The Association of Environmental Clerks of Works

State of the Nation

A healthy and resilient society depends on a healthy natural environment. Pressures on our natural environment, specifically in the areas of climate change, biodiversity, natural resources and pollution, are largely driven by development. Along with many other countries, the UK has recognised the need for development to be made more sustainable, in order that it can be part of the solution to these difficult environmental challenges. Much progress has been made in this area, through policy, legislation and education. However, development projects still present significant environmental risks, which are theoretically reduced, and managed, during the planning process.

Our members identify the greatest weakness in the overall approach to protecting the environment is the construction process, highlighting a 'compliance gap' between the commitments made during the consenting process and the physical implementation of a development project. This means that environmental outcomes are frequently worse than anticipated. Eighty two percent of our members who responded to our survey stated they are concerned about delivery, and monitoring, or environmental compliance during construction, whilst fourteen percent of members were 'unsure' and four percent said 'no', they were not concerned. Our members highlighted that enforcement by regulators is '*almost non-existent*' and '*too many "hit and run" jobs that barely pay lip service to environmental considerations*'. In short, there is a gulf between what planning applications, and EIA Reports, state in their predictions and commitments, compared with the reality of environmental impacts from development projects. The reasons for this are complex and cut across the industry from the planning system, construction contracts, procurement, to environmental legislation.

Self-regulation of environmental compliance does not work well in a commercial setting, as there are too many factors that promote under-reporting. The true environmental impacts of development projects are unknown as they are often ill-defined, un-monitored and / or un-identified post-consent. These environmental impacts will increase over time, as climate change exacerbates the challenges and extreme events become more frequent, more severe and more difficult to manage, and as development pressures increase. Therefore, the existing challenges that the construction industry faces must be more effectively regulated and positive environmental performance incentivised. An EnvCoW can be an effective resource to support, and facilitate, development projects by providing fair and transparent monitoring, if it is appointed by an impartial and un-biased contractual mechanism. To this end, the industry challenges provide opportunities to better protect our environment from impacts by:

- Independent appointment of EnvCoWs by the consenting body, which are paid for by developers;
- Introducing new environmental legislation which sets out distinct / separate, roles and responsibilities for those responsible for delivering compliance and those responsible for monitoring compliance (similar to the CDM Regs for health & safety);
- Contractual mechanisms which clearly and robustly define non-compliance, so it is monitored and measured in an objective manner, providing recourse for the developer to convert environmental non-compliance into penalties;
- Legislative requirements for publishing raw monitoring data and reports, so it is publicly available - a repository for research and commercial development projects, which must be driven by regulatory requirements, and managed centrally, by Government; and
- Environmental sentencing for non-compliance should be more expensive than achieving compliance.

AEnvCoW volunteers have worked hard for years to shine a light on these issues but these opportunities need to be realised through Government intervention to reduce impacts on biodiversity and the environment, as the issues are within the planning and regulatory regimes, as outlined by the Office for Environmental Protection in their report[1].

[1] The Office for Environmental Protection, 2023, *A Review of the Implementation of Environmental Assessments Regimes in England*