



Department for
Communities and
Local Government

Major infrastructure planning: expanding and improving the 'one stop shop' approach for consents

Summary of responses and government response

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Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Introduction

1. On 6 September 2012, the Prime Minister and Deputy Prime Minister set out a major package of reforms to housing and planning to help create conditions for economic growth. This announcement included a commitment to ‘work to extend the principle of a one-stop-shop for non-planning consents for major infrastructure’.
2. On 22 November 2012, the Department for Communities and Local Government (DCLG) published a consultation seeking views on proposals to expand and improve the ‘one stop shop’ approach for (non-planning) consents for the planning regime for nationally significant infrastructure projects¹. In particular, we sought views on proposals to:
 - Establish new arrangements to improve coordination and communication between the Planning Inspectorate, applicants and other consenting bodies to make the overall consents process more efficient.
 - Amend secondary legislation to streamline the list of consents (as set out in secondary regulations²) which sit outside the development consent process.
 - Amend secondary legislation³ to update and streamline the list of prescribed consultees in the development consent process; and
 - Redefine the term ‘relevant’ to exclude mandatory consultation of certain bodies responsible for areas that are more distant from the development site.
3. We did not consult on changes to the Planning Act 2008 to bring certain consents within the scope of the nationally significant infrastructure regime. These were included in the Growth and Infrastructure Bill, which is currently being taken through Parliament.
4. The aim of the consultation was to seek views on how we provide a more efficient, effective and streamlined consents regime for nationally significant infrastructure. It was aimed at a range of groups including developers, businesses, residents’ associations, environmental groups, local authorities and planning bodies. It related to England only.
5. The consultation closed on 7th January 2013. We are grateful to the organisations and individuals who took time to respond. We have now

¹ <https://www.gov.uk/government/consultations/nationally-significant-infrastructure-planning-expanding-and-improving-the-one-stop-shop-approach-for-consents>

² Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010

³ Infrastructure Planning (National Policy Statement Consultation) Regulations 2009; Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009; Infrastructure Planning (Interested Parties) Regulations 2010; Infrastructure Planning (Compulsory Acquisition) Regulations 2010; Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

considered all the received responses. This document sets out the Government's response and next steps towards implementation.

6. We now propose to establish a 'Consents Service Unit' within the Planning Inspectorate and to make the changes to streamline two sets of relevant regulations, as set out in the consultation. The intention is that the relevant changes to regulations will come into effect and the new Unit will be operational from April 2013.

Summary of responses and Government response

Table of respondents

Respondent	Total no. of respondents	% of total respondents
Local government	10	21.7%
Public Body	3	6.5%
Private / commercial sector	10	21.7%
Professional / trade body	16	34.7%
Voluntary sector	4	8.6%
Individuals	3	6.5%
Parish council	0	
Totals	46	100%

Overview of main findings

7. Forty-six consultation responses were received from a range of local authority, private sector, voluntary sector, and professional / trade bodies, with broad support for the proposals.
8. A number of respondents provided very helpful detailed comments to help refine the detailed propositions. Several argued that the changes, particularly in relation to consents under section 150 of the Planning Act 2008 (see below for detail) should go further than the current proposition, whilst others raised concerns about the risks of going further. In addition, some respondents queried the implications of the proposed changes for Wales.

Government response: overall reaction

9. Given the largely positive response to this consultation, the Government is now taking forward a programme of work to deliver rapid implementation of these proposals. Further detail on the timing of implementation and next steps is set out below.
10. The consultation document made it clear that the proposed changes would only apply within England. This approach followed discussions with colleagues in the Welsh Government over our proposals and whether they should apply to nationally significant infrastructure projects in Wales.

Questions & responses

Q1. Do you support the proposal to establish new bespoke consent management arrangements within the Planning Inspectorate? Do you have any comments about the structure and governance of the arrangements? Do you think these arrangements will make the overall consents process more efficient? If not, what further reforms would you suggest, including a greater role for the Planning Inspectorate? [Paragraphs 20-25 of the consultation document]

Key points and comments

11. The majority (35 plus) of respondents were supportive of the proposal to establish a bespoke service management option for developers in coordinating and aligning multiple applications to other consenting bodies in addition to the application to the Secretary of State for development consent. Respondents welcomed the flexibility of the proposed arrangements, their voluntary nature and the ability to escalate issues if necessary. Many respondents thought that the Unit would provide greater certainty for developers, with a strong emphasis on pre-application discussions and parallel tracking. A number of respondents were keen to see more detail on how the Unit would work and the service it would offer.
12. Although supportive of the approach, a number of respondents (five or less) wanted to see the Government go further, and called for amendments to, or the repeal of, section 150 of the Planning Act 2008. As it stands, section 150 sets out that an order granting development consent may include provision removing a requirement for prescribed (i.e. as set out in regulations) consent or authorisation only if the relevant body consents. In practice, this means that consenting bodies such as the Environment Agency or Natural England must agree if their consents are to be dealt with in a Development Consent Order. The relevant list of consents and authorisations is set out in associated secondary legislation (the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010).
13. These respondents argued that section 150 was unnecessary now the Secretary of State takes the final decision on whether to issue a Development Consent Order (previously it was the Infrastructure Planning Commission), and that retaining it did not help with simplification and fast tracking. Conversely, other respondents (five or less) raised concerns about going further than the Government's current proposition and the potential risk of losing the expertise, specialist knowledge and independence of the individual consenting bodies alongside resourcing implications for the Planning Inspectorate should they take on more responsibilities.

Government response

14. Following the overall positive response to the consultation, we intend to establish new arrangements to improve co-ordination and communication between the Planning Inspectorate, applicants and other consenting bodies. The Consents Service Unit, to be based in the Planning Inspectorate, will be operational from April 2013 and will offer a bespoke service to those developers that want to use it. It will provide a lead contact to work with the developer and relevant consenting bodies (with a strong emphasis on the pre-application stage), to co-ordinate a logical and systematic approach to the handling of 12 different consents which may be required in addition to development consent under the 2008 Act. These consents could be required during the construction phase and/or the operational phase. The aim is to ensure that, where possible, these are dealt with in parallel. The Unit's key role will be to facilitate effective and efficient decision-making, including identifying any process blockages and resource needs, and escalating such issues where necessary. It will not act as an advocate for any particular project or body, and the independence and impartiality of the different decision makers will be maintained. The Planning Inspectorate will publish a 'Prospectus for Developers' to explain how the Unit will operate.
15. We consider this approach provides developers with flexibility and support without duplicating existing expertise or watering down the protections which currently exist through the consenting regimes of bodies such as the Environment Agency. A number of respondents acknowledged the expertise and advice that consenting bodies offer on their specific regimes.
16. We are mindful of the comments received in relation to the speed and willingness of consenting bodies to engage in discussions with developers, and this will be a focus of the Consents Service Unit. The Government has also made clear through recently updated pre-application guidance⁴ that where an applicant would prefer to include non-planning consents within their Development Consent Order, the relevant consenting bodies should make every effort to facilitate this. They should only object to the inclusion of such non-planning consents with good reason, and after careful consideration of reasonable alternatives. It is therefore critical that such bodies are consulted at an early stage. Where developers request it, the Consents Service Unit can help facilitate such discussions and will help ensure that consenting bodies take a proactive and positive 'yes if' approach to including consents within a Development Consent Order.

⁴ Department for Communities and Local Government (2013) *Planning Act 2008: Guidance on the pre-application process*. January 2013.

<https://www.gov.uk/government/publications/guidance-on-the-pre-application-process-for-major-infrastructure-projects>

17. At this stage the Government does not intend to amend or repeal section 150. Nationally significant infrastructure projects are by nature complex. We currently consider that the relevant consenting bodies, who hold a wide range of expertise on granting, monitoring and enforcing the various consents that are normally required, are well placed to make a judgement, on a case by case basis having regard to the guidance discussed above, about whether their consents should be dealt with as part of the development consent order process. We do not consider that it would be efficient to change that position as part of the current reforms. However, we remain in listening mode and will review the operation of the reforms presented in this document, and consider any further improvements to the way multiple consent applications are dealt with, as part of the full review of the major infrastructure planning regime in 2014.

Question 2. Do you agree with the proposal to streamline the list of consents that are administered by consenting bodies outside of the Development Consent Order process? Have we identified the right consents to be removed? [Paragraphs 26-27 of the consultation document]

Key points and comments

18. The overall response to this question was positive (between 30 and 35). A few respondents expressed a desire to see section 150 repealed (see the commentary on section 150 above). There were a small number (five or less) of queries over specific consents and we have contacted those respondents directly.

Government response

19. In response to comments about the complexity of particular consents, we intend to retain one of the consents proposed for removal from the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 (section 16, Wildlife & Countryside Act 1981). It will be one of the consents where the Consents Service Unit can offer assistance and co-ordination. In addition, the requirements for an operator to notify the Health and Safety Executive regarding specified practices involving ionising radiation in a workplace, as set out in Regulation 5 of the Ionising Radiation Regulations 1999 will also be removed, since it applies to post construction practices. Similarly the requirement of an operator to notify the Health and Safety Executive that a hazard identification and risk evaluation has been completed - set out in Regulation 4 or 5 of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 will also be removed, since it also applies to post construction practices and since where this applies to a nuclear site a permission to operate would not be granted if this were not in place, the additional requirement under section 150 is not

necessary.

20. With regards to the other consents we proposed for removal from these same regulations, these changes are being implemented through new secondary legislation which will come into effect from April. In effect we are removing 16 different prescribed consents in England.
21. We have included measures in the Growth and Infrastructure Bill (currently being taken through by the Houses of Parliament) to bring five consents currently subject to separate consent and certification requirements within the scope of the Development Consent Order.

Question 3. Do you consider that the list of prescribed consultees should be reviewed? Do you agree with the suggested amendments as outlined in Annex C? If not, what are your alternative proposals? [Paragraphs 28-30 of the consultation document]

Key points and comments

22. The majority of respondents (35 plus) were content with this proposal, with many citing that it was good practice to keep such a list under review. A number of respondents (between 5 and 10) did not agree to the proposed deletion of those bodies that represented certain transport interests i.e. Integrated Transport Authorities, Passenger Transport Executives and Transport for London. Several respondents (five or less) also suggested that the Planning Inspectorate establish a central contacts database of prescribed consultees which is regularly updated.

Government response

23. We have taken note of respondents' concerns, and have decided not to remove certain bodies from the prescribed consultees list. This includes certain transport bodies, the Royal Commission on Ancient and Historical Monuments of Wales, and the Relevant Health Board in Scotland. In addition, there are a small number (2) of prescribed bodies we had suggested for deletion which we are now updating e.g. relevant Strategic Health Authority is being replaced with the NHS Commissioning Board and relevant Clinical Commissioning Group. We are implementing these changes through new secondary legislation, which will come into effect from April. In effect we are removing at least one third of prescribed bodies from the regulations.
24. In respect of the suggested central contacts database, the Planning Inspectorate already provides applicants with a comprehensive list of the bodies they need to consult in connection with the preparation of their Environmental Impact Assessment. Much of the information

applicants need regarding prescribed consultees is included within this list. The precise extent of consultation required on the application itself is unique in each case however, and a contact database would not necessarily ensure that applicants meet the statutory consultation requirements. The Inspectorate will, however, provide applicants with advice under section 51 of the Planning Act 2008 in relation to contact information for particular consultation bodies wherever feasible.

Question 4. Do you agree with the proposition to amend the current definition of the word 'relevant' to exclude the mandatory consultation of bodies that are more distant from the development site? [Paragraphs 31-32 of the consultation]

Key points and comments

25. The majority of respondents (35 plus) were in favour of this proposition. Several (between 5 and 10) commented on the need for 'meaningful' or 'appropriate' consultation, with distance not necessarily being a good proxy for reduced impact.

Government response

26. In view of the positive response from consultees, we are implementing these changes through new secondary legislation which will come into effect from April.
27. We also note the comments regarding 'appropriate' consultation. This serves to emphasise the importance of identifying the right consultees through pre-application discussions. The Government's recently updated pre-application guidance⁵ makes clear that applicants "may also wish to strengthen their case by seeking the views of other people who are not statutory consultees but who may be significantly affected by the project".

⁵ Department for Communities and Local Government (2013) *Planning Act 2008: Guidance on the pre-application process*. January 2013.
<https://www.gov.uk/government/publications/guidance-on-the-pre-application-process-for-major-infrastructure-projects>

Conclusion

28. Overall, the responses to the proposals outlined in the consultation were positive. The Government is now taking forward a programme of work to deliver rapid implementation of these proposals as follows:

- Establish the new Consents Service Unit by April, in response to the concerns of developers about the challenges of coordinating and aligning multiple consent application procedures for nationally significant infrastructure projects. The Unit will cover 12 non-planning consents, with a strong focus on the pre-application stage.
- Streamline the list of non-planning consents which sit outside the development consent process by removing 19 different consents from secondary legislation.
- Update and streamline the list of prescribed consultees in secondary legislation, reducing it by at least one third.
- These changes are in addition to the five separate certificates and consents which are being removed from the Planning Act 2008 through clauses in the Growth and Infrastructure Bill.