

Redevelopment of Porthcawl Waterfront

CHAPTER 2 – Legislative Context

November - 2025

Chapter 2 - Legislative Context

Produced by The Urbanists for Bridgend County Borough Council and the Welsh Government.

Chapter Author: AV / EJ

Reviewed By: LH

Approved for Issue By: LH

Table of Contents

CHAPTER 2 - LEGISLATIVE CONTEXT.....	3
2.1. INTRODUCTION	3
2.2. THE EIA REGULATIONS	3
2.3. REQUIREMENT FOR EIA	3
2.4. ENVIRONMENTAL IMPACT ASSESSMENT SCREENING OPINION.....	4
2.5. ENVIRONMENTAL IMPACT ASSESSMENT SCOPING OPINION.....	5
2.6. CONTENT OF AN ENVIRONMENTAL STATEMENT	6

CHAPTER 2 - LEGISLATIVE CONTEXT

2.1. Introduction

2.1.1. This chapter sets out the legislative context for the Environmental Impact Assessment process.

2.2. The EIA Regulations

2.1.2. The European Community Council Directive 85/337/EEC first set out the requirement for Environmental Impact Assessment (EIA). The 1985 Directive was amended by Council Directive 97/11/EC, Directive 2003/35/EC and Directive 2009/31/EC. The 1985 Directive and the amending provisions of the subsequent Directive were codified in Directive 2011/92/EU, which was amended by EU Directive 2014/52/EU.

2.1.3. In Wales, the Directive is implemented by the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. These regulations are referred to in this ES as 'the EIA Regulations'.

2.3. Requirement for EIA

2.3.1. The EIA Regulations set out the requirements for when a development needs to be subject to EIA. Schedule 1 of the Regulations provides a list of those projects that will always be required to be subjected to EIA.

2.3.2. Schedule 2 provides thresholds beyond which it is considered more likely that the project will require EIA. Development proposals below these thresholds may still be held to be EIA development if they are considered to still have 'significant' environmental effects. Conversely, projects above these thresholds may not be considered to be EIA development if they are not expected to have 'significant' environmental effects. Schedule 2 development is defined within the EIA Regulations as development of a description mentioned in Column 1 of the table in Schedule 2 where:

'a) any part of that development is to be carried out in a sensitive area; or

b) any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively exceeded or met in relation to that development.'

Chapter 2 - Legislative Context

2.3.3. The proposed development falls within the description at paragraph 10, *'Infrastructure Projects'* in Column 1 of the table in Schedule 2 of the EIA Regulations, including:

'(b) Urban development projects including the construction of shopping centres...'
and

(m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works'.

2.3.4. The threshold for this category of development includes:

(b); (i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; (ii) the development includes more than 150 houses; (iii) the overall area of the development exceeds 5 hectares, and
(m); all development.

2.3.5. When it is being considered whether Schedule 2 development is EIA development the criteria set out under Schedule 3 of the Regulations must be taken into account. The criteria consider the characteristics of development, the location of development and the types and characteristics of the potential impact.

2.4. Environmental Impact Assessment Screening Opinion

2.4.1. Part 2 of the Regulations set out the procedure for enquiring of the Local Planning Authority whether, or not, it considers that the proposed development is EIA development. This is referred to in the Regulations as a 'screening opinion'.

2.4.2. The proposed development falls within Category 10((b) and (m)) of Schedule 2 of the EIA Regulations, and as the proposed development at the time exceeded all thresholds a request for a Screening Opinion was therefore sought from the BCBC in April 2025.

2.4.3. A screening opinion (P/25/239/SOR) was received from the BCBC in June 2025. This confirmed that the proposed development would warrant an EIA due to the potential for 'significant' environmental effects, with particular regard to those matters set out in Section 1 (Character of Development) and Section 2 (Location of Development) of Schedule 3 of the 2017 Regulations.

2.4.4. The screening opinion adopted by BCBC concluded as follows:

Chapter 2 - Legislative Context

“In coming to this decision, the Authority has had due regard to all information submitted by the developers; the available results of other environmental assessments as well as the criteria set out within schedule 3. The Authority’s main reasons for coming to this decision are set out within the above table. In conclusion, the Authority is of the opinion that the proposed development, either alone or in combination, is likely to have a significant adverse effect on the environment. This is on the understanding that the above identified effects could be avoided or prevented as specified within the table. As such, the likely effects of the development are likely to be significant enough to warrant EIA development.”

- 2.4.5. The request for a screening opinion and the screening opinion provided by BCBC, including that table as mentioned in the concluding response, are included in Volume 3, Appendix 2.1: Request for EIA Screening Opinion and Volume 3, Appendix 2.2: EIA Screening Opinion.

2.5. Environmental Impact Assessment Scoping Opinion

- 2.5.1. Part 4 of the EIA Regulations set out the procedure for enquiring of the Local Planning Authority its opinion as to the information to be provided in the ES. This is referred to in the EIA Regulations as a ‘scoping opinion’
- 2.5.2. A formal scoping opinion was requested from BCBC in July 2025, the EIA Scoping Report that comprised this request is included as Volume 3, Appendix 2.3: Scoping Report. A formal scoping opinion was received in October 2025 and a copy of this is included at Volume 3, Appendix 2.4: Scoping Opinion
- 2.5.3. The ES topic chapters provide a summary of the key points raised during scoping and as a result of any further consultation with both statutory and non-statutory consultees. The scoping exercise highlighted a number of areas that consultees wished to see addressed within the ES. Taking into account the nature, size and location of the Proposed Development and the information provided within the scoping opinion, the following topics have been scoped in as requiring assessment within this ES:
- Chapter 6: Transport
 - Chapter 7: Air Quality
 - Chapter 8: Noise

Chapter 2 - Legislative Context

- Chapter 9: Ecology
- Chapter 10: Flood Risk and Drainage
- Chapter 11: Coastal Processes
- Chapter 12: Ground Conditions and Contamination
- Chapter 13: Lighting

2.6. Content of an Environmental Statement

2.6.1. There is no statutory provision relating to the form of an ES however it must contain the information that is set out in Schedule 4 of the Regulations (where relevant). An ES is defined in the Regulations as a statement:

‘a) that includes such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but

b) that includes at least the information referred to in Part II of Schedule 4” (Reg. 2(1)).”

2.6.2. Schedule 4 of the Regulations states thus:

1) Description of the development, including in particular—

a) a description of the location of the development;

b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works and the land-use requirements during the construction and operational phases;

c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;

d) an estimate, by type and quantity, of expected residues and emissions (such as water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) and

Chapter 2 - Legislative Context

quantities and types of waste produced during the construction and operational phases.

- 2) A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the applicant or appellant which are relevant to the proposed development and its specific characteristics and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*
- 3) A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.*
- 4) A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydro morphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.*
- 5) A description of the likely significant effects of the development on the environment resulting from, inter alia —*
 - a) the construction and existence of the development including, where relevant, demolition works;*
 - b) the use of natural resources in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;*
 - c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances and the disposal and recovery of waste, the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);*

Chapter 2 - Legislative Context

- d) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;*
- e) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;*
- f) the technologies and the substances used.*

The description of the likely significant effects on the factors specified in regulation 4(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at European Union or Member State level which are relevant to the project, including in particular those established under Council Directive 92/43/EEC(1) and Directive 2009/147/EC(2).

- 6) A description of the forecasting methods or evidence used to identify and assess the effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.*
- 7) A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.*
- 8) A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned.*

Chapter 2 - Legislative Context

Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of the Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

- 9) *A non-technical summary of the information provided under paragraphs 1 to 8.*
- 10) *A reference list detailing the sources used for the descriptions and assessments included in the environmental statement” (pars 1-10, Schedule.4).’*