

Application of the SEA Directive in the UK – is it having an effect?

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Introduction

SEA under the European Union Strategic Environmental Assessment Directive has been required for almost four years. This paper gives an overview of its application to date and effectiveness in the UK. Research indicates that SEA is resulting in improvements in the sustainability of plans, plan-makers' awareness of sustainability issues, and transparency. However, potential issues remain, including criteria of significance, methodologies and effective monitoring. These and other practical implementation issues are discussed in this paper.

Implementing the SEA Directive in the UK

European Directive 2001/42/EC - the Strategic Environmental Assessment or SEA Directive – requires an “assessment of the effects of certain plans and programmes on the environment”, including public consultation, which must be taken into account by decision-makers. It applies mainly to plans and programmes which “set the framework for development consent of projects”, particularly for projects subject to Environmental Impact Assessment under Directive 85/337/EEC (as amended). SEA is mandatory for most such plans and programmes in specified fields including industry, energy, transport, planning and land use, and also for those which require assessment because of impacts on sites protected under the Habitats Directive (92/43/EEC).

UK Regulations transposing the Directive make the “Responsible Authority” which prepares the plan/programme also responsible for the SEA¹. To build understanding and capability, the former Office of the Deputy Prime Minister (ODPM) and the Administrations in Scotland, Wales and Northern Ireland developed an all-UK guidance document, applicable to all plans and programmes subject to the Directive: the “Practical Guide to the SEA Directive” (ODPM et al, 2005). This has served as a framework for other guidance on SEA of particular plans and programmes or on topics.

The ODPM's successor, the Communities and Local Government department (CLG), is now responsible for implementing the Directive in the UK. Its website gives an introduction to the Directive and links to legislation and guidance, including the application of SEA in Scotland to “strategies”, and in England and Wales the broader process of Sustainability Appraisal (SA), which fully integrates the requirements of SEA into this form of appraisal for Regional Spatial Strategies and key local spatial planning documents. SA considers the social and economic effects of plans as well as environmental ones, and appraises them in relation to criteria of sustainable development (Defra 2005).

The SEA Practical Guide included an “Indicative List” of plans and programmes which Government considered to be subject to the Directive. A few others have since been identified or introduced. In most cases, all plans/programmes of these types require SEA, but a few are screened individually as they vary in the extent to which the Directive's criteria apply. Most SEAs in the UK are in the spatial and land use planning sector at regional and local levels, followed by the local transport planning sector. In all around 400-500 SEAs are in progress in any one year.

The Directive requires consultation with relevant “authorities with environmental responsibilities”, including at a specific stage of scoping – these bodies are set out in legislation and include for example the Environment Agency in England. Other requirements for consultation or participation are included in the UK's legal provisions governing many types of plan/programme, including spatial planning. In practice, consultation often goes beyond Directive requirements, e.g. where there are several stages of consultation or opportunities for active participation.

But is it having an effect?

In understanding whether SEA is having an effect, or is an effective contribution to the plan-making process, it is essential to look at the objective of SEA, or SA in the context of spatial plans in England and Wales. The objective of the SEA Directive, set out in Article 1, is: “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development...”. The integration of environmental considerations into the plan-making process is clear – established SEA and SA process requires this. However, the other components of the objective are more difficult to assess.

¹ The Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004 No.1633 in England, and similar regulations and legislation for Scotland, Wales and Northern Ireland

Fischer (2007) draws together effectiveness criteria as promoted in professional literature on SEA, including giving due consideration to environmental aspects in decision making; integrating the plan-making and SEA process, and other economic and social aspects; ensuring quality control and transparency of analysis and findings; allowing SEA to be stakeholder driven; ensuring provision of sufficient, reliable and useable information in a cost and time efficient manner; and allowing for iterative working which is also flexible and adaptive to the plan making process.

Certainly SEA and SA for spatial plans is seen as a key piece of evidence for planning authorities to explain the choices they have made and alternatives they have assessed in arriving at a proposed plan or strategy (Planning Inspectorate, 2007). SEA consultation is another key requirement helping to ensure a consistent, fully informed and transparent process is followed by all plan making bodies.

In assessing effectiveness, the role of SEA within the plan-making process needs to be clearly understood. A recent review of planning in England found that despite reforms in 2004 there are still widespread concerns about unnecessary levels of complexity in the planning system (Barker, 2006). This can add delay and uncertainty into the process for developers, increase resource pressures and make planners' jobs harder as they juggle the extensive demands of legislation, regulations and policy at international and national levels. Ensuring an effective, yet efficient approach to SEA is therefore imperative. A recent Planning White Paper and proposals set out in a Planning Bill (and revised planning guidance in England) attempts to address these issues (CLG et al 2007).

The completion of a four-year study on the new planning system – the Spatial Plans in Practice project - has provided an insight into the role of SEA within the planning system, and beneficial effects. SEA can:

- aid consideration of development options (over 75% of local planning authorities surveyed agreed);
- lead to better quality plans, more sustainable outcomes and increased transparency (over 50% agreed);
- play a central role in analysis of integration of policy and action; and
- has the potential to play an important role in influencing decisions (Baker Associates et al 2006, 2007)

Independent academic research on SEA/SA in planning authorities in England and Wales (including a survey of 410 local authorities with a 49% response rate) broadly supports this:

- 75% of authorities said SEA/SA improved plan sustainability and planners' awareness of sustainability;
- 50% said SEA/SA made plan-making more transparent and improved planners' understanding of their plan; and
- 47% agreed that SEA/SA was an effective use of time and resources (26% disagreed) (Therivel and Walsh, 2005).

Of authorities with enough experience of SEA/SA to comment at the time of the latter survey:

- 37% said SEA/SA had led to significant changes, e.g. revised objectives or new alternatives, or had an 'important' effect on the plan;
- 46% had made some modifications as a result of SEA/SA; and
- 18% said SEA/SA had not led to any changes in the plan (Therivel and Walsh, 2005)

These plans have all progressed, and so too would the type of responses received to the same questions. In addition, current research by the Policy Studies Institute and Sustainable Development Research Network², may provide additional material to support the above and offer new findings. Plus CLG has just commissioned extra research to explore some of these issues, due to be completed at the end of 2008.

Making SEA work – some practical issues

A few recurring themes and issues outlined in the above research and from anecdotal evidence of the author include:

- Collection of information at the appropriate spatial scale, particularly for long term or wide ranging plans or programmes
- Development of effective assessment methodologies, given the strategic level of the assessment
- Avoiding excessive complexity in matrices comparing options against SEA objectives
- Consideration of alternatives, including "the likely evolution [of the environment] without implementation of the plan or programme", which may not always be a reasonable alternative.
- Avoiding duplication between different levels in hierarchies of plans and determining how far assessment of a "higher level" plan provides sufficient detail on the effects of a lower level plan.
- Prioritising likely significant environmental effects, leading to "catch-all" conclusions that everything is likely to be affected

² see: www.sd-research.org.uk/post.php?p=24

- Lack of awareness of existing environmental monitoring data and activities, leading to duplication of existing systems.
- Timing and resource requirements, including allowing for an iterative approach to assessment and plan-making, consultants costs where relevant, challenges of resources and knowledge transfer; joint working within and across Responsible Authorities and environmental consultation bodies.
- Ensuring effective consultation and stakeholder engagement.

(Baker Associates 2006-8; Fry 2007; Fischer 2007; IEMA 2006; Levett-Therivel 2007).

With regard to methods used in SEA, research suggests that practice is strongly based on professional judgements of experts (practitioners and statutory consultees), the use of existing baseline data and modelling such as in current State of the Environment reports, and information and opinions from the public (Therivel and Walsh, 2005). More complex techniques such as modelling, scenario building and causal chain analysis are used less frequently. Assessment of secondary, cumulative and synergistic effects raises problems of scientific knowledge and certainty. The SEA Practical Guide includes a section on this requirement, but it is often difficult to predict and prioritise inter-relationships between environmental effects or impacts on different receptors (ODPM et al, 2005).

Many practitioners and academics are drawing on the above issues to make recommendations on good practice, supported by case studies where available (Baker Associates 2006, 2007 and 2008; RSPB 2007). The CLG Spatial Plans in Practice research also recommends that SA be used to:

- assist in the formulation of options, identification of preferred options and the final selected approach;
- provide feedback on options and approaches to spatial strategy and be iterative from an early stage;
- identify mitigation measures or spatial issues to be addressed;
- feed into the monitoring process (Baker Associates et al, 2006-2008)

But more work is needed on identifying good practice case studies, and in ensuring a more systematic reflection of research into practice (Fischer 2007, Baker Associates 2007, 2008).

Conclusions

The UK has been undertaking SEA in accordance with the EU Directive for almost four years now. It appears from research and an understanding of practice that it is having an effect on the ways plans and programmes are prepared, including most aspects of process (e.g. data gathering, consultation, assessment, reporting and monitoring, exploring synergies with other plans and programmes). It has generally been considered a positive contribution to the plan-making progress, albeit with some teething problems.

However, the overall outcome and achieving the aims of the Directive is perhaps more difficult to assess. Additional research is required though to ensure the benefits and lessons learned of the last few years are incorporated in what is essentially a new and evolving practice in the UK, throughout the EU and further afield.

The lead department for implementation of the SEA Directive in the UK (Communities and Local Government) has just commenced new research which aims to examine how efficiently and effectively SA is being implemented and how it influences plans and programmes. It will also explore how effectively social, environmental and economic considerations are compared and contrasted through SA/SEA, through assessment of case studies, stakeholder interviews and other engagement exercises.

This may further contribute to the first EC review of the application and effectiveness of the SEA Directive, currently underway.

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