



Department for
Communities and
Local Government

Planning Act 2008

Summary of responses to the consultation on proposed changes to the suite of guidance documents for the major infrastructure planning regime

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Introduction

A public consultation was launched in April 2012 for the Light Touch Review of the six guidance documents underpinning the Planning Act 2008. This suite of documents includes guidance on the pre-application process; associated development; examinations; application forms; fees; and the compulsory acquisition of land. All guidance documents have now been published and have been well received by users of the major infrastructure planning regime.

We received a total of 37 substantive responses from a range of organisations on all 6 guidance documents on which we sought views. Changes reflect users request for clarity and simplification of the guidance documents, as well as amendments made to the Planning Act as the result of new legislation being introduced. This paper gives a summary of the main areas in those documents that have been amended and clarified.

Copies of individual responses can be made available on request and in accordance with the access to information regimes¹.

Summary of the responses to the consultation

Guidance on the pre-application process

We received 30 responses on the pre-application process guidance, including 11 developers; 11 planning and professional bodies; 4 environmental/conservation organisations, and 4 local authorities.

The majority of respondents (29) agreed that the revised guidance should merge and expand reworked versions of two separate, previous guidance notes on pre-application consultation and guidance for local authorities. By merging these two documents, we avoided unnecessary repetition of the description of common processes and provided greater clarity on the roles of different bodies. The new guidance has been well received by sector practitioners, as it sets out the necessary requirements and procedures and gives clarity on the scope and scale of the consultation required at the pre-application stage.

Respondents to the consultation asked for more detailed guidance or greater clarity on a range of topics including:

¹ The Freedom of Information Act 2000; the Data Protection Act 1998; and the Environmental Information Regulations 2004.

- clarification on the appropriate levels of consultation and drafting a development consent order;
- the duty to co-operate;
- need for clarity on what constitutes 'offshore';
- need to reference the Habitats Regulations Assessment; and,
- a desire for guidance on how the Planning Inspectorate will now comment on merits at pre-application.

In light of the consultation responses, the final guidance document includes more information and greater clarity over the consultation process, in particular on consultation for offshore development, Environmental Impact Assessment, Habitats Regulations Assessment, and drafting a development consent order. The new guidance also makes it clear that the pre-application consultation process should be proportionate to the scale of a specific project, and sets out some of the considerations that developers would need to take into account.

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

Guidance on associated development applications for major infrastructure projects

24 respondents provided comments on the draft guidance note on associated development, including 11 developers; 4 planning and professional bodies; 5 environmental/conservation organisations, and 4 local authorities.

The key themes that emerged were around the need for greater clarity on what constitutes associated development and in particular, when developers could provide for 'overcapacity'. Respondents also provided a range of examples of associated development that could be included as part of a development consent order. As a result, the guidance has been improved by adding two annexes with general and infrastructure-specific examples of the type of development that may qualify as associated development.

Revised guidance on pre-application can be found at <https://www.gov.uk/government/publications/planning-act-2008-associated-development-applications-for-major-infrastructure-projects>

Guidance for the examination of applications for development consent

25 consultees provided comments on the draft guidance on the examinations process, including 11 developers; 7 planning and professional bodies; 3 environmental/conservation organisations, and 4 local authorities.

The main areas of interest for respondents were around the need for greater clarity of the examination process, and the role of the Examining Authority. The guidance provides greater clarity around some of the examination procedure rules; has been refreshed to bring it into line with the amendments made to the Planning Act by the Localism Act; and has been made more concise in the process. The guidance also now clarifies the process for making changes to a development consent order post submission.

Revised guidance on pre-application can be found at <https://www.gov.uk/government/publications/planning-act-2008-examination-of-applications-for-development-consent>

Guidance on the Application Form

We received 15 substantive comments on the application form guidance, including 6 environmental/conservation organisations; 5 developers; 3 planning and professional bodies, and 1 local authority.

The application form guidance has been refreshed to bring it into line with the amendments made to the Planning Act by the Localism Act, and it has been made more concise in the process. The key themes that emerged from the consultation were around the need for more clarity about what information needs to be provided in the application form, for example, when it is acceptable to combine land and Crown land plans (composite plans), and what information needs to be submitted in respect of habitats and the historic environment.

Revised guidance on pre-application can be found at <https://www.gov.uk/government/publications/planning-act-2008-application-form>

Guidance on the Infrastructure Planning (Fees) Regulations 2010

12 consultees provided substantive comments on the draft fees guidance, including 5 developers; 4 local authorities, and 3 planning and professional bodies.

The majority of respondents (7) said that it would be useful to keep and update the worked examples of likely fees. The final guidance document has been updated and to provide greater clarity over how fees are calculated (i.e. actual 'working days' for the examination). It also includes an annex with illustrative examples of how fees are calculated in the practice.

Other amendments to the fees guidance were consequential on the abolition of the Infrastructure Planning Commission and the coming into force of the Infrastructure Planning (Fees) (Amendment) Regulations 2013 in April 2013.

Revised guidance on pre-application can be found at <https://www.gov.uk/government/publications/planning-act-2008-infrastructure-planning-fees-regulations-2010>

Guidance on procedures for the compulsory acquisition of land

We received 14 substantive responses with comments on the compulsory acquisitions guidance, including 9 developers; 3 planning and professional bodies, and 2 local authorities.

Respondents made suggestions on how the guidance could be clarified, for example, on what information is required to make a compelling case in the public interest for the compulsory acquisition of land. Consultees also asked for clarification on the contents of the book of reference, and a new annex has been added to provide greater clarity and guidance.

In addition, the guidance has been updated to reflect recent changes to the Planning Act, particularly those resulting from the Growth and Infrastructure Act 2013. This includes changes to the consent and certification requirements and to the circumstances where special parliamentary procedure can be triggered. For further clarification, we have included a revised annex on special categories of land, and a new annex on Crown land.

Revised guidance on pre-application can be found at <https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land>