

Review

Built Environment Group



Planning Act 2008: Consultation on the procedures for approving nationally significant infrastructure projects

On 30 March 2009, the Department for Communities and Local Government launched a consultation into the pre-application and application procedures for nationally significant transport, energy, water, waste and waste-water infrastructure projects.

The consultation document contains 27 consultation questions, 4 sets of draft regulations and 2 guidance documents. The draft regulations cover:

- Pre-application and application procedures and requirements
- Model provisions for development consent orders
- Environmental Impact Assessment regulations
- Amendments to the Conservation and Natural Habitats Regulations.

PRE-APPLICATION PROCEDURES

The draft regulations set out the names of the bodies that an applicant must consult, both prior to making an application and when the application is made to the IPC. Some consultees must be consulted for every application, like the Environment Agency, CABI and the Equality and Human Rights Commission. Other consultees, like the CAA, the Office of the Rail Regulator and the Water Services Regulation Authority only need to be consulted on an application if the application is likely to affect their industry.

Applications will need to be advertised in local and national papers and the London Gazette.

As well as pre-application procedures, the regulations also set out what documents have to be submitted with an application. Generally, this means plans of the proposed development, a model order and a book of reference setting out the land ownership in the area. The regulations prescribe a standard application form.

The draft regulations also include specific requirements for applications for generating stations, highways, harbour facilities, pipelines, hazardous waste facilities and dam or reservoir applications.

MODEL PROVISIONS

The purpose of the draft regulations dealing with model provisions is to provide a template for the development consent orders that the IPC will issue. Developers will be required to submit a draft development consent order with their application. The IPC's expectation will be that the draft order submitted with an application will be identical to the model order in the draft regulations. Developers will need to provide an explanation for deviations from the model order.

At present, there is one model order to cover all IPC developments. Given the wide range of developments covered by the IPC, not all of the model provisions will be relevant for every development. One of the consultation questions is whether there should be different model provisions for different development types.

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EIA REGULATIONS

There will be new EIA regulations to apply to major infrastructure projects. As with all the EIA regulations they prevent the IPC issuing a development consent for any EIA application without an environmental statement. The draft regulations also set out the procedures for obtaining a screening and scoping opinion from the IPC, publicity for EIA applications and the powers of the IPC to request further information.

Where an application is made to the IPC without an environmental statement and the development is one that requires an EIA then the IPC are prohibited from accepting the application.

HABITATS AMENDMENT

The consultation includes draft regulations that insert the Planning Act 2008 and the IPC into the existing Habitats regulations, which apply to sites that are protected under European regulations.

GUIDANCE

In addition to the regulations, the Government intend to publish two guidance documents. One is intended to guide promoters of nationally significant infrastructure projects as to how the requirements of the Planning Act 2008 should be met. The other is intended to provide guidance on associated development, which is defined in the Planning Act 2008 as development that is associated with a nationally significant infrastructure project.

Unusually for an era of electronic communication, all applications to the IPC will have to be sent to them in hard-copy. Four copies of all the application documents will be needed. One of the consultation questions, however, addresses the feasibility of submission of applications (including all plans and supporting documents) in electronic format in addition to paper copies.

CLOSING DATE

The closing date for the consultation is 19 June 2009. A copy of the consultation document is available from the Department for Communities and Local Government's website.



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FURTHER INFORMATION

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