

Consultation on operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process

POS response to consultation

Sep 2023

1 Planning Officers Society

1.1 POS is the single credible voice for public sector planners, pursuing good quality and effective planning practice. The Society's aim is to ensure that planning makes a major contribution to achieving sustainable development in ways that are fair and equitable and achieve the social, economic and environmental aspirations of the community.

1.2 We operate in three main ways:

- As a support network for planners in the public sector
- As promoters of best practice in planning
- As a think tank and lobbying organisation for excellence in planning practice

1.3 Where we can, we will work across the sector to craft proposals that have widespread support from the people who operate the planning system at the coalface: landowners, developers, agents, legal, local authorities and politicians. We will be both radical and practical as we look for solutions to tangible problems that will make a real difference to crucial areas. Our objective is to improve the planning system to enable it to deliver its key aim of sustainable development. It is within this context that we have set out this advice to Government so we can plan together for a better future.

2 Questions

Question 1: Do you support the proposal for a new and chargeable pre-application service from the Planning Inspectorate?

Yes, subject to availability of Inspectors with the necessary knowledge and not impacting upon the Inspectorate's regular workload

Question 2a: Do you agree with the 3 levels of service offered?

Yes, it make sense to ensure that the pre-application service is tailored to the complexity of the project

Question 2b: If you are an applicant, which of the 3 tiers of service would you be most likely to use and for how many projects?

Please explain your reasons for choosing this tier / these tiers.

No comment

Question 3: Would having the flexibility to change subscriptions as a project progresses through pre- application be important to you?

No comment

Question 4: To what extent do you agree that the overall proposals for merits and procedural advice will enable the policy objective to be met?

Having input from Inspector's throughout the pre-application stages should ensure that the application is fit for purpose at the examination stage and avoid new issues being raised which can put the community at a disadvantage

Question 5: Do you have any specific comments on the proposals in the Table above?

No comment

Question 6: Do you agree with the proposed changes to the consolidated list of statutory consultees outline above?

Yes

Question 7: Are there any other amendments to the current consolidated list outlined in table 2.1 that you think should be made?

No

Question 8: Do you support the proposed introduction of an early 'adequacy of consultation' milestone?

Yes, provided local authorities are fully consulted before the 'milestone' is achieved

Question 9: Are there any additional factors that you think the early 'adequacy of consultation' milestone should consider?

No, but local authorities would want to be consulted further on what the 'adequacy of consultation' means in practice

Question 10: Our evidence shows that there is a substantial amount of community consultation that happens during the lifetime of an NSIP. To guide our reforms, and to ensure that reforms support faster consenting, preventing consultation fatigue, more proportionate community consultation, with clearer tests for adequacy, it is important to gather further information about the causes for multiple consultations. What are the main reasons for consulting with communities multiple times during the lifetime of an NSIP application?

- What constitutes adequate consultation is not clear from legislation.
- What constitutes adequate consultation is not clear from guidance.
- What the Planning Inspectorate will accept as adequate consultation is not clear.
- It is challenging to get the right level of information from consultations.
- The age of the National Policy Statements means more consultation is needed than before.
- It is the main way to update a community on changes that are made to a project.
- It is hard to engage with the correct communities.
It is a means to mitigate legal challenge for the project.
- It is part of how to build enthusiasm for a project over time.
- It is a helpful way to develop the project.

Are there any other factors that play a part in multiple consultations seen to be required by developers?

Changes may be made to the project by the applicant as it progresses through the system

The NSIP process is lengthy and during that period new community groups may evolve

There may be changes of political control in local authorities, election of a new mayor etc

Question 11: Are there any other measures you think that government could take to ensure consultation requirements are proportionate to the scale and likely impact of a project?

No

Question 12: To what extent do you agree with the proposal to remove the prohibition on an Inspector who has given section 51 advice during the pre-application stage from then being appointed to examine the application, either as part of a panel or a single person?

Please provide your reasons

Agreed – it would make sense and be helpful to the examination panel to include an Inspector involved at the section 51 process because of their prior knowledge of the application

Question 13: To what extent do you agree that it would lead to an improvement in the process if more detail was required to be submitted at the relevant representation stage?

Please provide your reasons

Subject to the Local Planning Authority having all the necessary information about the project during the consultation stages and having the opportunity to see the representations from statutory bodies this could improve the examination process. As is often the case, if the applicant introduces new material during the examination process, local authorities must be able to make further written representations.

This is all subject to the local authority having sufficient resources (see section 8) in advance of the examination and sufficient time

Question 14: To what extent do you agree that providing the Examining Authority with the discretion to set shorter notification periods will enable the delivery of

examinations that are proportionate to the complexity and nature of the project but maintain the same quality of written evidence during examination?

Please provide your reasons

Agreed, subject to clarity about the justification for shorter notification stages in relation to the complexity and impact of the project

Question 15: To what extent do you agree that moving to digital handling of examination materials by default will improve the ability for all parties to be more efficient and responsive to examination deadlines?

Hard copies must still be available and convenient at all stages in the progress of the application, particularly plans and drawings for those engaging who are not IT literate, do not have access to a computer and for plans that take up a lot of space on home computers

Question 16: To what extent do you agree that the submission of 'planning data' will provide a valuable addition as a means of submitting information to the Planning Inspectorate?

Please provide your reasons

Seems sensible since virtually all normal planning applications are submitted electronically

Question 17: Are there any other areas in the application process which you consider would benefit from becoming 'digitalised'?

POS thinks greater use should be made of electronic information during the examination process itself such as showing plans and drawings on screens whilst the proposal is being discussed

Question 18: To what extent do you agree that projects wishing to proceed through the fast track route to consent should be required to use the enhanced

pre-application service, which is designed to support applicants to meet the fast track quality standard?

Please provide your reasons

Agreed, it will be important the application is of highest quality when using the fast track procedure. Local communities and local authorities should not be disadvantaged by the Fast Track route

Question 19: To what extent do you consider the proposed fast track quality standard will be effective in identifying applications that are capable of being assessed in a shorter timescale?

Please provide your reasons

The contents of Fast track document produced at the outset does appear to include all the necessary steps and quality standards in support of Fast Track procedure

Question 20: On each criteria within the fast track quality standard, please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes. Please also include any additional criteria that you would propose including within the fast track quality standard?

POS strongly agree with all the quality standard criteria listed

Question 21: To what extent do you agree that the proposals for setting the fast track examination timetable strike the right balance between certainty and flexibility to handle a change in circumstance?

Please provide your reasons

Local Planning Authorities and community groups need to have the opportunity to provide an input into the decision to use a fast track procedure

Question 22: To what extent do you agree that there is a need for new guidance on which application route proposed changes should undergo?

Please provide your reasons.

Agreed, from experience changes to the DCO is a laborious process even for non material changes

Question 23: In addition, what topics should new guidance cover that would help to inform decisions on whether a proposed change should be considered as material or non-material?

Maybe compliance or not with the original environmental assessment? Impact upon interested parties?

Question 24: To what extent do you support the proposal to introduce a statutory time frame for non-material change applications?

What do you consider is a reasonable time frame for determining non-material applications? Please note, determination is referred to as the time it takes for the relevant department to make a decision on an application once the appropriate consultation has been undertaken. Any time frame included in legislation would need to provide a specific timescale for determination.

6-8 weeks

8-10 weeks

10-12 weeks

Other - Please justify your selection

POS suggests 8 – 10 weeks which is comparable to a normal planning application

Question 25: Taking account of the description of the services in section 2.2.1 to what extent do you believe a cost-recoverable pre-application service will represent value for money in supporting applicants to deliver higher quality applications with minimal residual issues at submission?

Please provide your reasons

No comment

Question 26: To what extent do you agree with the proposal to charge an overall fee (appropriate to the tier of service that will cover the provision of the service) for a fixed period?

Please provide your reasons

No comment

Question 27: The government has set out an objective to move to full cost recovery for the Planning Act 2008 consenting process. To what extent do you support the proposal to support the Planning Inspectorate to better resource their statutory work on consenting by reviewing and updating existing fees, and introducing additional fee points?

Please provide your reasons

No comment

Question 28: To what extent do you support the proposal to review and update existing fees in relation to applications for non-material changes to achieve cost recovery and support consenting departments in handling these applications?

Please provide your reasons

No comment

Question 29: To what extent do you agree that the proposed review and update of existing fees and introduction of additional fee points will support the Planning Inspectorate to better resource their statutory work on consenting?

Please provide your reasons. If do not agree, are there any other ways to support the Planning Inspectorate to better resource their statutory work?

These four questions are more an issue for potential applicants but if PINS is going to provide the suggested pre-application service (which should also benefit the local authorities concerned) it will need proper staffing and funding

Question 30: To what extent do you agree that defining key performance measures will help meet the policy objective of ensuring the delivery of credible cost- recoverable services?

Please provide your reasons. If do not agree, are there any other mechanisms you would like to see to ensure performance?

No comment

Question 31: Do you agree with the principles we expect to base performance monitoring arrangement on? Please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes:

The proposal is to define KPI's for all statutory consultees which would also be helpful for local authorities. POS supports the KPI principles set out in the consultation document

Question 32: We would like to monitor the quality of customer service provided, and the outcomes of that advice on applicant's progression through the system where practicable. Do you have any views on the most effective and efficient way to do this?

More an issue for applicants but compliance with the KPI s would seem a good starting point

**Question 33: To what extent do you support the proposal to enable specific statutory consultees to charge for the planning services they provide to applicants across the Development Consent Order application process?
Please provide your reasons**

No comment

Question 34: To what extent do you agree with the key principles of the proposed charging system? Please select from the options listed in the table below and give reasons in the 'comment' text box.

No comment

Question 35: Do you have any comments on the scope and intended effect of the principles of the charging system?

POS supports the charging of services

Question 36: Do you support the proposal to set out principles for Planning Performance Agreements in guidance?

POS is aware that resourcing LPA's to enable engagement in the process is a major issue for most councils. Many developers already fund local authorities to help deal with the processing of planning applications etc, but it is essential, as the Consultation Paper recognises, that the funding arrangements should start at the very beginning and then continue through the formal examination stage and then onto the implementation stages until the project is completed.

The use of a planning performance agreements many well the best way to achieve such an outcome but should not just be seen as a way of expediting the process, but as a means of facilitating continuing engagement with the local authority and the local community. The funding could be to appoint a single point of contact who would act as the key communication route between the local authority, and all its services, and the developer

Question 37: Do you have any further views on what the proposed principles should include?

POS considers that the funding facilitated by a planning performance agreement should be used to appoint someone in the council who can dedicate their time to the project, rather than it being added to the functions of an existing member of staff where there will always be competing demand on their time. Such an appointment might be part time depending on the nature and complexity of the project but it should be long term commitment

Question 38: To what extent do you agree that these proposals will result in more effective engagement between applicants and local communities for all applications?

Please provide your reasons

The proposals for the appointment for an independent community liaison chair/forum to facilitate community engagement makes sense so long as that person is properly resourced to take on such a task. Again this would have to be a long term commitment and the person truly independent of the developer which is necessary to build trust in the local community

Question 39: Do you face any challenges in recruiting the following professions? Please complete the table below and give reasons.

Question 40: Are there any other specific sectors (as identified above) that currently face challenges in recruiting? If so, please state which ones and give reasons why

POS considers there is a shortage of people with the rather different skills needed to take on this role of being the single point of contact between local authorities and the developer. It would be a project manager role rather than a specific professional role

Question 41: Do you have any ideas for or examples of successful programmes to develop new skills in a specific sector that the government should consider in developing further interventions?

POS considers funding should not be a bidding round but allocated on need

Question 42: To what extent do you agree that updated guidance on the matters outlined in this consultation will support the Nationally Significant Infrastructure Project reforms?

Please provide your reasons

POS agrees on the basis that guidance will be available in a single place

Question 43: Do you support a move towards a format for guidance that has a similar format to the national planning practice guidance?

Please provide your reasons

POS considers a self contained NSIP specific document would be preferable because there is so much information on the National Planning Guidance website but maybe referenced in the NPPG

Question 44: Are there any other guidance updates you think are needed to support the Nationally Significant Infrastructure Project reforms?

Hopefully the above would cover all the issues. However POS considers the proposed programme for implementing the reforms is not realistic

Question 45: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No comment