiversity net gain for political reasons. Again, these create uncertainty for the developer. Environmental requirements need to be prioritised.

Question 3

Are changes in environmental regulations governing development clearly communicated? Is sufficient support available to help developers and promoters fulfil their responsibilities?

See Question 2 above with regard to pace of change and outputs of information from government agencies.

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[1] IEMA-response-to-the-Department-for-Environment-Food-and-Rural-Affairs-consultation-on-Environmental-targets-June-2022 (3).pdf

There can always be more support for developers. However, using existing routes to communicate to provide that support, rather than setting up new routes, will make information easier to locate. Sometimes, developers will need consultants to help navigate information. (See also Question 5.)

It could be useful to create information similar to the Net Regs guidance available in Scotland and Northern Ireland[2] or the Health and Safety Executive's CDM (Construction, Design and Management) Regulations (to be used as a model but this suggestion is not to set new regulations)[3]. These documents and especially the Net Regs offer lots of information on regulations in one place. These kinds of documents could be especially useful for smaller developers with less resources.

A way to support local authorities and developers to fulfil their responsibilities can be around the use of templates with clear understandable language, for example, for habitat assessment reports, and these can create consistency of information coming in from developers and a good understanding of what's expected from local authorities. (This also facilitates any internal or third-party auditing.)

Question 4

What are the costs of meeting environmental regulations for developers? How does this vary for types of developer or promoter and in different locations?

When environment regulations such as biodiversity net gain are factored in from the design stage and when good Environmental Impact Assessments are undertaken and acted on, the cost is small. When developers don't do this, and then find that they have to 'retrofit' environmental regulations into their plans or submissions to the local authority, then the cost is more. Developers will very quickly learn this (if they don't already know) and adjust their processes. Further, developers could and should be thinking about climate issues such as flood management at the same time to create synergies in their activities.

One IEMA member recounted how developers are already reconsidering how they choose land to develop, based on the upcoming regulations, considering the state of the land they are buying and how much it might cost (or not) to achieve biodiversity gain. It is better to have stronger regulation that encourages organisations to act now rather than for it to be more costly to do later.

There are also opportunities, rather than costs, for developers around new biodiversity markets and homes with access to and/or views of nature can have significantly more value than those without.

What is the cost of not meeting environmental regulations? The RSPB's State of Nature Report 2019 shows a decline in species abundance of 13% since 1970 with an increased decline in species in the last 10 years. Biodiversity and nature provides resources for a strong economy. The current system gives permission for resource loss through development.

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[2] https://www.netregs.org.uk/

[3] Need building work done? - A quick guide for clients on the CDM Regulations 2015 (hse.gov.uk)

It must be noted that the environment legislation for developers is tied to The Environment Act, the 25 Year Environment Plan, and the subsequent Environmental Improvement Plan.

Question 5

Is there sufficient coherence between different environmental regulations? How could regulations be administered in a more systematic and coherent way?

There could be better coordination between Government agencies such as Natural England and the Environment Agency (EA) and across borders such as EA, Scottish Environment Protection Agency / Nature Scot, and Natural Resources Wales in using similar language (eg. biodiversity net gain v net benefit for biodiversity) and/or the creation of a cross-nation repository for cross-cutting and individual policies and regulations (see also Question 3).

The regulations will be administered at several levels. At all levels and especially the local authority level, better administration will be facilitated by appropriate resourcing.

Question 7

What role does Natural England play in monitoring and implementing these regulations? How does Natural England's involvement affect the delivery of new development?

IEMA have been working with Natural England, alongside other stakeholders, to agree a way to monitor the creation of biodiversity net gain over 30 years. Defra's response to the Biodiversity Net Gain Consultation of 2022[4] states that the planning enforcement regime will be the principal way of enforcing delivery of biodiversity net gain. For local authorities to be able to do checking (even spot checking) they will need the appropriate resources. Natural England themselves must have responsibility for monitoring overall the success (or otherwise) of biodiversity net gain policy at local authority level and take regular, timely measures to improve processes iteratively as knowledge and experience increases.

Natural England's ability to deliver clear information and certainty in a timely fashion (see Question 2) will give developers the confidence to move forward with ambitious projects.

Question 8

To what extent are the information needs of the planning system proportionate?

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[4] Government response and summary of responses - GOV.UK (www.gov.uk)

The extent of the information needs of the planning system are not yet clear while we wait for secondary legislation on items such as biodiversity gain plans, Habitat Management and Monitoring Plans and ELMS.

Question 9

How far do the key actors in implementing environmental regulations have sufficient resources to carry out their responsibilities?

Local authorities seem not to have enough resources to effectively undertake some of the management and monitoring of current environmental regulations for example, land degradation. Local authorities will require more resources to implement further environmental requirements, such as biodiversity net gain or ELMS or new biodiversity markets, including training, staff and technology to keep records. Upskilling is required for all stakeholders.

Question 10

Are there further significant changes which would improve this system?

Our answer to the questions above all point to a need for significant and maintained resource commitments from the Government to provide the additional support required to implement the policy requirements stemming from the Environment Act.

There needs to be more recognisable, common language that works for a number of stakeholders with different depths of knowledge. Also, recognition that in order to implement environmental regulations, stakeholders will have to work together (IEMA have been undertaking events with examples of stakeholders working together[5]).

It is worth noting that biodiversity is in the position of carbon 10 years ago but now the public recognise the language of carbon and net zero and there are lots of carbon assessors, and similar should happen with biodiversity.

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April 2023

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[5] https://www.iema.net/watch-again/biodiversity-net-gain-bng-baseline-and-design