





The advice note is laid out in two broad parts.

- Part 1 covers the generic aspects of the IPC’s involvement with other public bodies in the process, both in relation to such bodies’ roles as consultees on proposed development consent applications and where such bodies have parallel consenting powers.
- Part 2, presented separately, sets out in more detail the specific roles played by individual bodies and highlights their particular interactions with the IPC, at key stages in the infrastructure planning process, through a number of annexes that will be added to over time.

This advice note will be kept under review in the light of any changes to the infrastructure planning process and the statutory responsibilities of relevant bodies.

## General working arrangements

There are a number of general principles which can help to promote effective working relationships between the IPC and consultees:

- *Good communication and dialogue at the pre-application stage.* Consultees have a number of important roles to play at this stage, discussed further below. Information sharing between the IPC and consultees about the different elements of the consenting process for a particular NSIP is an important complement to consultees’ formal roles in responding to the consultation requests of the IPC and the developer.
- *Timeliness.* The IPC works to tight timescales, which in some cases are statutory, and it is very important for consultees to respond promptly to consultation requests. Responses which miss statutory deadlines may not be taken into account by the IPC.
- *Transparency.* Consultees and the IPC have different roles, and as part of its duties and policies, and to ensure impartiality is protected, the IPC operates an openness and transparency policy. Consultees should expect that notes of any meetings with the IPC about NSIP proposals, and correspondence, will be made publicly available.



## The pre-application stage

### Pre-application consultation under s.42 of the 2008 Act

Pre-application consultation<sup>2</sup> by developers is a key part of the 2008 Act regime. The 2008 Act requires developers to consult a range of consultees. These include organisations with particular expertise in or responsibility for matters relevant to the proposal such as those organisations featuring in part 2 of this advice note.

There are a number of important points for consultees to be aware of:-

- Consultees can provide technical information about impacts which the developer should consider at an early stage, for example in drafting provisions and requirements in their draft development consent order (DCO) to mitigate such impacts. It is a key feature of the new regime that developers are able to include detail of this nature in their applications before they are submitted. This allows the examination to focus on issues where questions remain. Full and meaningful consultation, before the submission of an application, would also reduce the risk of material changes to the application being proposed at too late a stage in the process to accommodate impacts.
- Consultees should therefore respond as fully and as early as possible to developers' requests for advice on proposals. This will help facilitate the preparation of well prepared NSIP applications.
- As the environmental impact assessment (EIA) scoping process can be carried out at any time, it is possible for consultees to be asked to respond in the same timeframe both to a developer's Section 42 consultation and to a scoping opinion consultation carried out by the IPC.
- Consultees may also be asked to advise developers on matters under the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations). The IPC has published a separate advice note on this subject.<sup>3</sup>
- Developers must include draft requirements in their draft DCO, taking into account the views of relevant consultees and others. Consultees may be responsible for discharging such requirements if consent is granted.
- At pre-application stage, where possible, the IPC encourages consultees with related areas of responsibility to co-ordinate their responses.

<sup>2</sup> See guidance published by the Department for Communities and Local Government - [Planning Act 2008: Guidance on pre-application consultation](#) (link opens guidance document)

<sup>3</sup> See the Conservation of Habitats and Species Regulations 2010/490 as amended by the Conservation of Habitats and Species (Amendment) Regulations 2011 (refer to [IPC advice note 10](#)).



## Environmental Impact Assessment

A key area of interaction between the IPC and consultees is where proposed NSIP developments are EIA development. The key points to note are as follows:

- When a developer sends an EIA Regulation 6 notification to the IPC, the developer will state whether an application requires an EIA or not. If unsure, a developer may ask the IPC to provide a screening opinion. In either case, the IPC must notify a statutory list of consultees of their duty to provide relevant information to the developer.<sup>4</sup>
- While there is no formal requirement for developers to request a scoping opinion from the IPC, most developers for EIA development request such an opinion. In those circumstances, the IPC is required to consult with statutory consultees when it receives a scoping request<sup>5</sup>. IPC advice notes 3 and 7 provide further advice.

The EIA Regulations require the IPC to issue a scoping opinion within 42 days from receiving a request or from receipt of additional information where a developer

has provided insufficient information with their request. Within this time period, consultees have 28 days in which to provide any comments to the IPC on the developer's scoping request.

- The IPC advises developers in scoping opinions to set out in their environment statement (ES) what cumulative impacts arising from other major developments, including those consented under other statutory regimes, have been identified and assessed in the EIA. Developers should also ensure that all relevant consents which are required to enable operations to proceed are set out in the ES. Consultees should assist developers in meeting these obligations when requested to do so.
- It is important for developers to ensure that their ES is adequate. If during examination it comes to light that the ES should contain further information, consideration of the application could be suspended pending receipt of further information<sup>6</sup>. Consultees should assist developers at the pre-application stage in order to reduce this risk.

<sup>4</sup> See Regulation 9 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

<sup>5</sup> The IPC is required to consult in accordance with EIA Regulation 8(6). Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms And Procedures) Regulations 2009 forms the basis for the IPC to identify most of the relevant bodies to consult before adopting a scoping opinion.

<sup>6</sup> Regulation 17 of the EIA Regulations.





developers should time their interactions to enable agreement on matters as much as possible at pre-application stage. Developers may also provide information in support of their DCO application stating how close they are to obtaining any consents etc required under other legislation.

- The timing of decisions on consents, licences and authorisations other than the DCO may have an important impact on the examination of the application and should be considered carefully. Government policy on this point, as set out in National Policy Statements, will be an important consideration in this respect. Greater detail on the interaction between the 2008 Act and specific, relevant consents etc required under other legislation will be set out in part 2 of this advice note with respect to individual consultees. Specific considerations are also likely to apply in individual cases, and dialogue between the IPC and other consenting bodies will be appropriate.

### Interaction between the IPC and relevant public bodies

Part 2 of this advice note will be developed over time, and sit alongside part 1. Part 2 will take the form of a number of annexes.

Each part 2 annex will include:

- Specific roles to be played by the IPC and the relevant public body
- Specific high level agreements or arrangements; and relevant contact points.
- A list of relevant consents, licences or authorisations that apply, and considerations relating to how those interact with the development consent process.

### Further information

The Infrastructure Planning Commission, Temple Quay House, Temple Quay, Bristol BS1 6PN

Email: [ipcenquiries@infrastructure.gsi.gov.uk](mailto:ipcenquiries@infrastructure.gsi.gov.uk)

Telephone: 0303 444 5000

Web: [www.independent.gov.uk/infrastructure](http://www.independent.gov.uk/infrastructure)