

WEST NORTHAMPTONSHIRE COUNCIL PLANNING POLICY COMMITTEE

20 September 2023

Rebecca Breese, Strategic Planning, Built Environment & Rural Affairs

Report Title **Response to consultation on proposed changes to the Nationally Significant Infrastructure Project regime**

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List of Appendices

Appendix 1 – Suggested response to consultation on the NPPF.

1. Purpose of Report

1.1 For members to consider a suggested response to the current consultation on proposed changes to the Nationally Significant Infrastructure Project (NSIP) regime.

2. Executive Summary

2.1 The report summarises the government’s proposed changes to the NSIP regime and suggests a response from this Council.

3. Recommendations

3.1 It is recommended that Planning Policy Committee:

- a) Agrees the suggested response to the consultation on proposed changes to the NSIP regime as set out in Appendix A.

4. Reason for Recommendations

4.1 To ensure that Government is aware of this Council's views on proposed changes to NSIP and in some cases to seek to persuade government to revise its proposed changes.

5. Report Background

5.1 The Government is consulting on proposed changes to the NSIP regime.

5.2 The consultation closed on 19th September i.e. the day before the meeting of this committee. In order to meet the deadline, the draft response, attached at appendix A, was submitted as a holding response following consultation with the Portfolio Holder. If members agree any changes to the response those details will be sent to DLUHC. Full details of the consultation can be seen on the [government's website](#).

5.3 Major infrastructure projects are considered through the NSIP process rather than through planning applications. Locally, the Northampton Gateway scheme and the latest phase of DIRFT were determined using this process.

5.4 The process has been in place for over ten years, and the government is now reviewing it to ensure it is fit for purpose in delivering timely decisions whilst ensuring communities and the environment remain at the heart of decision making.

5.5 The consultation sets out the Government's proposals to reform the operation of the Nationally Significant Infrastructure Project (NSIP) system through the Planning Act 2008 consenting process and outlines how it intends to bring these measures forward through secondary legislation and guidance changes over the coming months. This includes measures to:

- strengthen the role of pre-application and ensure consultation is effective and proportionate
- support faster and more proportionate examinations
- establish a fast-track route to consent
- review the process for post consent changes to a Development Consent Order
- and ensure the system is adequately resourced through:
 - resourcing the Planning Inspectorate and updating existing fees
 - strengthening the performance of government's expert bodies

- improved engagement with local authorities and communities
- building the skills needed to support infrastructure delivery

5.6 This consultation focuses on operational reforms to the NSIP consenting process and does not cover strategic aspects of the Nationally Significant Infrastructure Project reform programme, such as updating the existing National Policy Statements, proposals for Biodiversity and Marine Net Gain and changes to environmental assessment which are being progressed separately.

5.7 This consultation builds upon the Nationally Significant Infrastructure Reform Action Plan which was published in February of this year. That Action plan identified 5 reform areas:

1. Setting a clear strategic direction, where National Policy Statements and wider government policy reduce the policy ambiguity faced by individual projects.
2. Bringing forward operational reforms to support faster consenting with an emphasis on delivering proportionate examinations for all projects, strengthening pre-application section 51 advice and introducing a fast-track consenting timeframe for projects that meet the proposed fast track quality standard.
3. Realising better outcomes for the environment replacing the cumbersome environmental assessment processes with new Environmental Outcomes Reports; reviewing the protected sites and species policy framework (including Habitats Regulations Assessment (HRA)); and introducing biodiversity net gain and developing principles for marine net gain for Nationally Significant Infrastructure Projects.
4. Recognising the role of local authorities and strengthening community engagement with Nationally Significant Infrastructure Projects, with greater support and measures to embed community input and benefits much earlier in the process.
5. Improving system-wide capacity and capability, including through developing skills and training and extending proportionate cost recovery by the Planning Inspectorate and key statutory consultees to support effective preparation and examination of Development Consent Order applications and build resilience into the system.

The current consultation focuses on the measures needed to deliver against reform areas 2, 4 and 5.

6. Issues and Choices

- 6.1 The purpose of this report is to suggest a response from this Council to the Government on proposed changes to the NSIP regime. Members could decide to submit an amended response.
- 6.2 An alternative approach would be to not respond to the consultation.

7. Implications (including financial implications)

7.1 **Resources and Financial**

7.1.1 There are no financial implications arising specifically from this report.

7.2 **Legal**

7.2.1 There are no legal implications arising specifically from this report.

7.3 **Risk**

There are no risks arising from the recommendations in this report.

7.4 **Consultation**

7.4.1 Not applicable.

7.5 **Consideration by Overview and Scrutiny**

7.5.1 Not applicable

7.6 **Climate Impact**

7.6.1 There are no climate change impacts arising specifically from this report.

7.7 **Community Impact**

7.7.1 There are no community impacts arising specifically from this report.

7.8 **Communications**

7.8.1 None directly arising from this report.

8. Background Papers

8.1 [Operational reforms to the Nationally Significant Infrastructure Project \(NSIP\) consenting process](#)

APPENDIX A:

Suggested Response from WNC to Government Consultation on NSIP.

Question 1: Do you support the proposal for a new and chargeable pre-application service from the Planning Inspectorate?

Yes, this reflects the approach of most planning authorities who provide a chargeable pre-application service to ensure the formal stages of applications run more smoothly.

Question 2a: Do you agree with the 3 levels of service offered?

Yes, the tiered approach seems sensible.

Question 2b: If you are an applicant, which of the 3 tiers of service would you be most likely to use and for how many projects?

Not applicable.

Question 3: Would having the flexibility to change subscriptions as a project progresses through pre-application be important to you?

Not applicable

Question 4: To what extent do you agree that the overall proposals for merits and procedural advice will enable the policy objective to be met?

It seems sensible to identify issues with the merits of a proposal at an early stage, rather than leaving it to the more formal later stages.

Question 5: Do you have any specific comments on the proposals in the Table above?

No.

Question 6: Do you agree with the proposed changes to the consolidated list of statutory consultees outline above?

Yes

Question 7: Are there any other amendments to the current consolidated list outlined in table 2.1 that you think should be made?

No

Question 8: Do you support the proposed introduction of an early 'adequacy of consultation' milestone?

Yes, this will help developers and communities understand what the expectations are.

Question 9: Are there any additional factors that you think the early 'adequacy of consultation' milestone should consider?

It is important that any consultation and engagement is measured by its effectiveness rather than scale.

Question 10: Our evidence shows that there is a substantial amount of community consultation that happens during the lifetime of an NSIP. To guide our reforms, and to ensure that reforms support faster consenting, preventing consultation fatigue, more proportionate community consultation, with clearer tests for adequacy, it is important to gather further information about the causes for multiple consultations. What are the main reasons for consulting with communities multiple times during the lifetime of an NSIP application?

- **What constitutes adequate consultation is not clear from legislation.**
- **What constitutes adequate consultation is not clear from guidance.**
- **What the Planning Inspectorate will accept as adequate consultation is not clear.**
- **It is challenging to get the right level of information from consultations.**
- **The age of the National Policy Statements means more consultation is needed than before.**
- **It is the main way to update a community on changes that are made to a project.**
- **It is hard to engage with the correct communities.**
- **It is a means to mitigate legal challenge for the project.**
- **It is part of how to build enthusiasm for a project over time.**
- **It is a helpful way to develop the project.**

Are there any other factors that play a part in multiple consultations seen to be required by developers?

No further issues identified.

Question 11: Are there any other measures you think that government could take to ensure consultation requirements are proportionate to the scale and likely impact of a project?

Nothing further, the clear guidance already referred to in the consultation document is key to this

Question 12: To what extent do you agree with the proposal to remove the prohibition on an Inspector who has given section 51 advice during the pre-application stage from then being appointed to examine the application, either as part of a panel or a single person?

Please provide your reasons

The removal of the prohibition is supported. Enabling Inspectors to be involved at various stages of the proposal's consideration is helpful for continuity and is the practise undertaken in local authorities.

Question 13: To what extent do you agree that it would lead to an improvement in the process if more detail was required to be submitted at the relevant representation stage?

Please provide your reasons

The frontloading of the system would be very helpful in that it would enable issues to be identified at the earliest stage and enable the applicant to address such issues. However this would also require the applicants to provide relevant material at an early stage.

Question 14: To what extent do you agree that providing the Examining Authority with the discretion to set shorter notification periods will enable the delivery of examinations that are proportionate to the complexity and nature of the project but maintain the same quality of written evidence during examination?

Please provide your reasons

Agree that notification periods should be proportionate to the complexity of the project.

Question 15: To what extent do you agree that moving to digital handling of examination materials by default will improve the ability for all parties to be more efficient and responsive to examination deadlines?

The provision of materials in digital format would make the process more efficient, however provision needs to be made for those who are not able or not comfortable with using material in a digital format.

Question 16: To what extent do you agree that the submission of 'planning data' will provide a valuable addition as a means of submitting information to the Planning Inspectorate?

Please provide your reasons

This would be helpful for all parties concerned.

Question 17: Are there any other areas in the application process which you consider would benefit from becoming 'digitalised'?

None identified.

Question 18: To what extent do you agree that projects wishing to proceed through the fast track route to consent should be required to use the enhanced pre-application service, which is designed to support applicants to meet the fast track quality standard?

Please provide your reasons

Yes, in order to qualify for the fast track service it is very important that the enhanced pre-application service is used to help front the process.

Question 19: To what extent do you consider the proposed fast track quality standard will be effective in identifying applications that are capable of being assessed in a shorter timescale?

Please provide your reasons

It has potential, but this will only truly be known when a few cases have gone through the process

Question 20: On each criteria within the fast track quality standard, please select from the options set out in the table below and give your reasoning and additional comments in the

accompanying text boxes. Please also include any additional criteria that you would propose including within the fast track quality standard?

No comment

Question 21: To what extent do you agree that the proposals for setting the fast track examination timetable strike the right balance between certainty and flexibility to handle a change in circumstance?

Please provide your reasons

This seems reasonable, but this will need to be kept under review as schemes go through the process.

Question 22: To what extent do you agree that there is a need for new guidance on which application route proposed changes should undergo?

Please provide your reasons.

In some places the guidance is too complicated for those who have either not been involved in the NSIP process previously or only encounter this form of development infrequently.

Question 23: In addition, what topics should new guidance cover that would help to inform decisions on whether a proposed change should be considered as material or non-material?

Nothing specific other than to try and simplify the guidance for infrequent users.

Question 24: To what extent do you support the proposal to introduce a statutory timeframe for non-material change applications?

What do you consider is a reasonable timeframe for determining non-material applications? Please note, determination is referred to as the time it takes for the relevant department to make a decision on an application once the appropriate consultation has been undertaken. Any timeframe included in legislation would need to provide a specific timescale for determination.

- ***6-8 weeks***
- ***8-10 weeks***
- ***10-12 weeks***
- ***Other - Please justify your selection***

Support the proposed changes and a timeframe of 10 – 12 weeks is reasonable, but this should be reviewed periodically.

Question 25: Taking account of the description of the services in section 2.2.1 to what extent do you believe a cost-recoverable pre-application service will represent value for money in supporting applicants to deliver higher quality applications with minimal residual issues at submission?

Please provide your reasons

The introduction of a pre-application process would be invaluable, but question the extent to which it will be used by developers.

Question 26: To what extent do you agree with the proposal to charge an overall fee (appropriate to the tier of service that will cover the provision of the service) for a fixed period?

Please provide your reasons

Agree that a fixed fee process (albeit for a period) is required but this may not generate interest/use from developers.

Question 27: The government has set out an objective to move to full cost recovery for the Planning Act 2008 consenting process. To what extent do you support the proposal to support the Planning Inspectorate to better resource their statutory work on consenting by reviewing and updating existing fees, and introducing additional fee points?

Please provide your reasons

Wholly support this move/change.

Question 28: To what extent do you support the proposal to review and update existing fees in relation to applications for non-material changes to achieve cost recovery and support consenting departments in handling these applications?

Please provide your reasons

Wholly support this move/change.

Question 29: To what extent do you agree that the proposed review and update of existing fees and introduction of additional fee points will support the Planning Inspectorate to better resource their statutory work on consenting?

Please provide your reasons. If do not agree, are there any other ways to support the Planning Inspectorate to better resource their statutory work?

It is agreed that it will support the resources of the Planning Inspectorate. However, the amount should be reviewed periodically if it is to represent full cost recovery.

Question 30: To what extent do you agree that defining key performance measures will help meet the policy objective of ensuring the delivery of credible cost-recoverable services?

Please provide your reasons. If do not agree, are there any other mechanisms you would like to see to ensure performance?

Agree that the introduction/use of key performance indicators is required to justify the fee introduction.

Question 31: Do you agree with the principles we expect to base performance monitoring arrangement on? Please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes:

	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree
Be outcome and not output focussed to ensure better planning outcomes		X			
Please give reasons:					
The quality of the decision/outcome should be key.					
Consider quality of customer service provision		X			
Please give reasons:					
The feed back and constant review of customer care should be key.					
Cover the provision of statutory and non-statutory advice provided by the specific prescribed bodies (outlined in section 7.2.2) through pre-application, pre-examination, Examination and Decision		X			
Please give reasons:					
This will enable/improve the quality of decisions.					
Monitoring should be tailored to the context of each organisation		X			
Please give reasons:					
This will ensure that the level and quality of engagement is maintained.					
Reporting should be timely, transparent, simple to understand, easily accessible and evolved over time		X			

Please give reasons:

A swift or measured response should be central to the process.

Question 32: We would like to monitor the quality of customer service provided, and the outcomes of that advice on applicant's progression through the system where practicable. Do you have any views on the most effective and efficient way to do this?

The direct contact with stakeholders/individuals in the process will inform the level of customer service.

Question 33: To what extent do you support the proposal to enable specific statutory consultees to charge for the planning services they provide to applicants across the Development Consent Order application process?

Please provide your reasons

The introduction of this will enable consultees to recover costs associated with the level of work.

Question 34: To what extent do you agree with the key principles of the proposed charging system? Please select from the options listed in the table below and give reasons in the 'comment' text box.

	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree
Initially limit the ability to charge to the organisations listed in table 7.1		X			
Please give reasons:					
Recover costs for non-statutory and statutory services provided throughout Pre-application, Pre-examination, Examination and Post-Decision		X			
Please give reasons:					
Yes, the ability to recover the costs would ensure that the level of service within the wider areas would be beneficial.					
Setting charging schemes		X			
Please give reasons:					
A transparent, but reviewable, scheme would be advantageous to ensure that costs are recovered.					

Question 35: Do you have any comments on the scope and intended effect of the principles of the charging system?

No.

Question 36: Do you support the proposal to set out principles for Planning Performance Agreements in guidance?

Yes.

Question 37: Do you have any further views on what the proposed principles should include?

No.

Question 38: To what extent do you agree that these proposals will result in more effective engagement between applicants and local communities for all applications?

Please provide your reasons

The proposals will lead to more effective engagement with all interested parties.

Question 39: Do you face any challenges in recruiting the following professions? Please complete the table below and give reasons.

Standard Occupation Classification (SOC) 2020	Profession	Yes/No	Reasons
SOC2452	Town Planning Officers	Yes	The extent of individuals to draw from has become very limited.
SOC2455	Transport Planners		The extent of individuals to draw from has become very limited.
SOC3581	Planning Inspectors		N/a
SOC3120	Administrators		The extent of individuals to draw from has become

		very limited.
SOC4112	Local government administrative occupations	The extent of individuals to draw from has become very limited.
SOC2451	Architects	The Council does not have an architect's team.
SOC2453	Quantity Surveyors	The Council does not have any Quantity Surveyors to do this work.
SOC2455	Construction project managers and related professionals	N/a
SOC2481	Planning engineers (including windfarm)	N/a
SOC2151	Conservation professionals	The extent of individuals to draw from has become very limited.
SOC2152	Environmental professionals	The extent of individuals to draw from has become

		very limited.
SOC2483	Environmental health professionals	The extent of individuals to draw from has become very limited.
SOC2121	Water engineers	The extent of individuals to draw from has become very limited.
SOC3520	Legal associate professionals	The extent of individuals to draw from has become very limited.
SOC3544	Data analysts	N/a

Question 40: Are there any other specific sectors (as identified above) that currently face challenges in recruiting? If so, please stat which ones and give reasons why

The ability to recruit/attract professionals (Planners/Engineers/Conservation officers) to the Council has become increasingly difficult, because of shortages of suitably skilled and experienced officers.

Question 41: Do you have any ideas for or examples of successful programmes to develop new skills in a specific sector that the government should consider in developing further interventions?

The use of a trainee programme has produced a degree of success in some Council's.

Question 42: To what extent do you agree that updated guidance on the matters outlined in this consultation will support the Nationally Significant Infrastructure Project reforms?

Please provide your reasons

The revisions/reforms will move NSIP projects forward in terms of the further inclusion/understanding of individuals.

Question 43: Do you support a move towards a format for guidance that has a similar format to the national planning practice guidance?

Please provide your reasons

Yes.

Question 44: Are there any other guidance updates you think are needed to support the Nationally Significant Infrastructure Project reforms?

No.