



Department for
Communities and
Local Government

Government response to the consultation on the review of the Nationally Significant Infrastructure Planning Regime

© Crown copyright, 2014

Copyright in the typographical arrangement rests with the Crown

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

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

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

April 2014

ISBN: 978-1-4098-4210-1

Contents

Introduction	4
Summary of consultation responses	4
Improving the pre-application phase	5
Improving pre-examination and examination phase	10
Making changes to Development Consent Orders	14
Streamlining consents	16
Improving engagement	17
Annex 1 - Implementation plan	19

Introduction

1. Delivering economic growth is a priority for this Government. Improving the efficiency and speed of the planning process, particularly for infrastructure delivery, is a crucial part of creating the right conditions for sustainable growth. This Government is committed to securing investment in new nationally significant infrastructure as part of its efforts to rebuild the economy and create new jobs.
2. Ensuring that the nationally significant infrastructure planning regime is operating as effectively and efficiently as possible is therefore an important priority and is one of the strands of wider reforms we have made to the planning system.
3. In 2013, this Government decided to begin a review of the nationally significant infrastructure planning regime, some 5 years after the regime was implemented through the Planning Act 2008. The review team held initial discussions with around 40 partners – developers currently building or intending to build new infrastructure; local authorities who have dealt with applications in their areas; statutory consultees who are required to advise on any application; other organisations with an interest in nationally significant infrastructure; and representatives from local community groups. Their feedback was positive. They thought the regime was working well but there were a number of small improvements which would make the regime even more effective.
4. In early December 2013, the Government launched a discussion document to consult on those potential changes which partners suggested could improve the regime. The consultation ran from 4 December 2013 until 24 January 2014.

Summary of responses to the consultation

5. There were a total of 53 responses to the discussion document with responses from a wide range of organisations and individuals including developers, statutory consultees, local authorities and individuals.

The table below gives a breakdown of respondents.

Type of respondent	Number of responses	Percentage
Developer/Promoter	17	32%
Trade Association/Representative body	14	26%
Statutory Consultee (excl local authorities)	11	21%
Community Group/Citizen	7	13%
Local authority	4	8%
Total	53	100%

6. Respondents were clear that the regime had steadily improved and was working well. They said our priority now should be making practical improvements to boost effectiveness even further, rather than a radical overhaul of the regime.

7. As part of the review, respondents were asked to indicate which areas they thought should be prioritised for improvement. Whilst responses were varied, there was a clear appetite amongst users of the regime for improvements in three areas: improving the pre-application stage; making “post consent” changes to Development Consent Orders; and further improving engagement with communities and local authorities.
8. The Government is prioritising action in these three areas and improvements will be made by May 2015. Government will also take forward changes to other parts of the regime at the same time. Annex 1 sets out an implementation plan for making improvements to the system and shows that there will be a phased approach to implementation. The majority of the improvements arising from this review will be implemented before May 2015. Some improvements will require changes to primary legislation and where this is the case it is identified in the text.
9. The remainder of this document sets out the Government’s response including specific actions Government is intending to take in response to the issues raised and the improvements suggested. It is split into five sections, mirroring the original discussion document.

Improving the pre-application phase

10. The pre-application phase was the area most commonly identified as needing improvement. There was a sense that this phase is too lengthy and onerous and that changes could reduce the burden on all parties. There was also a concern that risk aversion amongst developers was leading to focus on quantity of material rather than on quality.
11. The discussion document set out a number of potential areas for improvement. These included:
 - strengthening advice from the Planning Inspectorate;
 - a more structured approach to pre-application;
 - advice on drafting Development Consent Orders;
 - identifying and publicising examples of good documentation; and
 - a suggestion that the Planning Inspectorate should hold back from immediately publishing early conversations with developers in order to encourage developers to engage early.
12. Respondents were also asked to indicate whether this was a priority area for the review and invited to suggest other ways that pre-application could be improved.

Summary of consultation responses

13. Respondents were clear that this should be a priority area for improvement. However, it was also identified as an area where reform should be carefully considered to avoid the possibility for unintended consequences which could impact on later stages of the process.

14. The time taken for pre-application varies according to the nature of the scheme and developer preference. Although some respondents wanted to explore ways to speed it up, particularly with regard to community consultation, others were concerned that time saved from the pre-application phase might lead to additional pressure on later stages, notably examination.

A more structured approach to pre-application

15. Respondents welcomed the suggestion of a more structured and facilitative approach from the Planning Inspectorate with set meetings and milestones agreed at the outset. It was acknowledged that this could help the developer to plan and drive the pace of their pre-application work but it was also recognised that it is for each developer to determine their preferred pace and how much project management support they require.
16. The work of the Consents Service Unit was supported, with some developers believing there should be more help and advice on how to plan their engagement with statutory consultees and practical assistance with matters as providing contact details. Some developers sought steers on when and how best to approach and work with those agencies and the consenting authorities. Some statutory consultees also favoured this, hoping that better and earlier dialogue between the Planning Inspectorate and developers would result in earlier and fuller sharing of emerging proposals. This in turn would permit greater time for scrutiny by statutory consultees, some of whom reported that large volumes of highly technical information can sometimes arrive too late in the pre-application phase to permit full scrutiny by all interested parties.

Further improving advice from the Planning Inspectorate

17. There was a good level of support for the suggestion that the Planning Inspectorate should provide clearer advice to developers throughout the pre-application phase. Concerns were raised that without this advice developers may default to “quantity” over “quality”, with unnecessary amounts of work devoted to some issues. It was recognised that this is an area where existing practice could be built on and advice could cover a wide range of issues including: the likely interests and concerns of statutory consultees; understanding just how much detail is required for particular studies, consultations and reports; and how the emerging scheme can best address the requirements of the relevant National Policy Statement(s).
18. There was a further suggestion that the Planning Inspectorate could build on its practice of bringing parties round the table, to help ensure a good dialogue between developers and statutory consultees. A small number of respondents wanted the Planning Inspectorate to go even further, for example arbitrating between a developer and a statutory consultee if there were disagreements about the level of detail or focus required for pre-application work.

More help in preparing draft Development Consent Orders

19. Respondents welcomed the possibility of more help in preparing Development Consent Orders and associated documentation. Some were also concerned at the variability in Development Consent Orders, observing that some are more detailed than others and may be overly prescriptive. There was very strong support for the

proposal that examples of good documentation should be identified and shared and it was recognised that there are now a sufficient number of Development Consent Orders to start to identify good drafting and potentially transferable sections or treatment of issues. However, a number of respondents stressed the need to acknowledge that each proposal is unique and were wary about the potential transferability of good examples. A number of respondents wrote that they would be willing to work with the Planning Inspectorate to identify good documents. Model and exemplar clauses were also raised as something that could be developed.

Opting-out of consultations

20. Respondents were broadly in favour of allowing statutory consultees to opt-out of receiving consultations and notifications, but there were mixed views on just how that could be achieved. Some wanted the ability for consultees to opt-back in if it emerged that their input would be necessary at a later stage in the process - a form of conditional opting out. They also said that if this proposal is taken forward, care should be taken to ensure that the interests of potentially affected parties are safeguarded.

Early advice

21. Some respondents expressed strong views on the Planning Inspectorate's current practice of publishing on its website any advice it gives in relation to a proposed application, shortly after having given such advice. Concerns were raised that the current practice does not always strike an appropriate balance between transparency and openness and the need for commercial confidentiality for potential investors in nationally significant infrastructure schemes. This, it was said, leads to developers being inhibited from seeking advice which they believe may be promptly disclosed. It was also pointed out that publication by the Planning Inspectorate of information about a potential scheme may cause needless concern to communities where no application is ever forthcoming, for example if a developer is considering a range of potential locations and sites.

Statutory requirements for preliminary environmental information

22. There was general agreement on the need for greater clarity about how much environmental information needs to be made available as part of the pre-application consultation (referred to in the regulations as preliminary environmental information) and the relationship between this information and the Environmental Statement (which must accompany an application where the development is subject to an Environmental Impact Assessment).

23. Some respondents believed that greater clarity can be produced by removing references to "preliminary environmental information" from secondary legislation and existing guidance. Others argued for clearer guidance on the requirements for environmental information so developers are not taken unawares at examination.

24. Another suggestion was that the Planning Inspectorate could play a greater role through arranging tri-partite meetings of developers, statutory consultees and the Planning Inspectorate so that developers are clear what is expected of them. This could also help ensure that environmental information is provided as early as possible in the process.

Streamlining bureaucracy

25. There was support for extending the use of electronic communications to submit and distribute information, particularly at the pre-application stage, which would help reduce the amount of hard copies needing to be handled by all parties. There was also support for changes to regulations and guidance to make it easier for more communication between parties to be undertaken electronically. However, a number of respondents cautioned that extending the use of electronic communications needs to be balanced against concerns about accessibility. It should not prevent access to information for people with low levels of computer literacy or where broadband coverage is poor.
26. Respondents also set out examples of processes which they thought were unduly bureaucratic. A few respondents were concerned that minor changes to large documents can result in multiple hard copies of documents having to be re-submitted at considerable cost and unnecessary burden for developers. Some respondents also expressed concern that it was disproportionate that every time a document is produced it has to be sent to every single deposit location immediately, given that all documents are uploaded by the Planning Inspectorate on its website and this applies to all stages of the process.
27. Respondents also recognised the benefits of being less prescriptive on the scale of maps, with offshore schemes in particular needing more flexibility to avoid pages of maps showing empty sea.

Other issues

28. Other issues raised included a desire for a more simplified process for obtaining access to land for surveys and to information on interests in land, together with better ways of dealing with changes in land ownership during the pre-application phase. Some respondents suggested that there is uncertainty over the extent to which re-consultation may be required once further changes emerge post consultation. Respondents also wanted clarification on whether a Statement of Community Consultation can be updated once agreed and how and when this is possible.

Government response

Pre-application prospectus

29. This Government will work to further improve the pre-application phase and will give priority to making improvements in this area. An important element of this will be the publication by the Planning Inspectorate of a pre-application prospectus which will set out the services they can provide during the pre-application phase. These services will include:
- an offer of a structured pre-application service for developers which includes set meetings to help applicants pace their work and check that milestones are being met. Such a service is already available upon request but will be more explicitly offered and will be particularly valuable to those applicants with little experience

of working with the nationally significant infrastructure planning regime and who may be dealing with some statutory consultees for the first time;

- stronger promotion of the current Planning Inspectorate practice of facilitating discussion and, if possible, agreement between statutory consultees and applicants to help all parties understand what the Examining Authority is likely to require at examination;
- more candid advice, when sought by applicants, including advice on: 'submission readiness'; the merits of the scheme; and likely examination issues. This will help create less risk-averse behaviour. The Planning Inspectorate already provides advice on both the process and the content of applications, where this is sought; and
- making senior case officers in the Planning Inspectorate available to new applicants to ensure there is the right level of expertise and experience to provide such advice. Some developers want more help navigating the system, understanding the likely concerns of statutory consultees and of the Examining Authority.

30. Government wants to develop the Planning Inspectorate's advisory role and, depending upon the scale and nature of demand for such advice, will look at any emerging resource implications arising from this. The prospectus will clarify the extent to which professional advice can be provided, as developers must remain responsible for their applications regardless of any advice they seek or obtain and how they interpret and use such advice.

More help in preparing application documents and drafting Development Consent Orders

31. Government recognises that there is a demand from users for examples of good application documents. Therefore, the Planning Inspectorate will develop an area on their website which identifies these, and offers worked examples. This resource will grow over time depending upon feedback and input from users. The Planning Inspectorate will solicit help from other parties in identifying documents perceived as being good. To assist applicants with their drafting of Development Consent Orders, the Planning Inspectorate will publish an Advice Note.

Opting out of consultations

32. This Government does not intend, at this stage, to introduce a statutory process which enables statutory consultees to opt-out of consultations as this may generate more bureaucracy than the problem it is trying to address. However, we will consider revising the guidance on discharging consultation obligations to include a section on how to deal with statutory consultees who do not wish to engage further.

Early advice

33. Government recognises that early discussion between developers and the Planning Inspectorate should be encouraged and has reviewed current practice and legal obligations on publishing such early advice. The Planning Inspectorate will set out a new approach in its prospectus. However, we are clear that advice provided should be published at some point, in the interests of openness and transparency.

Statutory requirements for preliminary environmental information

34. Government will revise guidance on preliminary environmental information, to make the requirements clearer and setting out the relationship with Environmental Statements.

Streamlining bureaucracy

35. Government recognises that the application process for nationally significant infrastructure projects should be streamlined wherever possible, but it must remain accessible to all, including those who cannot access digital services easily or at all. With this in mind, the Government will review regulations and guidance to identify possible changes to extend the use of electronic communications.

Other issues raised

36. Government will:

- clarify how best to deal with changes to land-ownership and how such changes can best be handled during the pre-application phase including consultation requirements – including clarity on when it may be necessary to re-consult; and
- offer greater flexibility in the prescribed scale of maps for off-shore (not onshore) schemes.

37. We are mindful that a clear message from the consultation is that the nationally significant infrastructure planning regime is working well and that fine-tuning should be careful to avoid any unintended consequences. However, we will be receptive to other practical suggestions for reform and improvement.

Improving the pre-examination and examination phase

38. The discussion document set out a number of potential changes to the examination process. These included proposals on:

- improving guidance on the extent to which changes to applications can be introduced during the examination;
- changes to the way representations are made and publicised;
- publication of representations as soon as they are received rather than to a more fixed timetable;
- allowing the appointment of two inspectors;
- improving guidance on Statements of Common Ground; and
- holding open floor hearings early in the examination.

39. Respondents were also invited to set out ideas on the ways in which the information requirements could be reduced and any other ways in which the examination process could be improved. They were asked to say whether this was a priority area for the review.

Summary of consultation responses

40. Almost all of the respondents made suggestions about ways in which the examination stage could be improved and there was a large degree of support for most of the suggestions set out in the discussion document. Respondents were clear that improvements to the examination stage were not as important as improvements in other areas (such as pre-application), but suggested that strengthening guidance on the extent to which changes could be made to an application during the examination would be useful.

Improving hearings

41. Many of the respondents felt that further improvements could be made to provide consistency between hearings. It was suggested that practices varied between examinations and that there was some scope for more standardisation. In particular, it was important that inspectors gave a clear indication of the topics to be covered at hearings, with agendas set out in advance in order to allow all sides to prepare appropriately and ensure that the right experts were brought along. There was support for the proposal that open floor hearings, where requested, should be scheduled early in the examination.

Appointment of inspectors

42. Respondents supported the suggestion that the Planning Act 2008 could be amended to allow the appointment of 2 inspectors (currently only 1, 3, 4 or 5 inspectors can be appointed). Some respondents recognised that as the examination fee is largely determined by the number of inspectors handling the application, allowing 2 inspectors could reduce the significant jump in fees currently faced by developers of small projects which are too big or too complex to be examined by a single inspector and currently passed onto a panel of 3 inspectors.

Making changes to applications during examination

43. Many respondents supported the proposal for further work to clarify the extent to which changes to applications can be made once the examination phase has started. It was suggested that there needed to be more flexibility to make changes during the examination period as there are occasions when an improvement to a project is identified after the pre-application stage has been completed. It was said that current guidance and practice means it is difficult to determine the extent to which changes are acceptable once an application has been submitted.

Statements of Common Ground

44. Many respondents recognised the benefit of Statements of Common Ground and commented that these can make the progress of examination much easier by identifying areas of agreement and areas where no agreement is likely to be reached. There was a good level of support for the proposal that the Examining Authority should push for early agreement of these statements and a number suggested that this should be an objective for all parties in the pre-examination phase. Respondents were clear that this was an area where further guidance would be useful.

Making representations

45. A large number of respondents did not support the proposal that representations should be published immediately by the Planning Inspectorate. There were concerns that this might prejudice early respondents who might find their responses contradicted by subsequent representations, and that this might encourage people to respond at the last moment.
46. There was support for further work to look at whether the representations process as a whole can be streamlined. A number of respondents felt it might be possible to change the current two stage process of relevant representations followed by written representations into a single representation process, with a slightly longer period allowed for a single, more complete, submission. It was suggested that this might deliver an overall time saving.

Publishing applications upon submission

47. One of the new ideas emerging from the consultation was that developers should be required to publish and publicise their application immediately following submission to the Planning Inspectorate for acceptance, rather than waiting until after it has been accepted as is currently the case. It was suggested that this change would give anyone interested in an application an additional four weeks to familiarise themselves with documents that can run to many thousands of pages. It was argued that this may help secure earlier agreement of Statements of Common Ground before the examination starts. However, it was acknowledged that time spent studying the application before it had been accepted could be wasted in the event that the application was not accepted or was withdrawn, and that developers could incur an extra cost in publicising an application which did not go forward.

Government response

Improving hearings

48. The Planning Inspectorate will continue to share and embed best practice in the organisation and holding of hearings. Inspectors have already started publishing agendas for hearings at least 1 week in advance of a hearing. These agendas set out in some detail the areas to be tested at the hearing which helps interested parties to determine who should attend. The Planning Inspectorate will keep its practice around setting and circulating agendas under review. In addition, officials from the Department for Communities and Local Government will work with the Planning Inspectorate to clarify the factors that should be considered in determining the timing of any open floor hearing.

Appointment of inspectors

49. Given the widespread support for the proposal to allow the appointment of 2 inspectors, this Government will seek to bring forward amendments to the Planning Act 2008 to enable the appointment of 2 inspectors. At the same time it will seek to amend the Act to allow the inspectors to be appointed once an application has been accepted, rather than delaying appointment until after the developer has publicised their application. This change will allow inspectors to be appointed up to two months earlier than is currently possible. The Government will bring forward these changes once a suitable legislative opportunity arises.

Statements of Common Ground

50. Government recognises the benefit that early agreement of Statements of Common Ground can bring to the examination process. We recognise that these statements can be difficult to agree but a shared understanding of the areas of agreement and disagreement is a valuable contribution to an effective examination. Government would like to see all parties making a concerted effort to agree these statements, with this work beginning in the pre-application period and if possible completed by the end of pre-examination stage. We will revise the examinations guidance to make this expectation clearer and inspectors will continue to encourage parties to agree them.

Making changes to an application post submission

51. The Planning Act 2008 already allows the introduction of limited changes to an application post submission and changes have been made during the examination period for some applications. This Government does not wish to do anything which would jeopardise the existing six month statutory timetable for the examination period. Frontloading, whereby developers do all of their consultation in advance of submitting an application, is an important part of the nationally significant infrastructure planning regime. As far as possible developers should have already considered and assessed any alternative options in the pre-application period.

52. It is clear from the responses to the consultation that current guidance should be strengthened to make clearer to all parties the extent to which changes can be introduced once an application has been submitted. Officials from the Department for Communities and Local Government will work with the Planning Inspectorate to look at this issue further with a view to issuing revised guidance. This will include examples of changes which have been made during examination.

Making representations

53. In light of the negative response to the suggestion that representations should be published immediately, this Government will not bring forward any changes to the current practice. Representations will continue to be published by the Planning Inspectorate once the corresponding representations period has closed.

54. However, Government will do some further work to consider whether the current two stage process of representations could be streamlined and possibly merged into a single process. Officials from the Department for Communities and Local Government and the Planning Inspectorate will set up a group to consider this issue. Where practical opportunities for reform are identified, Government will then seek to take these forward. The group will also look at other ways in which it is possible to make more use of the pre-examination period. Government will come to a view on whether changes should be made by October 2014 but potential changes which arise from this work may not be implemented until after May 2015.

Publishing application documents immediately

55. This Government believes that there is merit in the suggestion that the Planning Inspectorate should enable earlier public access to submitted application documents. Therefore the Planning Inspectorate will ensure that application documents are generally available on the national infrastructure portal as soon as

practicable after they are received (instead of after the formal acceptance process, which is the current practice). However, the Government does not at this stage intend to introduce any changes to the acceptance process or put extra burdens on applicants. Decisions about acceptance will continue to be made on the basis of the application documents submitted, and applicants will remain responsible for formally publicising applications following acceptance.

Making changes to Development Consent Orders after consent is granted

56. When Department for Communities and Local Government officials spoke to users they were clear that there needed to be more flexibility to make changes to Development Consent Orders. In particular, users said it should be easier for changes to be made during the examination period and also once consent had been granted. There was a perception that the current arrangements for making any changes to a Development Consent Order post consent was overly burdensome and bureaucratic and it was not necessary or desirable to treat all material changes as the same, irrespective of the actual local impact these changes could have.
57. The discussion document set out a potential model which could allow more flexibility for dealing with changes to development consents by introducing a distinction between minor material changes and more significant material changes and the different procedures for dealing with each category of change.
58. Respondents were asked for their views on this proposed approach, any alternative approaches and whether this should be a priority area for the review.

Summary of consultation responses

59. There was widespread support for a more proportionate process for handling changes to Development Consent Orders, and many considered this an area that should be given priority. Respondents were clear that a revised process that took account of the types of changes being proposed and delivered these in a shorter statutory timescale than the current process would be valued. At the same time, it was recognised that there was a need to maintain a level of consultation proportionate to the changes being proposed. A number of consultees stressed the importance of the process continuing to allow for proper consideration of the impact of the changes being brought forward.
60. A large number of those responding said it was crucial that clear guidance was provided on what constituted a non-material change, as opposed to a material, change. Some respondents suggested that a need to update the Environmental Statement to reflect the changes being made might form the basis for determining whether a change was material.
61. Many of those responding supported the suggestion of making a distinction between minor material changes and more significant material changes, and then allowing a simplified and fast-track approach to consenting minor changes. Many also indicated

that a division of material changes into these two categories would require clear guidance on what would constitute a minor change.

62. A number of more general comments or suggestions were made on the process for making changes to consents. These included:
- a view that representations made as part of the change process must be limited to consideration of the changes being sought to a Development Consent Order. There should be no opportunity to re-open matters already decided or parts of the Order not being amended;
 - that it was important that a revised process considered the implications of changes to the Order on other consent regimes – for example, environmental permits;
 - that there was a need for any simplified process to take account of cumulative changes to Development Consent Orders. This would then prevent a radically altered scheme being consented through the change process leading to a project that was materially different to that originally consented; and
 - whether it was possible for decisions on more minor changes to Development Consent Orders to be delegated to local planning authorities.

Government response

63. Government will now work up more detail on how a revised process for non-material and material changes could operate and this will be taken forward as a priority. The starting point will be to weigh-up the basis for decisions on whether a change is material or non-material, so this can be set-out in guidance. In particular, the need to update a consented project's Environmental Statement will be considered to see if this could form the basis for an assessment of what is a material or a non-material change.
64. Any revised process is likely to require changes to regulations. Government will consult on the revised processes for making changes to Development Consent Orders by August 2014. A revised process for making changes to consents, revised Regulations and associated guidance covering the new process will be brought forward by April 2015.
65. Government considers that the sub-division between minor material changes and more significant material changes proposed in the discussion document could be difficult to define, given the wide range of projects consented through the nationally significant infrastructure planning regime. It will not therefore take this proposal forward but will instead look to provide a simpler, more flexible and quicker consent process for all material changes to Development Consent Orders. This Government will look to put safeguards in place to ensure that this simpler and quicker process cannot be used to avoid the full application process for development consent where that should be required under the Planning Act 2008.
66. Government does not agree that minor decisions on changes to Development Consent Orders for nationally significant infrastructure projects should be delegated to local authorities. Given the national importance of such projects, it considers that decisions on changes should remain with the Secretary of State. Many minor changes to Orders may be avoided if the original Orders are drafted with sufficient

flexibility. The Advice Note being produced by the Planning Inspectorate on drafting of Development Consent Orders should help with this.

Streamlining consents

67. The discussion document sought views on whether Government had got the balance right on its approach to handling non-planning consents or whether further streamlining would be desirable.

Summary of consultation responses

68. Responses were varied, with some supporting an incremental approach to streamlining non-planning consents under Section 150 of the Planning Act 2008, and others suggesting the overall consenting regime should be simplified.
69. Some respondents wanted developers to be given the choice to include necessary non-planning consents within their Development Consent Order, without requiring the prior agreement of the relevant consenting body. However, some respondents wished to go further and have all non-planning consents currently outside the Development Consent Order brought within the Order.
70. A few respondents were opposed to further streamlining of Section 150 consents, raising concerns about the risk of losing the expertise and independence of the individual consenting body and the impact this could have on the scrutiny of Development Consents Orders.
71. There were a few comments about the importance of consenting bodies adopting a positive approach when considering applications for non-planning consents and it was suggested that, where refusal is given, this should be with good reason, after careful consideration of alternatives.
72. There were also some comments that environmental permitting should continue to be dealt with outside of the Development Consent Order and that where possible environmental permitting should run in parallel to the Development Consent Order process rather than taking place after the Development Consent Order has been granted.

Government response

73. In light of responses, Government intends to consult on proposals to further reduce the list of Section 150 consents. By removing consents from regulations, the consenting body is no longer required to give their permission to the consent being included in the draft Development Consent Order. However, relevant bodies such as the Environment Agency and Natural England would continue to be statutory consultees and all the safeguards around the public examination that surround the Development Consent Order will remain in place.

Improving engagement

74. The discussion document made it clear that local communities, local authorities and statutory consultees play a vital role in the nationally significant infrastructure planning regime and that it was important to engage with these groups early and to maintain that engagement throughout the process. The document also identified a couple of possible ideas for improvement:
- further guidance stressing the importance of developers and statutory consultees engaging early; and
 - encouraging local authorities to share lessons and offer more peer support.
75. The Government asked respondents for their views on these two ideas and invited them to set out any other ideas for improvement. They were also asked to indicate whether they thought this was a priority area for improvement.

Summary of consultation responses

76. Those respondents who commented on the importance of improving engagement agreed that this was a critical aspect of the application process and thought it was a priority area for improvement. Respondents argued that early and adequate engagement was crucial to understanding the position of all parties involved, leading to a better and more streamlined application. Respondents also tended to agree on the importance of ensuring that local authorities and statutory bodies have the resources they need for embarking on a nationally significant infrastructure project. This was particularly challenging for local authorities, who do not always have access to people with the necessary skills to manage nationally significant infrastructure projects.

Clearer guidance on the process

77. Respondents said that there is a need for clearer guidance about the minimum level of documentation to be provided, to help manage the expectations of all parties. For most local authorities and communities involved in a nationally significant infrastructure project it is their first encounter with the regime. Publication of good practice examples and 'made simple' guides would therefore be welcomed.

Stronger role for the Planning Inspectorate

78. There was support for the Planning Inspectorate to play a stronger role in facilitating early engagement between local authorities, statutory consultees and developers, and to promote sharing of good practice.

Greater clarity on the role of statutory consultees and local authorities

79. Some respondents suggested that statutory consultees should engage with key 'customers' (including community groups and not just the applicants) to review generic issues and seek to improve the service through national forums. There were also views about how this engagement should take place, such as identifying a single point of contact within organisations to reduce multiple consultations per project, and by establishing engagement protocols with statutory consultees.

80. Respondents wanted greater clarity of the role of the local authorities in the process, so that this is understood by all the parties involved in an application. There was recognition that these different roles were resource intensive and certain elements had to be delivered within relatively short timescales. Some respondents suggested specific funding for local authorities as a way to help with the costs of responding to consultations on nationally significant infrastructure projects.

Better engagement of local communities

81. Respondents recognised the importance of adequately engaging local communities early on in pre-application consultation and during the examination phase. There was recognition of the time and effort that commenting on applications of this scale requires of local communities.

Peer support and sharing of lessons learned

82. Respondents said that effective peer support and sharing of lessons learned was particularly important for local authorities dealing with nationally significant infrastructure projects. It was suggested that local authorities could consider pooling resources to manage their responses to proposals, or creating planning 'hubs' for bringing together local authorities with experience of responding to a nationally significant infrastructure project to share experiences, support learning and to provide resources, materials and contacts for those that may face their first application.

Government response

83. Government recognises the benefits which come from maintaining high levels of engagement with communities, local authorities and statutory consultees throughout the process and will prioritise actions to improve and strengthen engagement.

Improved guidance

84. Officials from the Department for Communities and Local Government working with the Planning Inspectorate will review existing guidance to ensure that it makes clear the importance of applicants, statutory consultees, local authorities and local communities engaging early in the application process.

Peer support and sharing of lessons learned

85. To inform this work, officials from the Department for Communities and Local Government will support the creation of a working group for statutory consultees and local authorities. This group will help these bodies to clarify their roles, including how they engage with the applicant, the Planning Inspectorate and the local communities from the start of the process. This working group will also explore mechanisms to encourage more peer support so that lessons are learned and disseminated. This group can also consider mechanisms for sharing skills and resources amongst local authorities dealing with nationally significant infrastructure projects. This group will also test the scope for a blueprint for engagement protocols or Planning Performance Agreements for local authorities working on nationally significant infrastructure projects.

Annex 1 – Implementation plan

This implementation plan sets out the actions this Government will take to make swift and practical improvements to the regime.

Respondents to the consultation informed us that the regime works well but can be improved, and our priority is to make those practical changes that users want to see. Although we can and will make progress on a wide number of areas, our priorities will include the three issues that consultation respondents themselves prioritised: improving pre-application; making changes to Development Consent Orders (post consent); and improving engagement.

Another priority action will be investigating whether and how time could be saved within the process by combining relevant and written representations, with a user group being established to develop options.

Improvement measure	Action	Implementation date
Pre-application		
Publish pre-application prospectus	Planning Inspectorate will publish a prospectus setting out the services they can provide during pre-application including: a more structured service; clearer advice; and facilitating discussions between developers and statutory consultees	May 2014
Guidance for statutory consultees wanting to opt-out of consultation / notifications	Department for Communities and Local Government officials to look at clarifying guidance	Pre-application guidance amended by December 2014
Help in drafting Development Consent Orders	Planning Inspectorate to highlight examples of good documentation on the national infrastructure website and issue an advice note on drafting Development Consent Orders	Examples will be published on national infrastructure website from April 2014 and then added to during the year and the advice note will be published in October 2014
Improve guidance on preliminary environmental information	Department for Communities and Local Government officials will work with the Planning Inspectorate to review existing guidance and make	Amended guidance to be published by December 2014

	improvements to clarify requirements	
Early advice	Procedure for handling early advice to be detailed by Planning Inspectorate in the pre-application prospectus	Prospectus will be published in May 2014
Electronic communication	Department for Communities and Local Government Officials will review regulations and guidance to determine areas where electronic consultation is possible and appropriate	Any changes implemented by December 2014
Dealing with changes in land ownership	Review guidance on how to ascertain and respond to changes in land ownership	Government will consider possible changes and bring forward proposals by March 2015
Removing prescription on size and scale of plans	Amend regulations to provide greater flexibility on scale of maps for off-shore developments	Change made to regulations by October 2014
Pre-examination and examination		
Improving consistency of hearings	Planning Inspectorate to continue to embed good practice including ensuring that detailed agendas are provided well in advance of hearings	Changes have already been implemented and this will be subject to an ongoing review throughout 2014
Clearer guidance on timing of open floor hearings where requested	Planning Inspectorate and Officials from Department for Communities and Local Government to consider the factors determining timing of open floor hearings and revise guidance if necessary	Any necessary changes to guidance will be made by April 2015
Allowing appointment of two inspectors	Amend Planning Act 2008 to make it possible to appoint 2 inspectors (including any consequential changes to secondary legislation)	To be taken forward when a suitable legislative opportunity arises
Allowing Examining Authority to be appointed once an application is accepted	Amend Planning Act 2008 to expressly allow immediate appointment of Examining Authority once an application has been accepted	To be taken forward when a suitable legislative opportunity arises
Clearer guidance on Statements of Common Ground	Amend examinations guidance to set clearer expectations about agreeing Statements of Common Ground	Amended guidance to be published by April 2015

Clearer guidance on allowing changes to projects during examination	Department for Communities and Local Government Officials to work with Planning Inspectorate to issue clearer guidance which includes examples of changes which have been made	Amended guidance to be published by April 2015
Streamlining and possibly combining written and relevant representations	Department for Communities and local government officials will set up a working group to consider whether the current representations process can be streamlined or combined	Government will test proposals for combining written and relevant representations and come to a view on any required changes by October 2014
Publishing applications immediately	Planning Inspectorate will amend their practices and publish application documents as soon as practicable after receipt unless the developer asks them not to. Department for Communities and Local Government will clarify pre-application guidance on how the Planning Inspectorate should treat correspondence received during the acceptance period	By August 2014
Making changes to Development Consent Orders post consent		
Implementing a new process for making changes to Development Consent Orders post consent	Department for Communities and Local Government will launch a consultation which sets out a revised process for making changes to Development Consent Orders post consent	Consultation launched in August 2014 with changes implemented by April 2015
Streamlining Consents		
Further streamlining consents	Department for Communities and Local Government will launch a consultation on bringing further consents into the Development Consent Order	Consultation launched in Spring 2014
Improving engagement		
Clearer guidance on the importance of engaging early in the process	Department for Communities and Local Government officials will look at guidance to ensure it reflects the roles of statutory consultees and local	Amended pre-application guidance will be published by December 2014 and amended

	authorities in the process. Government will convene a working group to provide user perspectives on how guidance can be improved	Examinations Guidance will be published by April 2015
--	---	--