



Nationally Significant Infrastructure: how to get involved in the planning process

Advice note 8.2: Responding to the developer's pre-application consultation

The Planning Inspectorate and nationally significant infrastructure projects

The planning process for dealing with proposals for nationally significant infrastructure projects, or 'NSIPs', was established by the Planning Act 2008 ('the 2008 Act'). The 2008 Act process, as amended by the Localism Act 2011, involves an examination of major proposals relating to energy, transport, water, waste and waste water, and includes opportunities for people to have their say before a decision is made by the relevant Secretary of State.

The Planning Inspectorate carries out certain functions related to national infrastructure planning on behalf of the Secretary of State.

Status of this Advice Note

Experience to date has shown that developers and others welcome detailed advice on a number of aspects of the 2008 Act process. This Advice Note forms part of a suite of such advice provided by the Planning Inspectorate.

It has no statutory status.

This version of this Advice Note supersedes all previous versions.



Introduction

Advice Notes 8.1 – 8.5 have been prepared to help people who may be affected by or interested in a proposal for a NSIP.

Any developer wishing to construct a NSIP must first apply for development consent. For such projects, the relevant Secretary of State will appoint an 'Examining Authority' to examine the application. The Examining Authority will be from the Planning Inspectorate, and will be either a single Inspector or a panel of three or more Inspectors.

Once the examination has been concluded, the Examining Authority will make a recommendation to the Secretary of State, who will make the decision on whether to grant or to refuse consent.

Advice Note 8.1 provides an overview of the planning process under the Planning Act 2008 ("the 2008 Act") which governs applications for consent for nationally significant infrastructure projects ("NSIPs"). It also explains the role of the Inspectorate in dealing with such applications.

This Advice Note 8.2 has been prepared to help people to influence a proposal for a NSIP before an application is formally submitted to the Inspectorate.

The 2008 Act procedures require developers to carry out extensive consultation on their proposals and take account of the responses, before preparing an application to be sent to the Inspectorate. It is during this period of consultation, which must include local communities, that the best opportunity to

influence a proposal arises, whether you agree with it, disagree with it or believe it could be improved.

Once an application has been formally submitted,, the 2008 Act process lays down a strict timetable. It is not normally possible for substantial changes to be made to an application once it has been submitted. So, if you want to influence the project, you should take part in the developer's pre-application consultation process. This note explains how and when to get involved.

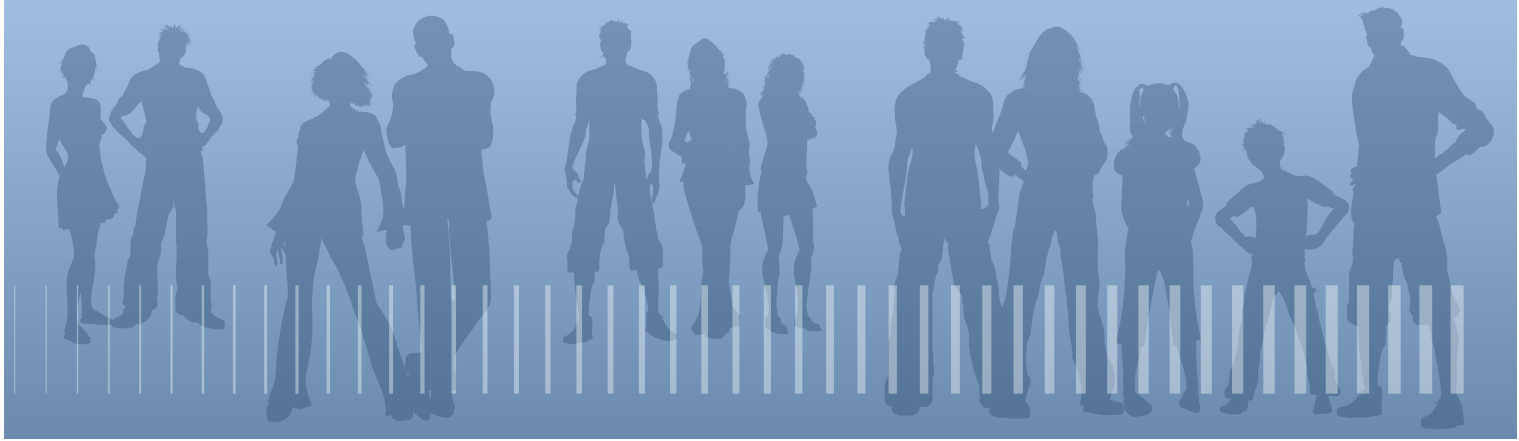
How can I find out if a project is proposed for my area?

Before carrying out formal consultation on a proposal, the developer should notify the Planning Inspectorate that they intend to submit an application in the future. The Inspectorate will then add the project to the Programme of Projects on the National Infrastructure portal¹ This will include the anticipated submission date as well as a register of procedural advice given by the Inspectorate in connection with the project.

When should I respond to the developer's pre-application consultation?

Until a formal application for development consent has been submitted to the Planning Inspectorate, members of the public should give their views on a project directly to the developer and not to the Inspectorate.

¹ <http://infrastructure.planninginspectorate.gov.uk>



Before submitting an application, the developer is required to carry out extensive consultation on their proposals. This involves providing information about the proposal to various statutory and non statutory bodies and the wider community, responding to questions, listening to suggestions, and taking these into account to influence and inform the application ultimately submitted to the Inspectorate. This does not mean that the developer has to accept or agree with every comment or suggestion made but they must give them proper consideration.

The best time to influence a project is during this period of consultation between the developer, the local community and others. In order to meet the requirements of the legislation and to ensure that a fully considered application is later submitted to the Inspectorate, developers will wish to hear your views at the earliest opportunity in the process. You can tell the developer your views of their project, whether you support it, think it could be improved, or oppose it – and why.

Even if you oppose a project in principle, you should seek to learn as much as you can about it by taking part in the pre-application consultation. This is also the best time to make any suggestions to the developer about how the impacts of a project could be mitigated.

Taking part by commenting at this stage does not prejudice your ability to object to the scheme later in the process and may enable you to influence the design of the project.

It is not normally possible for substantial changes to be made to an application once it has been submitted to the Inspectorate. So, if you want to influence the project, you should take part in the developer’s pre-application consultation process.

How will the developer carry out its consultation?

The developer must have regard to the guidance published by the Department for Communities and Local Government regarding pre-application consultation.

The type of consultation that a developer will carry out will vary depending upon the nature of a project and the needs of the local community. For example, a developer is unlikely to carry out a consultation with a community based in a large city in quite the same way that they would consult with a dispersed rural community.

Before formally consulting people living in the vicinity of the project, the developer will prepare a Statement of Community Consultation (SOCC), having first consulted relevant local authorities about what it should contain. The SOCC details the consultation the developer intends to undertake with the local community about their project. The developer is then required to carry out their consultation with the local community as set out in the SOCC.



Consultation will typically be extensive and will use many different types of communication to ensure that all parts of the community have the opportunity to get involved and have their say. For example, this may include exhibitions or community events with opportunities to view and comment on projects before they are finalised. It may also include notices in public places, and newsletter or letter drops in affected areas.

The developer is required to publish a notice stating where and when the SOCC can be inspected. If you are not satisfied with the developer's consultation process you should inform the developer about your concerns as soon as possible and allow time for a response.

You may also wish to notify the local authority, as they will later have the opportunity to report on their view of the adequacy of the developer's pre-application consultation, measuring what was delivered against the commitments made in the SOCC.

What happens next?

When submitting a formal application to the Planning Inspectorate, the developer must demonstrate that they have taken account of consultation responses provided by the local community and others, including the local authority(s), land owners and statutory consultees.

Once the application has been submitted, the Secretary of State has 28 days to decide whether or not to accept it for examination. One of the factors to be considered is whether or not the developer's consultation process has been

adequate; the Secretary of State will have regard to any report on the adequacy of consultation produced by the relevant local authority(s) and compliance with the statutory consultation requirements.

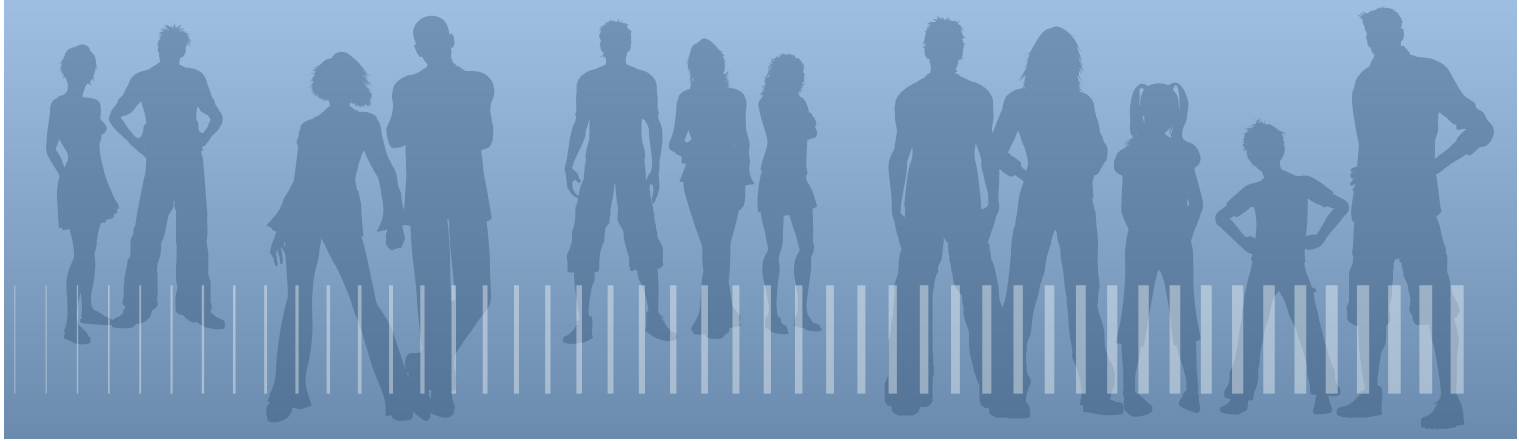
Transitional arrangements for National Infrastructure planning

Up to 1 April 2012, the Planning Inspectorate's functions described in this Advice Note were carried out by the Infrastructure Planning Commission (IPC).

Where an application or proposed applications has been formally notified² to the IPC before 1 April 2012, anything done before that date is treated as having been done for the purposes of the 2008 Act provisions as amended by the Localism Act 2011³.

² Under s46 PA2008

³ See The Infrastructure Planning (Transitional Provisions) Direction 2012



Advice Note 8 series

The Planning Inspectorate has produced a series of non-statutory Advice Notes about a range of process matters. These are available to download on the guidance & advice page of the National Infrastructure portal.

The Planning Inspectorate's Advice Note 8 series explains how to get involved in the National Infrastructure planning process. It includes 5 advice notes, as follows:

Advice Note 8.1: How the process works

Advice Note 8.2: Responding to the developer's pre-application consultation

Advice Note 8.3: How to register and become an interested party in an application

Advice Note 8.4: Influencing how an application will be examined – the Preliminary Meeting

Advice Note 8.5: Participating in the examination.

If you would like to order copies or you require further information about any of these issues, please contact the Planning Inspectorate:

The Planning Inspectorate, National Infrastructure Directorate, Temple Quay House, Temple Quay, Bristol BS1 6PN

Email: enquiries@infrastructure.gsi.gov.uk

Telephone: 0303 444 5000

Web: <http://infrastructure.planninginspectorate.gov.uk>

Alternatively, for independent planning advice, you may wish to contact Planning Aid:

Planning Aid England Advice Line 0330 123 9244

Email: advice@planningaid.rtpi.org.uk

General enquiries: 020 3206 1880

Email: info@planningaid.rtpi.org.uk

Planning Aid for London: 020 7247 4900

Email: info@planningaidforlondon.org.uk

Planning Aid England Wales: 02920 625 000

Web: www.planningaidwales.org.uk

The content of this advice note was updated in February 2012 in order to provide the most helpful advice to all parties in light of lessons learned through implementation of the process and feedback from all parties.

This advice note was republished on 1st April 2012 with changes to reflect the Infrastructure Planning Commission being abolished and the work of the IPC transferring to the Planning Inspectorate under the Localism Act 2011.