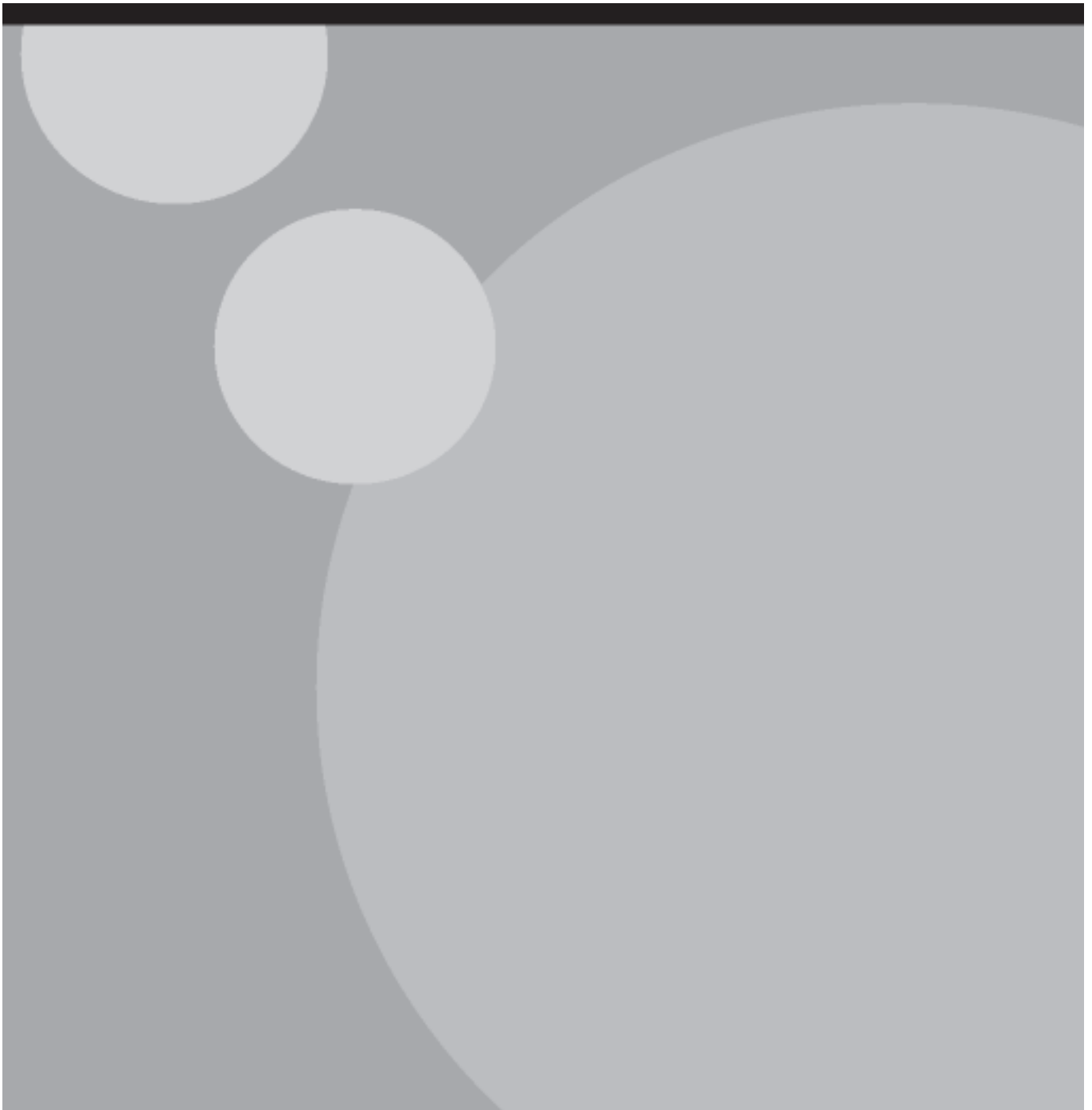




Guidance on associated development

Applications for major infrastructure projects under
the Planning Act 2008: Consultation





Guidance on associated development

Applications for major infrastructure projects
under the Planning Act 2008

© Crown copyright, 2012

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, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

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

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

April, 2012

ISBN: 978-1-4098-3449-6

Introduction

1. The Planning Act 2008 created a new development consent regime for major infrastructure projects in the fields of energy, transport, water, waste water, and waste. Through the Localism Act 2011 the Government made significant changes to the regime by abolishing the Infrastructure Planning Commission and transferring responsibility for accepting and examining applications to the Planning Inspectorate. The Act also required all decisions on applications to be taken by Government Ministers. The relevant provisions of the Localism Act were commenced on 1 April 2012.
2. Section 115 of the Planning Act 2008 provides that, in addition to the development for which development consent is required under part 3 of that Act, (the 'principal development'), consent may also be granted for associated development.
3. The 2008 Act defines associated development as development **which is** associated with the principal development.
4. Sub-sections (2) to (4) of 115 of the Act set out other requirements relating to associated development. Associated development can include development in England and in waters adjacent to England. It includes development in the field of energy in a Renewable Energy Zone, but not in any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions. Associated development may not include dwellings (see paragraph 11, below), or development in Scotland, or in waters adjacent to Scotland. It may not include development in Wales, except for surface works, boreholes or pipes associated with underground gas storage by a gas transporter in natural porous strata.
5. This guidance is intended to help those who intend to make an application for a major infrastructure project under the Planning Act 2008 to determine how the provisions of the Planning Act 2008 in respect of associated development apply to their proposals. It is also intended to inform others with an interest in such applications.

Associated development – principles

6. It is for the Secretary of State to decide on a case by case basis whether or not development should be treated as associated development. In making this decision the Secretary of State is likely to take into account the following core principles, subject to paragraphs 7 and 8 below:
- (i) The definition of associated development, as set out in paragraph 3 above, requires there to be a direct relationship between associated development and the principal development. Associated development must therefore support either the development or operation of the principal development or improve its sustainability given wider development or environmental needs. This supportive function extends to the mitigation of impacts of the development or operation of the principal development.
 - (ii) Associated development must not be an aim in itself but must be subordinate to the development which is the principal subject of the application¹.
 - (iii) Associated development should be proportionate to the nature and scale of the principal development.
 - (iv) Development of a kind necessary to support the principle development may be treated as associated development where consent is sought to construct it on a larger scale than is required for the principal development, provided that:
 - (a) it remains consistent with principal (iii), and
 - (b) it is likely to reduce the impacts of other development that the Secretary of State may reasonably expect to be the subject of an application for development consent within five years of the application at hand being made².
7. It is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development. Associated development could, for example, include:
- development which, although not a part of the principal development, is nevertheless of a kind that is indispensable to it (e.g. a commercial

¹ Development should not be treated as associated if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the cost of construction of the core infrastructure. This does not mean that the applicant cannot cross-subsidise, but if part of the development is only necessary as a means of cross-subsidising the main development then this part of the development will not be treated as associated development.

² For example, in the case of an application for an offshore generating station, the Secretary of State may consider it appropriate for a degree of overcapacity to be provided in respect of the associated transmission infrastructure, so that the impacts of one or more other planned future projects which could make use of that infrastructure would be reduced by taking advantage of it. In such cases, the Secretary of State would take a proportionate approach, balancing any additional adverse impacts arising from the construction of associated development on a larger scale than the initial principal development requires against the reduction in potential impacts of the potential subsequent developments.

power station cannot function effectively without a grid connection of some sort);

- measures designed to mitigate the impacts of the principal development;
- innovative development ideas where the resulting development would fulfil the principles outlined in this guidance; and
- in relation to transport infrastructure, retail/business space where this is not disproportionate to the retail/business space normally found in similar types of infrastructure of a comparable capacity.

10. Development should not be treated as associated development if it is an integral part of the principal development.

Dwellings

11. Section 115(2)(b) specifically excludes the construction or extension of one or more dwellings from the definition of associated development. The interpretation of this provision was clarified by Cranston J in his judgment of 4 November 2011 ([2011] EWHC 2883 (Admin)), in which he concluded that 'dwelling' in the sense employed in this section did not include hostels and other forms of temporary accommodation. In principle, therefore, temporary accommodation for workers engaged in the construction or operation of infrastructure may be applied for as associated development.

Single application

11. It is for applicants to decide whether to include something that could be considered as associated development in an application for development consent or whether to apply for consent for it via other routes. However, where an applicant does wish to apply for consent for associated development, it should be included in the application for the main development. The Secretary of State can only consider associated development in conjunction with the principal development and has no power to consider a separate application unless the development is a major infrastructure project in its own right, falling within the thresholds in Part 3 of the Act.
12. A single application can cover more than one development. Applicants are encouraged, as far as is possible, to make a single application where developments are clearly linked.

European Union Environmental Rules

14. The Secretary of State will be a competent authority for the purposes of the Environmental Impact Assessment directive (85/337/EC) and the Habitats directive (92/43/ EEC).
15. Where an applicant submits an application under the Planning Act 2008 which would fall within the scope of relevant European Union environmental rules, the Secretary of State is required to consider the application in line with its obligations under these directives. Where the application includes associated development, this will need to be included in the Secretary of State's consideration under these directives. The Secretary of State will need to consider the impacts of any associated development in conjunction with the rest of the application to ensure that it identifies the total impact of the proposal.
16. If an applicant intends to include associated development in an application under the Planning Act 2008, the applicant must ensure that this is included in any request to the Secretary of State for screening and scoping opinions under the Environmental Impact

Annex - examples of associated development

18. This annex provides examples of the type of development that may qualify as associated development. This list is illustrative only, and should not be treated as exhaustive. In particular technological and other forms of progress will mean that some types of associated development could not have been foreseen when this guidance was written.

General types of associated development

Access arrangements

- formation of new or improved vehicular or pedestrian access (to stations, work sites etc.), whether temporary or permanent
- stopping up, diversion or alteration of roads and footpaths, and bridleways and construction of new or altered roads and footpaths (potentially including diversion of coastal paths)
- diversion/realignment of watercourses
- construction of new rail, road or foot bridges, viaducts or tunnels, and works to reconstruct, alter or replace existing ones
- railway and associated works (including freight sidings, passing loops, level crossings, gauge clearance); railway lines for moving aggregates during construction, jetties for unloading raw materials arriving from sea
- highway and rail route/junction improvements (which may provide some benefit to third-party network users as well as users of the major infrastructure project)
- other highway-related works, e.g. to facilitate demand management measures or to provide lorry parking or service facilities
- parking spaces for workers and users of the major infrastructure project

Connections to national networks

- electricity networks
- water/waste water
- fuel and pipe-line network
- telecommunications networks
- grid connections -electricity, water, telecommunications, gas

Other infrastructure

- maintenance sites
- accommodation for staff who must be on site to enable the operation or maintenance of the major infrastructure project
- emergency response facilities
- security measures
- fuel depots
- creation of associated working sites
- site offices
- flood defences

Development undertaken for the purpose of mitigating impacts

- landscaping and fencing works
- replacement land, open space or common land
- flood defences and flood mitigation measures
- measures to prevent coastal erosion
- mitigation measures to prevent or address environmental nuisance
- creation of compensatory habitats
- nature conservation and habitat creation
- creation of dedicated noise barriers

Associated development specific to individual categories of major infrastructure projects

Generating stations

- offsite fuel storage
- substations
- overhead/underground lines
- waste storage – ash processing plants for coal-fired and biomass stations
- waste heat – plant and pipework to supply waste heat to the boundary of the site

Offshore generating stations - general

- onshore works including:
 - substations
 - overhead/underground lines
 - jointing pits

Offshore generating stations – overcapacity to accommodate future projects

- additional transformer capacity / additional circuit bays at onshore substation
- additional power transfer capacity for onshore connection cable
- facilities for additional subsea cables to offshore platforms
- additional circuit breaker and/or circuit breaker bays on offshore platform
- additional onshore ducts for future cables

Underground gas storage facilities

- surface works such as pumping/compressor stations
- boreholes and pipelines to storage facilities

Electric lines

- substations
- distribution lines
- control buildings
- sealing end compounds
- diversion of other overhead lines

Gas transporter pipe-lines

- surface works – above ground installations such as pumping stations

Oil pipelines

- pumping equipment
- oil processing plants to manage and control oil in the pipeline
- storage tanks
- road handling facilities

Cross-country pipelines

- surface works

Highways

- replacement roadside facilities where this becomes necessary due to the elimination of an existing facility by highway improvement
- infrastructure associated with cycle/pedestrian access
- off-site landscaping, habitat creation and other environmental works
- off-site drainage works
- alteration/diversion/stopping up of local roads, accesses and other rights of way

- alterations to canals, railways and watercourses and
- off-site diversion of statutory undertakers equipment

Airports

- freight distribution centre, including freight forwarding and temporary storage facilities
- provision of piers and airside operational buildings
- relocation of helipad within the airport perimeter
- additional fuel storage tank and associated infrastructure
- accommodation for freight forwarding, storage and industrial use
- materials recovery building and energy from waste centre

Harbours

- works for the accommodation or convenience of vessels (including dolphins and pontoons)
- lights on tidal works during construction
- construction of a viewing platform or other such public amenity
- relocation of apparatus of statutory undertakers (mains, sewers, drains, pipes, cables, pylons etc.)
- supplementary harbour works for the benefit of third parties/to assist the Environment Agency
- creation or enhancement of a logistics or distribution centre
- development of nearby port-related process facilities
- off-site facilities for vehicle safety or security controls
- off-site coast protection works required because of expected changes in wave energy propagation consequent on the main development
- provision of compensatory facilities for commercial or leisure fishing
- development associated with the use or disposal on land of dredged arisings

Railways

- construction of new railway stations, and improvements, alterations and extensions to existing stations (new footbridges, platform extensions, ticket halls etc.)
- construction/alteration of maintenance depots and marshalling yards;

- relocation of apparatus of statutory undertakers (mains, sewers, drains, pipes, cables, pylons etc.)
- provision of pressure relief or ventilation shafts and access thereto
- associated improvements/alterations to curtilage of railway station, e.g. enhanced parking facilities, revised layout for bus and taxi facilities

Rail freight interchanges

- warehousing

Dams/reservoirs

- water transfer system, e.g. pumping station, water transfer tunnels, pipelines
- access arrangements – road, rail, paths
- recreational amenities where the reservoir is required to serve as a public amenity

Water treatment plants

- water transfer system, e.g. pumping station, water transfer tunnels, pipelines
- landscaping
- waste water transfer systems
- storage facilities (such as for sludge, grit, etc.)
- sludge handling, including incineration
- power generation/distribution plant

Hazardous waste facilities

- storage (both of incoming waste and for any outgoing residues that need to be moved to another facility)
- vehicle parking for heavy goods vehicles transporting hazardous waste to the site
- pipelines