



Department for  
Communities and  
Local Government

# Nationally significant infrastructure planning: expanding and improving the 'one stop shop' approach for consents

Consultation

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## Scope of the consultation

<p><b>Topic of this consultation:</b></p>	<p>This consultation seeks views on proposals to expand and improve the ‘one stop shop’ approach for (non-planning) consents for the planning regime for nationally significant infrastructure projects – in particular, we are seeking views on proposals to:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Amend secondary legislation to streamline the list of consents (as set out in regulations) which sit outside the development consent process.</li> <li>• Amend secondary legislation to update and streamline the list of prescribed consultees in the development consent process. We also propose to redefine the term ‘relevant’ to exclude mandatory consultation of certain bodies that are responsible for areas that are more distant from the development site.</li> </ul> <p>We intend to amend the Planning Act 2008 to bring certain consents within the scope of the nationally significant infrastructure regime. We are not consulting on these changes.</p>
<p><b>Scope of this consultation:</b></p>	<p>The aim of this consultation is to seek views from interested bodies on how we provide a more efficient, effective and streamlined consents regime for nationally significant infrastructure.</p>
<p><b>Geographical scope:</b></p>	<p>This consultation seeks responses from a range of partners including developers, businesses, residents’ associations, environmental groups, local authorities and planning bodies. This consultation relates to England only – however we are working closely with colleagues in the Welsh Government to consider whether the proposals outlined may be extended to Wales.</p>
<p><b>Impact Assessment:</b></p>	<p>An initial Impact Assessment is attached at Annex A.</p>

### Basic Information

<p><b>To:</b></p>	<p>We are seeking views from those partner bodies with an interest in the delivery of the national infrastructure planning regime including developers, businesses, residents’ associations, environmental groups, local authorities and planning bodies.</p>
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<b>Body/bodies responsible for the consultation:</b>	This consultation is being run by the Planning: Infrastructure and Environment team in the Department for Communities and Local Government (DCLG).
<b>Duration:</b>	<b>Start date:- Monday 26 November 2012</b> <b>End date:- Monday 7 January 2013</b>
<b>Enquiries:</b>	<a href="mailto:majorinfrastructure@communities.gsi.gov.uk">majorinfrastructure@communities.gsi.gov.uk</a>
<b>How to respond:</b>	We are seeking views directly on the questions set out in this consultation. Please send responses to the email address above (preferred approach) or via post to:  'One Stop Shop' consultation, Planning: Infrastructure & Environment Team, Department of Communities and Local Government, 1/J6 Eland House, Bressenden Place, London, SW1E 5DU.  We have provided a template for response at Annex D.
<b>Additional ways to become involved:</b>	Alternative formats of this consultation can be obtained by emailing <a href="mailto:alternativeformats@communities.gsi.gov.uk">alternativeformats@communities.gsi.gov.uk</a>
<b>After the consultation:</b>	A summary of responses to the consultation will be published on the Department's website within three months of the closing date. Following the closure and full consideration of the consultation responses, the Department intends to lay regulations in Parliament that would come into force next year (2013).
<b>Compliance with the Code of Practice on Consultation:</b>	This consultation is scheduled to run for 6 weeks to enable interested bodies to make their views known. As these issues are primarily of interest to those with a professional / technical / institutional interest in the operation of the nationally significant infrastructure regime, we consider 6 weeks a sufficient consultation period.

### **Background**

<b>Getting to this stage:</b>	The Prime Minister and Deputy Prime Minister announced a major package of housing and planning reforms designed to support economic growth on 6 <sup>th</sup> September 2012, including setting out the commitment to <i>work to extend the principle of a 'one stop shop' for non-planning consents for major infrastructure</i> . Following the announcement, the Department has informally sought the view of a range of interested parties and is now using this consultation to gain a more formal response and input from interested bodies.
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# About this consultation exercise

## Background

1. Delivering economic growth is the over-riding priority for the Government, and improving the efficiency and speed of the planning process is a crucial part of creating the conditions for sustainable local growth. We have already made significant progress, in particular through the publication of the new National Planning Policy Framework in March 2012. Government is committed to securing investment in new nationally significant infrastructure as part of its efforts to rebuild the economy and create new jobs. It also remains committed to the principles of 'sustainable development'; delivering environmental outcomes is a product of the planning system and is as important as economic development.
2. On 6<sup>th</sup> 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'.
3. The planning system for nationally significant infrastructure is separate from the Town & Country Planning system. Decisions on nationally significant infrastructure are taken at a national level because of their critical importance to economic growth and prosperity. The nationally significant infrastructure regime is governed by the Planning Act 2008. This Act (as amended by the Localism Act 2011) streamlines the decision-making process for nationally significant infrastructure projects within the energy, transport, waste, waste water and water sectors. It sets out thresholds above which certain types of infrastructure development are considered to be nationally significant and require development consent. These thresholds are also being reviewed by Government (further details at <https://www.gov.uk/government/organisations/department-for-communities-and-local-government>). The Department for Energy and Climate Change is currently consulting on proposed changes to the thresholds for overhead lines (further details can be found at [http://www.decc.gov.uk/en/content/cms/consultations/12d\\_309/12d\\_309.a.spx](http://www.decc.gov.uk/en/content/cms/consultations/12d_309/12d_309.a.spx)).
4. The Planning Inspectorate carries out certain functions on behalf of the Secretary of State. If an application for development consent is accepted for examination, an Examining Authority appointed by the Planning Inspectorate on behalf of the Secretary of State examines the application and makes a recommendation to the relevant Secretary of State<sup>1</sup> who will

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<sup>1</sup> Decisions on nationally significant infrastructure applications are made by the Secretary of State with the policy responsibility for the relevant industry sector e.g. energy projects will be determined by the Secretary of State for Energy and Climate Change; transport projects by the Secretary of State for Transport. Applications relating to hazardous waste will be determined by the Secretary of State for Communities and Local Government, and that applications relating to waste water and water supply will

make the decision on whether to grant or refuse development consent. At the present time, there are currently 16 nationally significant infrastructure applications under consideration and 63 projects in the pre-application phase. For more information, visit <http://infrastructure.planningportal.gov.uk/>.

5. There are a number of clearly defined stages within the nationally significant infrastructure regime process, with an emphasis on transparency and consultation. This includes a requirement for the developer to seek pre-application views from a number of prescribed consultees<sup>2</sup> such as the Health and Safety Executive, the relevant Fire and Rescue Authority and the Environment Agency. In addition, a number of these bodies issue a range of permits, consents and licences which may be required in addition to a Development Consent Order. The number required and their complexity depends on the nature of the development. A Development Consent Order may remove the need to obtain consents from other consenting bodies on a case by case basis, but only where the relevant consenting body agrees.
6. Following on from the Planning Act, the (non-planning) consents system was reviewed in 2010 (the 'Penfold Review'). This was set up to identify whether non-planning consents delay or discourage investment. The Government published an implementation report in November 2011 (<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1413-implementation-of-penfold-review.pdf>). This sets out a programme to scrap unnecessary development consents and simplify others; reform the remit and working practices of the bodies granting or advising on development consents; set a clear timescale for deciding development consent applications; and make it easier to apply for development consents. The Government and relevant consenting bodies are currently working to implement these measures (Box 1). This consultation seeks to build on the work done through the Penfold Review, and focuses in particular on non-planning consents as they relate to nationally significant infrastructure.
7. The intention behind the commitment set out on 6<sup>th</sup> September is to support growth by providing a more streamlined, effective and efficient consents process for nationally significant infrastructure, building on the current delivery framework that emphasises transparency and consultation. This should support the Government's wider objectives on delivering economic growth, boosting investment in infrastructure and cutting red tape.

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be determined jointly by the Secretaries of State for Communities and Local Government and Environment, Food and Rural Affairs.

<sup>2</sup> Under s.42(a) Planning Act 2008 and Schedule 1 of the Infrastructure Planning (Applications, Prescribed Forms & Procedure) Regulations 2009

### **Box 1. Delivering the outcomes of the Penfold Review**

In April 2012 draft improvement plans were issued by the Environment Agency, Natural England, English Heritage, Highways Agency and Health and Safety Executive. The improvement plans set out how the agencies will meet two of the review measures: each agency's remit to promote sustainable development, and their commitment to determine development consent applications within an agreed timeframe. Most of these Improvement Plans have now been formally published.

More recently, the Environment Agency has published 'Guidance for developments requiring planning permission and environmental permits' (<http://www.environment-agency.gov.uk/business/regulation/139378.aspx>). This sets out the Environment Agency proposal to work with developers (for all planning applications including nationally significant infrastructure projects) and reflects extensive consultation. It provides developers with the flexibility to parallel track applications where they want to and/or simply to have discussions with the Environment Agency at an early stage, in order to improve decision making, reduce costs and avoid wasted time and effort.

## **Purpose of this consultation**

8. The purpose of this consultation is to seek views from interested parties on how we might further improve and streamline the process for nationally significant infrastructure, delivering a more effective and efficient consents approach whilst ensuring interested and affected parties continue to be engaged.
9. The nationally significant infrastructure regime is in its infancy, taking its first decision in October 2011. It is currently intended that a full scale review of the regime will be undertaken in 2014, once a sufficient number of varied applications have worked their way through the system.
10. There are several proposals on which we would welcome feedback. Specifically, we are interested to hear 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. It is not proposed to charge a fee for this service at the outset; however this will be kept under review.
  - Amend secondary legislation to streamline the list of consents (as set out in regulations) which sit outside the Development Consent Order process.
  - Amend secondary legislation to update and streamline the list of prescribed consultees in the Development Consent Order process. We also propose to redefine the term 'relevant' to exclude

mandatory consultation of certain bodies that are responsible for areas that are more distant from the development site.

## Expanding the ‘one stop shop’ for consents

11. As part of the planning regime for nationally significant infrastructure, an Examining Authority appointed by the Planning Inspectorate on behalf of the Secretary of State makes a recommendation to the relevant Secretary of State on whether to grant an application for development consent through a Development Consent Order.
12. Currently a Development Consent Order automatically removes the need to obtain several consents that would otherwise be required for development including planning permission, Green Belt consent, Listed Building consent and Scheduled Monument consent.
13. We have identified a range of other consents that are currently dealt with outside the Development Consent Order, and which may be still required for a nationally significant infrastructure project. These are the responsibility of a range of Departments and Government Agencies. These consents range from relatively simple certification procedures to complex, highly technical consents requiring ongoing regulatory control (e.g. on the emission of pollutants) and in some cases dealing with highly sensitive security issues (e.g. nuclear safety).
14. We have categorised these consents as follows:
  - **Separate consents / certificates currently set out in primary legislation.** We plan to remove the requirement for these separate certificates and consents. We are not consulting on these changes as Government has already tabled amendments to the Growth and Infrastructure Bill to achieve this, subject to Parliamentary approval.
  - Consents relating to **specialised regulatory or operational regimes** such as environmental permits from the Environment Agency - where we propose to offer new arrangements to improve co-ordination and communication between the Planning Inspectorate, applicants and other consenting bodies to make the overall consents process more efficient. This approach does not in any way affect the independence of the decision-making under the various consent regimes affected.
  - Consents which cannot currently be dealt with in a Development Consent Order without the agreement of the relevant consenting body<sup>3</sup> but which are **highly unlikely to be required for nationally significant infrastructure development or have been subsumed within more recent legislation** - where we propose to streamline the regulations by removing these consents from the list.<sup>4</sup>

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<sup>3</sup> Under s. 150 of the Planning Act and Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010

<sup>4</sup> NB: the consents themselves remain (see para 27 for more detail)



- Consents which cannot currently be dealt with in a Development Consent Order without the agreement of the relevant consenting body but which raise **considerable safety, security or technical concerns** - where we propose retaining these consents as they are in the regulations.

15. For each of these categories of consents (excepting the last), we propose to take forward the 'one stop shop' commitment as set out below in paras 16 to 25. A full list of the consents which fall within each category is attached at Annex B.

## Consents where separate certificates/consent requirements are currently set out in the Planning Act 2008

16. At present a developer must, in certain circumstances, make separate applications to the relevant Secretary of State for certificates / consents specifically set out in the Planning Act 2008. Since the decision making responsibility for nationally significant infrastructure projects is now with the Secretary of State rather than the Infrastructure Planning Commission (now abolished) we consider that these additional requirements for certificates / consents are unnecessary.
17. We have tabled amendments to the Growth and Infrastructure Bill to remove the requirement to obtain these duplicate certificates and consents issued by central Government. The issues that are currently dealt with as part of these certificate / consent applications can instead be dealt with as part of the Development Consent Order process, meaning that these issues would be considered by the relevant Secretary of State making the decision on the application. The changes will maintain existing protections provided through transparent decision-making by the Secretary of State on the Development Consent Order but will reduce unnecessary bureaucracy.
18. We have also tabled amendments to remove the requirement to obtain consent from statutory undertakers and network operators in certain circumstances where their apparatus is affected. We consider that the issues relating to such apparatus can be considered in the round by the relevant Secretary of State as part of the Development Consent Order process.
19. The consents and certificates affected are set out in Part 1 of Annex B.

## Specialised ongoing regulatory or operational consents

20. We have identified a number of consents which relate to specialised ongoing regulatory or operational regimes – for example, Environmental Permits where the developer may need (or choose) to seek permits

before, during or after the Development Consent Order is granted. Relevant consents are set out in Part 2 of Annex B.

21. We recognise any changes to the current arrangements for applying for consents should provide applicants with flexibility to decide on a case by case basis how to deal with each consent. For example, we acknowledge that some applicants wish to 'stagger' their applications to leave more detailed decisions on operational matters until later in the development process. We also acknowledge the importance of the expertise, advice and independence that consenting bodies such as Environment Agency and Natural England offer on their specific regimes and areas of expertise. In response to a number of recent initiatives to support growth (including the Penfold Review – paragraph 6), statutory agencies such as the Environment Agency and Natural England have already adapted their ways of working, prioritising resources and offering pre-application advice to increase certainty and reduce delays and costs further down the line (Box 2). However we also recognise concerns about the challenge of co-ordinating seeking consents effectively across a range of Government Agencies.

**Box 2. Major Infrastructure & Environment Unit**

<http://www.defra.gov.uk/habitats-review/files/habitats-review-mieu.pdf>

The Major Infrastructure & Environment Unit was launched by Defra in April 2012, in response to the Government's Habitats and Wild Birds Directives Implementation Review. The Unit has a remit to facilitate swift, proportionate resolution of Habitats and Wild Birds Directives issues for nationally significant infrastructure projects in England at pre-application. It largely does this by facilitating pre-application discussions, where necessary, between developers and Defra agencies (Natural England, Marine Management Organisation, Joint Nature Conservation Committee and Environment Agency) in relation to resolving Habitats and Wild Birds Directives' issues.

The Unit has no formal powers and is not legislated to over-ride the agencies' statutory and regulatory roles. It is governed by a cross-departmental and agency board (chaired by Defra). Formal stakeholder engagement is through the Defra Secretary of State's chaired 'Multi Stakeholder Infrastructure and Habitats Group', which brings together industry and environmental groups to improve collaboration and discuss strategic issues relating to the Directives and nationally significant infrastructure development.

This approach supports the government's preferred 'front-loaded' approach to the major infrastructure planning regime which calls for detailed pre-application work. It helps developers identify any risks they will need to address and how best to proceed with the application. It should increase certainty and reduce risk once the developer submits a formal application to the Planning Inspectorate.

22. To help address these concerns, we propose to establish new arrangements to improve co-ordination and communication between the Planning Inspectorate, applicants and other consenting bodies to make the overall consents process more efficient, whilst retaining the expertise and resource in the consenting bodies. In practice, this would mean a small core unit within the Planning Inspectorate liaising with the applicants and other consenting bodies to establish and agree a programme and timetable for dealing with the different consent applications. It would be able to escalate issues where necessary in order to ensure timely decision-making on consents, whilst the consenting bodies retain the necessary resource, expertise and independent decision-making.
23. This approach would be backed up by a transparent delivery timescale for the Planning Inspectorate and the consenting bodies involved. Statutory timescales will have to be complied with and the timescales associated with this will need to be made clear to developers as part of these arrangements. It will be crucial to maintain the Planning Inspectorate's impartiality and neutrality, and it will not affect the statutory and regulatory roles of the consenting bodies. We are keen to ensure that the consenting bodies retain their valued independence and expertise on these consents and are clear that this approach does not in any way affect the independence of the decisions being taken under the various consent regimes affected.
24. This service could be offered across a range of consents – with the approach agreed with the applicant on a case by case basis. We propose to develop a 'prospectus' which would set out the offer from the Planning Inspectorate. This approach builds on and complements the model being developed by Defra to support major infrastructure delivery through the Major Infrastructure & Environment Unit.
25. We propose to introduce this new service without a charge from the outset. However, we will keep this under review.

**Question 1:**

**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?**

## Streamlining the prescribed consents regulations

26. We have also identified further consents (Part 3 of Annex B) as currently set out in the nationally significant infrastructure regime regulations<sup>5</sup> which cannot be dealt with in a Development Consent Order without the

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<sup>5</sup> Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010

agreement of the relevant consenting body but which are either out of date, having been subsumed within more recent legislation, or are highly unlikely to be required for nationally significant infrastructure development. For example, our initial assessment is that consents such as Conservation of Seals 1970 and consents under the Deer Act 1991 are unlikely in the main to be relevant to nationally significant infrastructure development.

27. We propose to remove these unnecessary consents from the regulations. It is important to note in doing this, it does not avoid the need for developers to engage with these consent requirements where they are relevant.

**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 (Part 3, Annex B)? Have we identified the right consents to be removed?**

## Extending our approach to streamlining consultation requirements

28. There is currently a long list of prescribed consultees set out in regulations which developers must consult prior to application, inform once the application has been formally accepted or consult on changes. The Planning Inspectorate must also contact these bodies both as part of environmental impact assessment scoping and during the examination of the application. In practice this can involve consulting around 150 bodies on each application.
29. However, experience indicates that some of these consultees have never responded to a consultation. We are aware that others have asked to be removed from the consultation list. Other listed bodies no longer exist; where their statutory function(s) continue, developers must seek an equivalent body to consult. Collectively, these factors create a confusing and time-consuming consultation process where the benefits are not always apparent.
30. We are proposing to update and streamline the current list of prescribed consultees. Those bodies which are removed from the list would still be able to participate in the examination as interested parties if they wished, by submitting a relevant representation. We consider that the proposed changes will make the list of prescribed consultees fit for purpose whilst retaining a transparent and rigorous approach to consultation.

**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?**

31. We are also proposing to simplify consultation requirements by amending the definition of 'relevant' currently set out in regulations, to exclude the mandatory consultation of parish councils and other bodies with responsibility for areas further away from the development site. At present the regulations define 'relevant' as 'the body which has responsibility for the location where the proposal may or will be sited *or the body which has responsibility for an area which neighbours that location.*'
32. The second part of this definition (the words in italics above) can often lead to situations in which numerous bodies remote from the proposed development must be consulted. For example, one proposal involving an underground section of electricity cable currently requires the Planning Inspectorate and the applicant to consult 29 parish councils through whose areas of responsibility the proposed cable route does not actually pass. Redefining 'relevant' to remove neighbouring bodies would reduce the prescribed consultee list considerably.

**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?**

## Questions where we are seeking views

33. We are seeking responses to the following questions:

- 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? [Paras 20-25]
- Q2. 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 (Annex B)? Have we identified the right consents to be removed? [Paras 26-27]
- Q3. 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?  
[Paras 28-30]

Q4. 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? [Paras 31-32]

Q5. We would also welcome views on or practical examples of how the consenting regime is currently working for nationally significant infrastructure projects and other suggestions on where the regime could be improved. We are also interested to understand more about the costs involved in applying for consents and would welcome responses on this issue.

34. Could you please email your response to these questions to [majorinfrastructure@communities.gsi.gov.uk](mailto:majorinfrastructure@communities.gsi.gov.uk) by **Monday 7 January 2013** at the latest. Could you please also include the following details:

- name
- position
- name of organisation (if applicable)
- address
- email
- contact telephone number

35. Could you also confirm whether the views expressed are an official response from the organisation you represent or your own personal views. We have provided a template for response at Annex D.

## Who we are consulting

36. We are seeking views from those with an interest in the operation of the nationally significant infrastructure planning regime and the wider consents that could be brought within the scope of the regime.

## Responding to the consultation

37. Your response must be received by **Monday 7 January 2013** and may be sent by email to: [majorinfrastructure@communities.gsi.gov.uk](mailto:majorinfrastructure@communities.gsi.gov.uk). Responses may also be returned to:

'One Stop Shop' consultation  
Planning: Infrastructure & Environment Team  
Department of Communities and Local Government  
1/J6, Eland House  
Bressenden Place  
London SW1E 5DU

38. Please title your response 'One Stop Shop'. Individual responses will not be acknowledged unless specifically requested. If you have any queries you can also call 0303 444 3759.
39. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.
40. Your opinions are valuable to us. Thank you for taking the time to read this document and responding.

## What will happen to your response

41. After the consultation has concluded, we will consider very carefully all the responses that we have received.
42. The Department of Communities and Local Government will process your personal data in accordance with Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Publication of responses – confidentiality and data protection

43. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).
44. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

## Annex A: Impact Assessment

<b>Title of regulatory proposal</b>	Nationally significant infrastructure planning – expanding and improving the ‘one stop shop’ for consents
<b>Lead Department / Agency</b>	DCLG
<b>Expected date of implementation</b>	April 2013
<b>Origin</b>	Domestic

### **Rationale for intervention and intended effects**

Delivering economic growth is the over-riding priority for the Government, and improving the efficiency and speed of the planning process is a crucial part of creating the conditions for sustainable local growth. One element of the recently announced package of reforms to housing and planning is to consider how to further streamline the nationally significant infrastructure planning regime by broadening the scope of the ‘one stop shop’ for non-planning consents, alongside other improvements to the service.

The nationally significant infrastructure regime is governed by the Planning Act 2008 (as amended by the Localism Act 2011). A developer wishing to construct a ‘nationally significant infrastructure project’ must first apply to the Planning Inspectorate for consent to do so. Following examination, the Examining Authority makes a recommendation to the relevant Secretary of State who determines whether to grant or refuse development consent. There is a strong emphasis on the developer carrying out detailed pre-application work, including consultation with a wide range of prescribed consultees, before an application is submitted.

The Development Consent Order automatically removes the need to separately obtain a number of consents that would otherwise be required for development including planning permission, Green Belt consents, Listed Building consent and Scheduled Monument consent. There are a number of other consents that are currently dealt with outside a Development Consent Order which are the responsibility of other Departments and Government Agencies. A Development Consent Order may remove the need to obtain certain consents from other consenting bodies on a case by case basis, but only if the relevant consenting body agrees.

The rationale for intervention is to deliver a more efficient and effective consents process whilst ensuring interested and affected parties continue to be engaged. We propose to do this by removing the requirement for separate Secretary of State consents for certain matters; establishing new arrangements to improve coordination between the Planning Inspectorate, applicants and the other consenting bodies to make the overall consents process more efficient; streamlining the list of consents that sit outside the development consent process in the absence of agreement from the relevant



consenting body; and reviewing the list of prescribed consultees. This approach is deregulatory and will provide cost savings to business through more efficient consenting and consultation processes.

### **Viable policy options (including alternatives to regulation)**

We consider the following options to be necessary in simplifying and improving the nationally significant infrastructure planning regime, and plan to consult on proposals to:

- (i) 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. It is not proposed to charge a fee for this service at the outset but we will keep this under review.
- (ii) Amend secondary legislation to streamline the list of consents (as set out in regulations) which sit outside the Development Consent Order process in the absence of agreement from the relevant consenting body.
- (iii) Amend secondary legislation to update and streamline the list of prescribed consultees in the Development Consent Order process. We also propose to redefine the term 'relevant' to exclude mandatory consultation of certain bodies that are responsible for areas that are more distant from the development site.

45. We will also amend the Planning Act 2008 to bring certain consents within the scope of the nationally significant regime and have tabled relevant amendments at Commons Committee stage of the Growth and Infrastructure Bill. We are therefore not consulting on these changes.

### **Initial assessment of business impact:**

We are proposing to implement a number of changes that will deliver a more efficient and effective consents process whilst continuing to enable interested and effected parties to be engaged in the process. These changes – and their intended benefits - include:

1. expanding the scope of the matters to be considered by the Secretary of State as part of the Development Consent Order process, including matters relating to the compulsory purchase of specific types of land, thereby reducing unnecessary bureaucracy without removing the protections provided through transparent decision making by the Secretary of State.
2. streamlining the prescribed list of consents that are outside the infrastructure planning regime in the absence of agreement from the relevant consenting body, by removing those consents that are either unlikely to be required for nationally significant infrastructure projects or have been subsumed within other consenting regimes.
3. for those consents that remain outside of the development consent

process, new arrangements will be put in place to improve coordination and communication between the Planning Inspectorate, applicants and other consenting bodies to make the overall consents process more efficient whilst the consenting bodies retain the necessary resource, expertise and decision-making.

4. updating and streamlining the current list of prescribed consultees to ensure it remains fit for purpose whilst retaining a transparent and rigorous approach to consultation. This should save significant administrative processing time and reduce the risk of delays (including delays caused by errors) in applications.
5. amending the definition of the term 'relevant' to exclude the mandatory consultation of certain bodies that are responsible for areas that are more distant from the development site, thereby avoiding unnecessary consultation. Those bodies which are removed from the list, either by (4) or (5), would still be able to participate in the examination as interested parties if they wished.

The package of measures outlined above is likely to deliver benefits for developers, although cost savings are difficult to quantify at this time. We are seeking views via the consultation to gather additional information on the likely cost savings.

Removing the requirement for separate consents from the Secretary of State will remove the need for developers to apply for separate consents and remove the need for the relevant Secretaries of State to consider applications for those consents. The new co-ordination arrangements focus on efficiency rather than cost savings, although these may accrue through time saving and administrative efficiency. Streamlining the list of prescribed consultees will reduce the number of consultees, delivering significant administrative processing time for applicants and for the Planning Inspectorate, reducing the consultation burden on bodies that do not need to be consulted, and reducing the risk of delays (including delays caused by errors) in applications. Overall, this package will present some cost and time savings for developers of nationally significant infrastructure.

### **One-in, One-out status**

This proposal will streamline the nationally significant infrastructure regime. It reduces the number of consents separate to the Development Consent Order process and streamlines the consultation process, therefore is considered an 'out' and will reduce the costs for developers of nationally significant infrastructure.

### **Rationale for Triage rating**

Proposals are de-regulatory, and are likely to provide both time and cost benefits to developers. Early implementation of the policy provides a timely boost to creating the conditions for economic growth.

## Annex B: Full list of consents by category

### **Part 1:** Separate consents currently required under the Planning Act 2008

	<b>Consent</b>
1.	s127 statutory undertakers' land – Secretary of State certification
2.	s137 public rights of way: new statutory undertakers' apparatus – consent by relevant undertaker or operator of network
3.	s138 extinguishment of rights, and removal of apparatus, of statutory undertakers – consent of Secretary of State
4.	s131 commons, open spaces etc – compulsory acquisition of land – Secretary of State certificate
5.	s132 commons, open spaces etc – compulsory acquisition of rights of land – Secretary of State certificate

**Part 2:** Consents relating to specialised ongoing regulatory or operational regimes - where we propose to offer new bespoke consent management arrangements to ensure timely decision-making.

	<b>Issue</b>	<b>Consent</b>
1.	Environmental / wildlife protections	European Protected Species Licensing - a licence under Regulation 53 of the Conservation of Habitats and Species Regulations 2012 (grant of licences for certain purposes)
2.		A licence under section 10 of the Protection of Badgers Act 1992 (licences)
3.		A licence under regulation 49 of the Offshore Marine Conservation (Natural Habitats. &c) Regulations 2007 (power to grant licences)
4.		An environmental permit under the Environmental Permitting (England and Wales) Regulations 2010
5.	Water / waste / drainage	Water Abstraction: Licence under sections 24 and 25 of the Water Resources Act 1991 (restrictions on abstraction and impounding; restrictions on impounding)
6.		A consent under section 32 (relates to investigative consents e.g. for boreholes), section 109 (main river flood defence consenting) or section 164 (governs the Environment Agency's own discharges to watercourses when doing works), and under byelaws made under paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991(25) (Environment Agency flood defence and drainage byelaws and fisheries byelaws)
7.		A consent under section 166 of the Water Industry Act 1991 (consents for certain discharges under section 165)
8.		An authorisation under regulation 8 of the Persistent Organic Pollutants Regulations 2007

9.		A notice of determination of a reference by a sewerage undertaker under Chapter 3 of Part 4 of the Water Industry Act 1991 (trade effluent)
10.		A consent under section 23 of the Land Drainage Act 1991
11.		Temporary Abstraction Licence Water Act 2003
12.	Offshore renewables	Notices under section 95 of the Energy Act 2004 dealing with safety zones around offshore renewable energy installations

**Part 3:** Consents that are highly unlikely to relate to nationally significant infrastructure development, or are obsolete having been subsumed within more recent legislation, and which are listed in the relevant regulations (the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010) as those which cannot be included in the Development Consent Order without the permission of the relevant consenting body – where we propose to remove the following consents from the list.

	<b>Issue</b>	<b>Consent</b>
1.	Environmental / wildlife protections	An authorisation pursuant to byelaws made under section 20 of the National Parks and Access to the Countryside Act 1949 (byelaws for protection of nature reserves)
2.		A licence under section 10 of the Conservation of Seals Act 1970 (power to grant licences)
3.		A licence under section 8 of the Deer Act 1991 (exceptions for licensed persons)
4.		A licence under section 16 of the Wildlife and Countryside Act 1981 (power to grant licences)
5.		A consent under section 28E of the Wildlife and Countryside Act 1981 (duties in relation to sites of special scientific interest)
6.		An order under section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review)
7.		A consent or authorisation required under byelaws made by an access authority as respects access land in their area pursuant to section 17 of the Countryside and Rights of Way Act 2000 (byelaws)
8.		A direction under section 24, 25 or 26 of the Countryside and Rights of Way Act 2000 (land management; avoidance of risk of fire or damage; nature conservation and heritage conservation)
9.		Any consent under section 30 of the Salmon and Freshwater Fisheries Act 1975 (introduction of fish into inland waters)
10.		A consent under section 1 of the Import of Live Fish (England and Wales) Act 1980 (power to limit the import etc of fish and fish eggs)

11.		A consent under the Control of Pesticide Regulations 1986
12.	Water / waste	A consent under regulation 9 of the Water Resources (Environmental Impact Assessment) Regulations 2003
13.		A registration under regulation 21 of the Hazardous Waste (England and Wales) Regulations 2005
14.		A registration under regulation 9 of the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000
15.	Health and Safety	A consent under section 16 of the Health and Safety at Work Act 1974 (approval of codes of practices by the Executive)
16.	Consents no longer applicable – subsumed within other legislation	An authorisation under sections 13 or 14 of the Radioactive Substances Act 1993 (disposal and accumulation of radioactive waste)
17.		An authorisation under the Groundwater (England and Wales) Regulations 2009
18.		A registration under section 7, 9 or 10 of the Radioactive Substances Act 1993 (registration of users of radioactive waste)

**Part 4:** Consents which raise considerable safety, security or technical concerns and which are listed in the relevant regulations (the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010) as those that cannot be included in the Development Consent Order without the permission of the relevant consenting body - where we propose retaining these consents as they are in the regulations.

	<b>Issue</b>	<b>Consent</b>
1.	Nuclear / radiation	Any approval required under regulations 5, 6 or 8 of the Nuclear Industries Securities Regulations 2003 (security plans)
2.		An approval of a Funded Decommissioning Programme under section 46 of the Energy Act 2008 (approval of a programme).
3.		Any assessment required under regulations 4 or 5 of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (hazard identification and risk evaluation)
4.		An authorisation under regulation 5 of the Ionising Radiation Regulations 1999 (authorisation of specified practices)
5.		Any justification decision required under regulations 9 or 10 of the Justification of Practices Involving Ionising Radiation Regulations 2004 (new and existing practices)

6.	Emergency drought response orders	A permit under section 79A of the Water Resources Act 1991 (drought permits)
7.		A drought order under section 73 of the Water Resources Act 1991 (power to make ordinary and emergency drought orders)
8.	DECC / OFGEM consents related to operation of the energy markets	A licence under section 6 of the Electricity Act 1989 (licences authorising supply, etc)
9.		A gas transporter, gas interconnector or gas supplier or gas shipper licence under section 7, 7ZA or 7A of the Gas Act 1986
10.		A licence under section 3 of the Petroleum Act 1998 (licence to search and bore and get petroleum)
11.		An authorisation under section 14 of the Petroleum Act 1998 (construction and use of pipelines)
12.		A licence under section 4 of the Energy Act 2008 (licences)
13.		A licence under section 18 of the Energy Act 2008 (licences)
14.		A permit under the Greenhouse Gas Emissions Trading Scheme Regulations 2005

## Annex C: Proposed list of prescribed consultees

The list below indicates, by reference to the list of prescribed bodies under Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, the consultees which we propose to retain or remove. This list also corresponds to schedules to the Infrastructure Planning (Interested Parties) Regulations 2010, the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011) and the Infrastructure Planning (Compulsory Acquisition) Regulations 2011, to which we would propose to make the same amendments.

Note: We do not intend to change any of the applicants' other extensive consultation or publicity duties under the Planning Act 2008, for example the duties under section 42 to consult local authorities, National Park Authorities, those with an interest in the land, etc., the duty under section 47 to consult the local community or the duty under section 48 to publicise the application.

	<b>Body</b>	<b>When to consult</b>
1	Welsh Ministers	All proposed applications likely to affect land in Wales
2	Scottish Executive	All proposed applications likely to affect land in Scotland
3	Relevant Northern Ireland Department	All proposed applications likely to affect land in Northern Ireland
<b>DELETE</b>	<b>Relevant Regional Planning Body</b>	
4	Health and Safety Executive	All cases
<b>DELETE</b>	<b>Relevant Strategic Health Authority</b>	
<b>DELETE</b>	<b>Relevant Health Board</b>	
5	Natural England	All proposed applications likely to affect land in England
6	Historic Building and Monuments Commission for England (otherwise known as English Heritage)	All proposed applications likely to affect land in England
7	Relevant Fire and Rescue Authority	All cases
8	Policy and Crime Commissioners (replacing relevant Police Authority)	All cases
9	Relevant Parish / Community Councils	All cases

10	Environment Agency	All proposed applications likely to affect land in England
11	Scottish Environmental Protection Agency	All proposed applications likely to affect land in Scotland
DELETE	Commission for Architecture and the Built Environment	
DELETE	Relevant Regional Development Agency	
DELETE	Equality and Human Rights Commission	
- DELETE	Scottish Human Rights Commission	
DELETE	Commission for Sustainable Development	
12	AONB Conservation Boards	All proposed applications likely to affect an AONB
DELETE	Royal Commission on Ancient and Historical Monuments of Wales	
13	Natural Resources Wales / Cyfoeth Naturiol Cymru (replacing Countryside Council for Wales)	All proposed applications likely to affect land in Wales
DELETE	Homes and Communities Agency	
14	Joint Nature Conservancy Committee	All proposed applications likely to affect the marine environment
DELETE	Commission for Rural Communities	
15	Scottish Natural Heritage	All proposed applications likely to affect land in Scotland
16	Marine and Coastguard Agency	All proposed applications likely to affect the maritime or coastal environment and/or the shipping industry
17	Marine Management Organisation (replacing the Marine and Fisheries Agency)	All proposed applications likely to affect the marine area in England and Wales
DELETE	Scottish Fisheries Protection Agency	
18	Civil Aviation Authority	Proposed applications relating to airports or which are likely to affect an airport or its current or future operation
19	Highways Agency	All proposed applications likely to affect roads for which the Secretary of State for Transport is the highway authority



DELETE	Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs)	
20	Relevant Highways Authority	All proposed applications likely to affect roads for which the relevant Highways Authority is the highway authority
DELETE	Transport for London	
DELETE	Rail Passengers Council	
DELETE	Disabled Persons Transport Advisory Committee	
21	Coal Authority	All proposed applications that lie within areas of past, present or proposed future coal mining
DELETE	Office of Rail Regulation and approved operators	
DELETE	Gas and Electricity Markets Authority	
DELETE	Water Services Regulation Authority	
DELETE	Water Industry Commission of Scotland	
DELETE	Relevant waste regulation authority	
22	Relevant Internal Drainage Board	All proposed applications likely to increase the risk of flooding in the area covered by that internal drainage board or where the proposals relate to an area known to be an area of flood risk
23	Canal and River Trust (replacing the British Waterways Board)	All proposed applications likely to affect inland waterways or land adjacent to inland waterways
24	Trinity House	All proposed applications likely to affect navigation in tidal waters
25	Health Protection Agency (will become Public Health England from April 2013)	All proposed applications likely to involve chemicals, poisons or radiation which could potentially cause harm to people
DELETE	Relevant local resilience forum	
26	Relevant statutory undertakers	All proposed applications likely to affect their functions as statutory undertakers
27	Forestry Commission	All proposed applications likely to affect the protection or expansion of forests and woodlands in England

28	Crown Estate Commissioners	All proposed applications likely to affect the Crown Estate
29 ADDITION	Ministry of Defence	Proposed applications relating to defence aerodromes, technical sites and military explosive storage sites which are likely to affect current or future operation, and all offshore developments.

## Annex D: Consultation response form

We are seeking responses to the following questions:

- Question 1. 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? [Paras 20-25]
- 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 (Annex B)? Have we identified the right consents to be removed? [Paras 26-27]
- 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? [Paras 28-30]
- 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? [Paras 31-32]
- Question 5. We would also welcome views on or practical examples of how the consenting regime is currently working for nationally significant infrastructure projects and other suggestions on where the regime could be improved. We are also interested to understand more about the costs involved in applying for consents and would welcome responses on this issue.

### How to respond:

The closing date for responses is Monday 7 January 2013.

This response form is saved separately on the DCLG website.

Responses should be sent preferably by email:  
majorinfrastructure@communities.gsi.gov.uk

Written response to:  
Planning: Infrastructure & Environment Team  
Department for Communities and Local Government  
Zone 1/J6 Eland House  
Bressenden Place  
London SW1E 5DU

## About you:

### i) Your details:

Name:	
Position:	
Name of organisation (if applicable):	
Address:	
Email:	
Telephone number:	

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response

Personal views

iii) Please tick the box which best describes you or your organisation:

District Council

Metropolitan district council

London borough council

Unitary authority/county council/county borough council

Parish council

Community council

Non-Departmental Public Body (NDPB)

Planner

Professional trade association

Land owner

Private developer/house builder

Developer association

Voluntary sector/charity

Residents' associations

Other

Please comment:
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iv) What is your main area of expertise or interest in this work (please tick one box)?

Chief Executive

Planner

Developer

Surveyor

Member of professional or trade association

Councillor

Planning policy/implementation

Environmental protection

Other

Please comment:
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v) Would you be happy for us to contact you again in relation to this questionnaire?

Yes / No

## Consultation Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Question1: 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? [Paras 20-25]

Response:

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 (Annex B)? Have we identified the right consents to be removed? [Paras 26-27]

Response:

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? [Paras 28-30]

Response:

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? [Paras 31-32]

Response:

Question 5. We would also welcome views on or practical examples of how the consenting regime is currently working for nationally significant infrastructure projects and other suggestions on where the regime could be improved. We are also interested to understand more about the costs involved in applying for consents and would welcome responses on this issue.

Response: