

Response ID ANON-D5YD-65VP-7

Submitted to Consultation on operational reforms to the Nationally Significant Infrastructure Project consenting process
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About you

1 What is your name?

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3 Are you replying as an individual or submitting a response on behalf of an organisation?

Professional body / organisation

Organisation:

Chartered Institute for Archaeologists / Council for British Archaeology

Strengthening the role of pre-application and ensuring more effective and proportionate consultation

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

Agree

2 Do you agree with the three levels of service offered?

Agree

Yes

If you wish, please provide your reasons - How many projects?:

Yes, broadly, the proposals outlined appear to offer routeways for applicants to receive a proportionate level of advice based upon the needs of their project, provided that (1) procedures for steering applicants towards the appropriate tier are functional, (2) that applicants that eschew higher tiers can face consequences further down the line if issues arise which slow the process, and (3) that it is clear that fee increases for advisors are proportionate to the increase in levels of advice provision and that the requisite skills demand for improved advice and processes can be met.

Yes

If you wish, please provide your reasons - How many projects?:

Yes, broadly, the proposals outlined appear to offer routeways for applicants to receive a proportionate level of advice based upon the needs of their project, provided that (1) procedures for steering applicants towards the appropriate tier are functional, (2) that applicants that eschew higher tiers can face consequences further down the line if issues arise which slow the process, and (3) that it is clear that fee increases for advisors are proportionate to the increase in levels of advice provision and that the requisite skills demand for improved advice and processes can be met.

Yes

If you wish, please provide your reasons - How many projects?:

Yes, broadly, the proposals outlined appear to offer routeways for applicants to receive a proportionate level of advice based upon the needs of their project, provided that (1) procedures for steering applicants towards the appropriate tier are functional, (2) that applicants that eschew higher tiers can face consequences further down the line if issues arise which slow the process, and (3) that it is clear that fee increases for advisors are proportionate to the increase in levels of advice provision and that the requisite skills demand for improved advice and processes can be met.

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

Yes

If you wish, please provide your reasons:

We are not an applicant, but our members work on behalf of applicants as archaeological contractors delivering advice and works on NSIP projects. Our view is that certain projects may benefit from an ability to step up tiers if additional complexities arise during the process which could not have been anticipated in many instances.

There would need to be robust regulation to ensure that this process cannot be abused to the cost of either applicant or advisor. There may reasonably be expectations that if a project steps up a tier, then the project may encounter delays relative to those who entered at the higher tier originally. A clear process for ensuring applications are assessed at the correct tier at pre-app will help to mitigate the likelihood of this happening.

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

Agree

5 Do you have any specific comments on the proposals in Box 2?

Further information:

Re: question 4: We recognise that a proactive role for PINS during the pre-application stage could be useful; for example, to set expectations for applicants and provide 'merits advice'. However, we would imagine that engagement with the appropriate local authority would be necessary in order to provide accurate 'merits advice', unless such advice was carefully caveated. For instance, the local planning authority is likely to know much more about the specific site constraints, such as the likelihood of the presence of buried archaeological heritage or impacts on the setting, or significant views of, heritage assets.

It would be potentially beneficial for any expanded PINS role to include greater opportunity to mediate interactions between the local planning authority or other stakeholders and the applicant. This could help to reduce instances of disagreement between applicant and local planning authority being settled after pre-application stage, and promote greater consistency in advice from planning authorities, as PINS impartial advice would help to moderate LPA advice. Failing this, it may be beneficial if PINS evidenced opinion was available to planning authorities.

Re: the chargeable pre-application service, the proposals outlined appear to provide a good basis for (1) better resourcing for bodies providing advice, and (2) enhancing opportunities for dialogue between applicants and advisors before the stringent timescales for NSIP progression begins. This should, subject to detail, be a positive way to improve existing issues our members identify.

We have noted in previous NSIP consultations that pre-application stage is the best opportunity for dialogue between stakeholders to explore any potential lack of understanding of the principles and policies relating to the management of the historic environment. This is because once the formal NSIP process starts, the timetable is very demanding for stakeholders. This can cause problems when stakeholders feel unable to take the time to better understand underlying issues, and can perpetuate a 'tick-box' attitude which is inefficient. It also often fails to enable the required creativity to develop an understanding of significance, assess impact, and weigh the effect of change to that significance to develop appropriate design solutions.

Investing greater time and resources in understanding historic environment issues at the pre-application stage creates an opportunity to rectify any oversights within proposals at an early stage, which is invariably cost-effective in reducing the risk of overspends and delays.

It is also vital that local planning authorities and statutory consultees like Historic England have the necessary resources to engage appropriately with the NSIP regime at the pre-application stage.

6 Do you agree with the proposed changes to the consolidated list of statutory consultees outlined below?

Pre App 6 - Civil Aviation Authority:

No view

Pre App 6 - Forestry Commission:

Keep

Pre App 6 - Health and Safety Executive:

No view

Pre App 6 - Integrated Transport Authorities (ITA) and Passenger Transport Executive (PTE):

No view

Pre App 6 - Marine Management Organisation:

Keep

Pre App 6 - Maritime and Coastguard Agency:

Keep

Pre App 6 - National Health Service Commissioning Board and the relevant clinical commissioning group:

Keep

Pre App 6 - National Health Service Trusts (Wales):

Keep

Pre App 6 - Natural England:

Keep

Pre App 6 - Natural Resources Wales:

Keep

Pre App 6 - Relevant AONB Conservation Boards:

Keep

Pre App 6 - Relevant Fire and Rescue Authority:
No view

Pre App 6 - Relevant Health Board (Scotland):
No view

Pre App 6 - Relevant Highways Authority:
No view

Pre App 6 - Relevant Internal Drainage Board:
No view

Pre App 6 - Relevant local health board (Wales):
No view

Pre App 6 - Relevant Northern Ireland Department:
No view

Pre App 6 - Relevant Parish Council or Community Council:
No view

Pre App 6 - Relevant Police Authority:
No view

Pre App 6 - Relevant Statutory Undertakers:
No view

Pre App 6 - Royal Commission on Ancient and Historical Monuments of Wales:
Keep

Pre App 6 - Scottish Natural Heritage:
Keep

Pre App 6 - Secretary of State for Defence:
No view

Pre App 6 - The British Waterways Board:
No view

Pre App 6 - The Coal Authority:
No view

Pre App 6 - The Crown Estate Commissioners:
No view

Pre App 6 - The Environment Agency:
Keep

Pre App 6 - The Highways Agency:
No view

Pre App 6 - The Historic Buildings and Monuments Commission for England:
Keep

Pre App 6 - The Joint Nature Conservation Committee:
No view

Pre App 6 - The Scottish Environment Protection Agency:
No view

Pre App 6 - The Scottish Executive (Scottish Government):
No view

Pre App 6 - The Welsh Ministers (Welsh Government):
No view

Pre App 6 - Transport for London:
No view

Pre App 6 - Trinity House:
No view

Pre App 6 - UK Health Security Agency:

No view

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

Yes

If you answered 'Yes', please provide your reasons here:

Historic Environment Scotland should be added to the list, as the body officially split from Scottish Government and is now Scottish Government's lead advisor on the historic environment.

It is not clear in the question above, but we are pleased that the The Historic Buildings and Monuments Commission for England will be updated to Historic England.

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

Neither agree/disagree

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

Further information:

Don't know. In principle we do not object to the proposal, but it is unclear to us how it would work in practice. Our members have highlighted concerns with the adversarial nature of NSIP applications, and the tendency for consultation to highlight opposition to development, including by adopting certain impacts, including impacts on the historic environment as fundamental reasons not to support development. We would welcome any process which enabled meaningful opportunities to explore impacts on the historic environment and discuss offsetting measures with communities. When public participation with archaeological evaluation works is written into the scheme, the ability to deliver tangible public benefits for local communities from a project that reinforce a local 'sense of place', are considerable. It is unclear whether the proposals outlined here would enable this, but we recommend that they should.

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?

Pre app 10 - What constitutes adequate consultation is not clear from legislation.:

Pre app 10 - What constitutes adequate consultation is not clear from guidance.:

Pre app 10 - What the Planning Inspectorate will accept as adequate consultation is not clear.:

Pre app 10 - It is challenging to get the right level of information from consultations.:

Pre app 10 - The age of the National Policy Statements means more consultation is needed than before.:

Pre app 10 - It is the main way to update a community on changes that are made to a project.:

Pre app 10 - It is hard to engage with the correct communities.:

Pre app 10 - It is a means to mitigate legal challenge for the project.:

Pre app 10 - It is part of how to build enthusiasm for a project over time.:

Pre app 10 - It is a helpful way to develop the project.:

Further information:

Demonstration of a project to communities is an iterative process and not all requisite information may be available at the time of an initial consultation.

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?

Further information:

Operational reforms to support faster and more proportionate examinations

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?

Not Answered

If you wish, please provide your reasons:

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?

If you wish, please provide your reasons:

Strongly agree. Our members highlight a tendency for poor post-application information as a key reason for delay, with requests for additional or amended information exacerbating already demanding examination timetables for host local authorities and other stakeholders. We would therefore support an expectation for more detailed relevant representations and hope that this would also aid host local authorities at pre-examination stage and enable them to more efficiently begin work on the Local Impact Report.

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?

Not Answered

If you wish, please provide your reasons:

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?

Strongly agree

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?

Strongly agree

If you wish, please provide your reasons:

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

If you wish, please provide your reasons:

Establishing a fast-track route to consent

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?

Neither agree/disagree

If you wish, please provide your reasons:

We are concerned in principle at the idea that, if implemented poorly, a fast track system could enable projects to essentially 'buy' quicker determination at the cost of proper determination of issues. The detailed quality standards will need to be robust to ensure that it is clear which applications are likely to be suitable for fast-track (e.g. low impact, less controversial schemes).

It will also be important that a strong quid pro quo for faster determination is a more front-loaded process, with very high standards for pre-application stage and only very limited scope for the type of post-examination changes or failure to deliver information at first submission that is seen in many applications which face slower determination.

Even so, it may be challenging to obtain agreement from all stakeholders to work against shorter timescales. This may impact, for instance, negotiation over PPAs.

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?

Neither effective/ineffective

If you wish, please provide your reasons:

We foresee a potential for applications to underestimate areas where complex consideration may be needed. For instance, while it may be possible to identify where the historic environment definitely will be a principle area of disagreement, it may not be possible to fully rule out that it could be in some cases, where evaluation and investigation will not take place until later in the process. We would be keen to ensure that there was scope within any fast track process for such issues to be required to be scoped out earlier than they might have been under normal procedures to reduce the likelihood of this happening. In this sense fast track applications will need to be held to a higher standard of front-loaded assessment.

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?

Fast 18 - 1. Principal areas of disagreement:
Strongly agree

Fast 18 - 2a Fast track programme document:
Strongly agree

Fast 18 - 2b(i) include fast track intention in consultation material:
Strongly agree

Fast 18 - 2b(ii) formal agreement to use enhanced pre-application:
Strongly agree

Fast 18 - 2b(iii) publicise fast track programme:
Strongly agree

Fast 18 - 2b(iv) provide evidence at submission of 2a – 2c:
Strongly agree

Fast 18 - 3. Regard to advice:
Strongly agree

If you wish, please provide your reasons. Please also include any additional criteria that you would propose including within the Fast Track Quality Standard. :

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?

Agree

If you wish, please provide your reasons:

It is valuable to ensure that decisions for entry to fast-track are provisional on meeting, and continuing to meet, quality standards. At any point, it should be possible to revert to a standard timescale or adapt the examination timetable if required. Generally the approach outlined in the consultation seems reasonable.

Resourcing the Planning Inspectorate and updating existing fees

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?

23 resourcing the Planning Inspectorate:

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?

24 resourcing the Planning Inspectorate:

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?

Not Answered

If you wish, please provide your reasons:

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?

Not Answered

If you wish, please provide your reasons:

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?

Not Answered

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

Strengthening performance of government's expert bodies

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?

Strongly agree

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

We strongly support enhancing funding to ALBs and agree that service level agreements to structure performance goals are a sensible way to ensure value for money for that important investment.

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:

Neither agree nor disagree

If you wish, please provide your reasons:

It is unclear what is meant by 'better planning outcomes'. A good planning outcome is one which results in sustainable development and robust, efficient, decision-making.

Strongly disagree

If you wish, please provide your reasons:

It is unclear who the 'customers' are in this process. Applicants should not be considered to be 'customers' in any traditional sense. While applicants deserve to have procedures that work efficiently, the application fee does not purchase outcomes, only consideration.

Strongly agree

If you wish, please provide your reasons:

Strongly agree

If you wish, please provide your reasons:

Strongly agree

If you wish, please provide your reasons:

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?

30 strengthening performance of governments expert bodies:

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

Not Answered

If you wish, please provide your reasons:

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.

Not Answered

If you wish, please provide your reasons:

Not Answered

If you wish, please provide your reasons:

Not Answered

If you wish, please provide your reasons:

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

33 strengthening performance of governments expert bodies:

Improving engagement with local authorities and communities

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

Strongly agree

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

35 Improving engagement with local authorities and communities:

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

Agree

If you wish, please provide your reasons:

Our members highlight concerns that NSIP processes are often more adversarial than planning applications. This is likely because they are, by nature, major projects with significant impacts on local communities. We are therefore supportive of a revised approach to public engagement and communication in these proposals.

With respect to the historic environment, we are keen that public engagement processes should take account of local values relating to heritage, including landscape, historic views and setting, and that this should influence not only discussion of whether a development is appropriate, but also identifies where archaeological works to offset any harm to heritage assets, such as new research and public engagement activities can be effectively targeted to meet specific community aspirations, as well as mitigation to reduce impact.

NSIPs are also likely to feature as key elements of levelling-up strategies, and it is therefore critical that local communities are part of the process of informing developments and that applicants can effectively communicate.

Building the skills needed to support infrastructure delivery

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

Skills 37 - SOC2452 Town Planning Officers:

Skills 37 - SOC2455 Transport Planners:

Skills 37 - SOC3581 Planning Inspectors:

Skills 37 - SOC3120 Administrators:

Skills 37 - SOC4112 Local government administrative occupations:

Skills 37 - SOC2451 Architects:

Skills 37 - SOC2453 Quantity Surveyors:

Skills 37 - SOC2455 Construction project managers and related professionals:

Skills 37 - SOC2481 Planning engineers (including windfarm):

Skills 37 - SOC2151 Conservation professionals:

Skills 37 - SOC2152 Environmental professionals:

Skills 37 - SOC2483 Environmental health professionals:

Skills 37 - SOC2121 Water engineers:

Skills 37 - SOC3520 Legal associate professionals:

Skills 37 - SOC3544 Data analysts:

Please provide your reasons here, with the Standard Occupation Classification (SOC) code(s) you are referring to. :

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

Further information:

Archaeology (part of SOC 2114 Humanities and Social Scientists) is currently on the UK Shortage Occupation List having undergone a period of rapid sectoral growth in the last c.8 years. This growth – spurred in large degree by a growth in large infrastructure projects requiring significant archaeological work, combined with other factors such as Brexit making it harder to employ skilled archaeologists from outside the UK has meant increased need to focus on domestic skills delivery in order to avoid critical shortages.

This shortage potentially affects private sector contracting organisations and local authority historic environment and archaeological advise services.

Some NSIP projects, and other large infrastructure projects like HS2 have delivered significant on-site traineeship schemes as part of delivery. We would welcome flexibility in any government backed skills investment programmes in order to contribute to sector needs, including in local authorities.

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?

Further information:

Public Sector Equalities Duty

45 Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No

If you answered 'Yes' to this question, please use the text box below to provide your reasons. :