



Meeting note

File reference	Not applicable
Status	Final
Author	Kath Dunne
Date	31 May 2016
Meeting with	National Trust
Attendees	National Trust's Heelis Office, Swindon National Trust Emma Plunkett-Dillon Karin Taylor Alan Hubbard James Lloyd John Pearson Simone Clark Daniel Leggett Helen Dangerfield The Planning Inspectorate Kath Dunne –Infrastructure Planning Lead Hannah Pratt – Senior EIA and Land Rights Advisor
Meeting objectives	Nuclear Power National Meeting – sharing experience
Circulation	All attendees

Summary of key points discussed and advice given:

The National Trust (NT) outlined the two key questions for discussion during the meeting:

- Are nuclear power stations different to other major infrastructure projects which the NT deals with?
- How can NT effectively represent its interests when the land adjoins, and is not required by, the proposed development?

NT confirmed that its position is neither for or against nuclear power, they will assess each project on the likely impact it would have on their interests.

The Planning Inspectorate (PINS) provided a presentation on the Planning Act 2008 (PA 2008) process and gave a brief overview of the Hinkley Point C examination. Through the presentation, PINS addressed NT's two key questions; explaining that the

National Policy Statements identify the need for nuclear power and list the sites considered to be 'potentially suitable' to host nuclear power stations. Other NSIPs may also have the need case established in National Policy, however to date, nuclear is the only energy technology where specific sites are identified as 'potentially suitable'.

PINS also explained that NT would be able to make comments to developers at the pre-application stage and during examination where they have concerns that the proposal may impact upon their land, including where the land adjoins the proposed development. NT explained that for example, construction traffic and/or the closure of some roads could impact on access to some of their properties and they are also concerned that the use of construction machinery could indirectly impact upon designated heritage assets on their land (but outside of application sites).

NT explained that some of the land they own is 'inalienable', in such instances if a developer proposes to acquire inalienable land through the development consent order, and NT object, the acquisition would be subject to special parliamentary procedure.

NT has concerns that one developer has requested that consultees sign a non-disclosure agreement which is proposed to last for ten years.

NT queried to what extent compensation is considered in NSIP examinations. For example, NT queried whether compensation for adverse impacts, such as providing benefits to land owned by the National Trust (e.g. improving hedgerows and providing new footpaths), could be incorporated into an NSIP. PINS explained that this can be considered and NT should raise their concerns at both the pre-application and examination stages.

NT explained that in certain NSIP examinations, they had been expecting hearings to cover greater detail but that applicants deferred the detail to a management plan to be produced at a later date. PINS explained that sometimes this approach is taken where applicants have not yet appointed a contractor to construct the development and therefore applicants want to secure a certain level of flexibility to ensure the project is still deliverable by the contractors. In some instances, draft management plans have been produced for discussion at examination, which have then been included in a DCO requirement to be signed-off following any consent. NTs view is that applicant's should be appointing contractors earlier, PINS will raise this suggestion with developers.

PINS explained its pre-application prospectus, which it produced following the Department for Communities and Local Government's 2014 review of the PA 2008 process. The prospectus outlines the pre-application advice service that PINS offers to developers and other stakeholders in the process. PINS further explained the Environmental Impact Assessment Evidence Plan approach which some developers have taken up. This considers the EIA as a whole (not just Habitats Regulations Assessment) where PINS can chair meetings between developers and statutory nature conservation bodies and other key stakeholders, where the parties can agree the evidence base and methodology for the EIA ahead of submission of the application. These agreements and areas of any disagreement, form the basis of statements of common ground to be submitted during the examination (if not upon submission of the application).

NT explained that they have concerns regarding the coastal processes for one development. PINS advised NT to review the Strategic Siting Assessment (SSA) undertaken by the Department of Energy and Climate Change for the specific site to see if further information may be available on this issue.

NT explained that they do not have in-house expertise to adequately assess all technical issues associated with nuclear project and so they will need to fund external consultants, however in some instances they are struggling to find such consultants which are not already conflicted from working on the projects, as they have already worked for the applicant.

NT advised PINS to always ask for the applicant's risk registers prior to submission of the applications.

NT also has general concerns regarding the approach to consultation which some NSIP developers have undertaken, especially when an applicant visits a site and does not necessarily seek information and opinions from the landowners.

Specific decisions / follow up required?

NT requested that when PINS speaks with developers, they should explain the "inalienable land" issue and encourage developers to make early contact with the Trust. It would also be helpful if PINS could outline the resourcing and funding issues faced by NT and to encourage greater engagement with NT.



The Planning
Inspectorate

The Planning Act 2008 Development Consent Process

Kathryn Dunne – Infrastructure Planning Lead

Hannah Pratt – Senior EIA and Land Rights Advisor

31 May 2016



Overview?

- The Planning Inspectorate
- Principles of the PA 2008
- The stages in the process
 - Pre-application
 - Examination
- Emerging learning
- Service improvements
- Hinkley Point C example



The Planning
Inspectorate

Who are we?

- Government Agency – Department of Communities and Local Government
- Based in Bristol SW England
- Fairness, Openness and Impartiality





The Planning
Inspectorate

2008 Act is based on clear principles

- Clear and statutory timetable
- National Policy addresses need and principles
- Front loaded
- Predominantly Written Representations
- Development as applied for (Development Consent Order)



Planning Act 2008

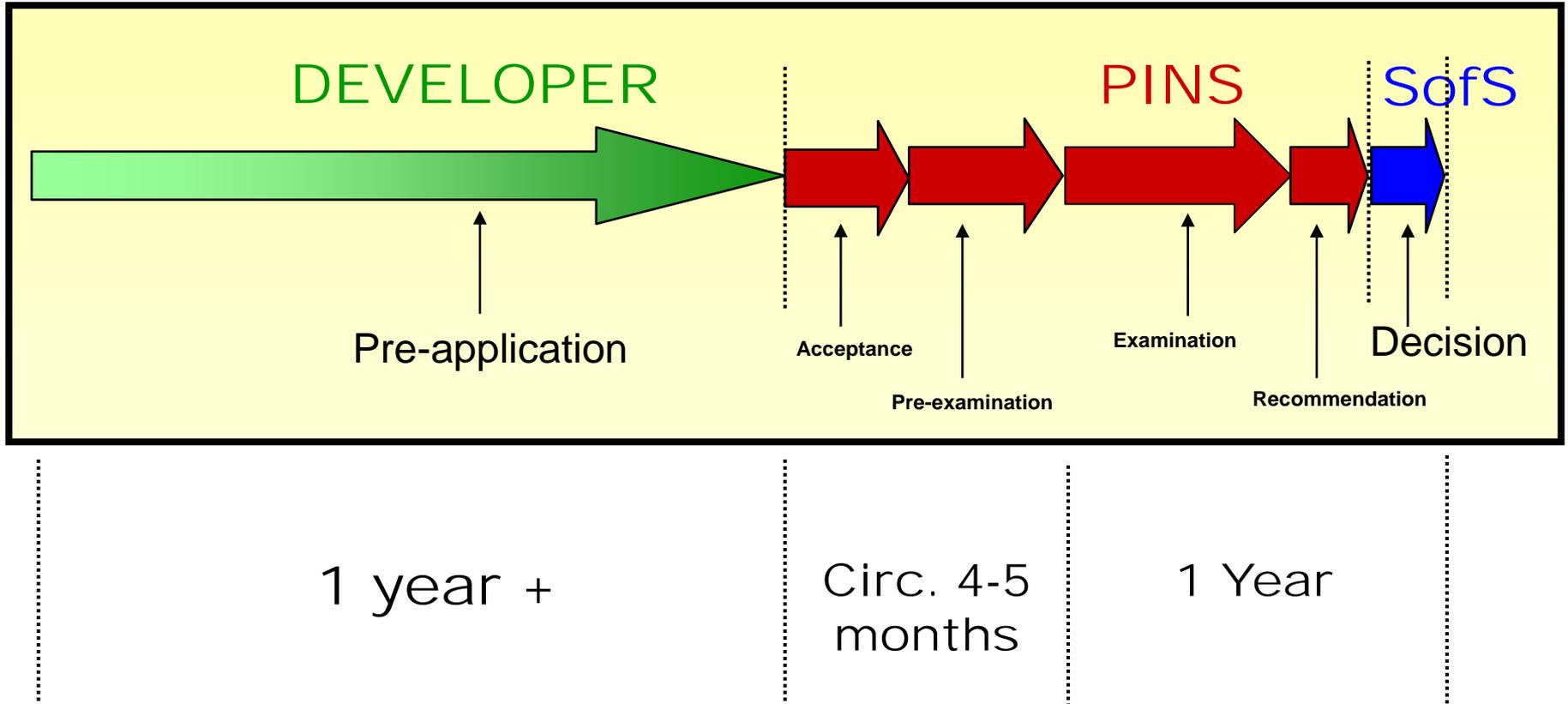
CHAPTER 29

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

£26.00

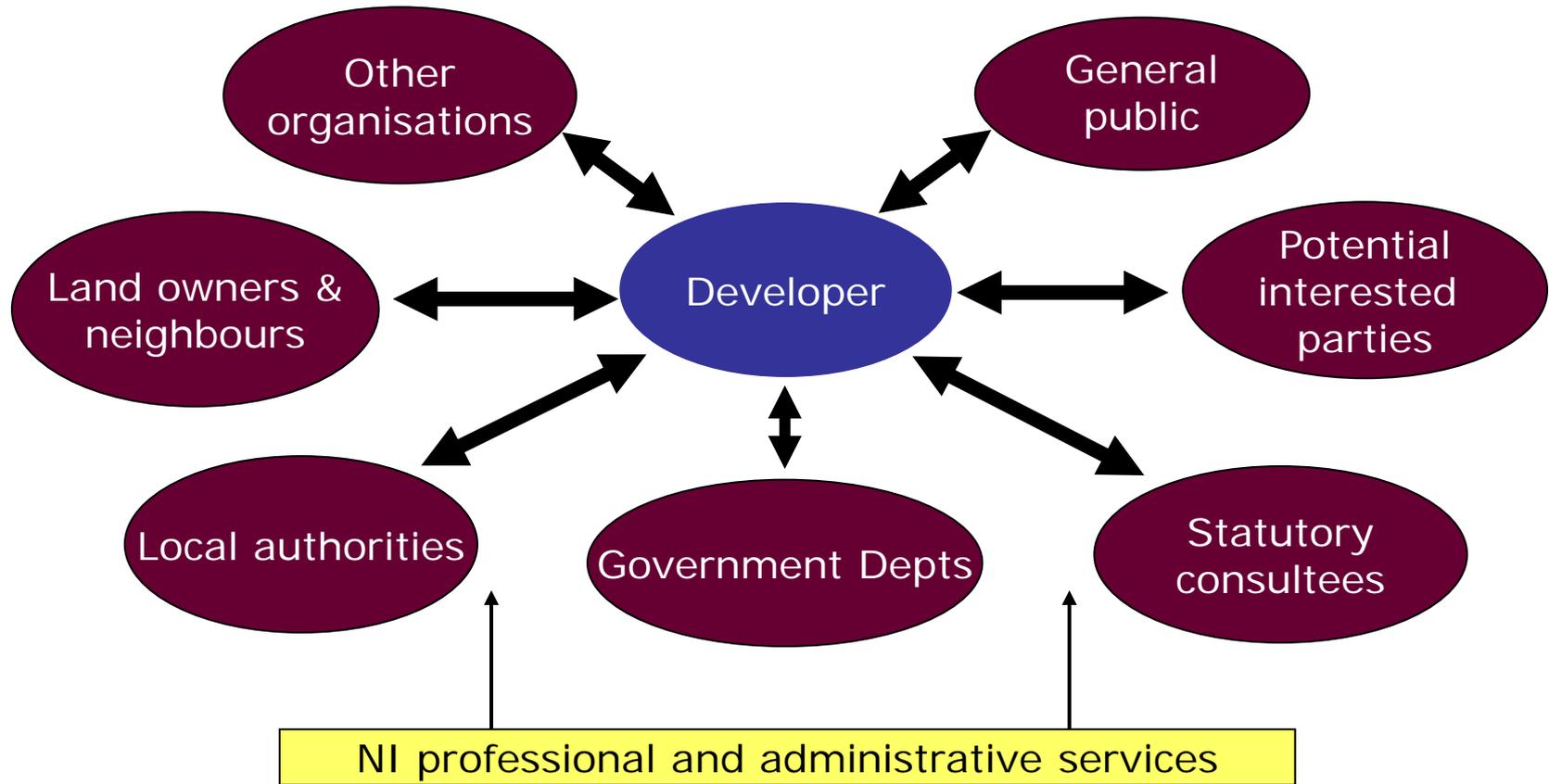


Certain timescale





Pre-application: The Developer in the Lead





The Planning
Inspectorate

Pre-Application

1. Statutory and non-statutory consultation
2. Joint working can help manage resources
3. PINS are impartial and can advise all parties



Relevance of Pre App to DCO

- The draft DCO is submitted as part of the application
 - Accurate description of works including associated development (plans / legal drafting / consistency with ES)
- Mitigation must be secured and set out in the DCO
 - Requirements – tie in with ES / discharge responsibility
 - Protective provisions (legally sound)
 - How do these link to any planning obligations? (part of the mitigation package)
- Compulsory Acquisition
 - Is all land / rights over land needed / included in the DCO?
 - Have the rights of affected persons been respected?



Environmental Impact Assessment (EIA)

- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009
- Screening – all nuclear power stations require an EIA
- Scoping – what should the applicant include in the ES?
(Note: National Trust are **not** a prescribed consultee)
- Preliminary Environmental Information (PEI)
- Environmental Statement (ES) submitted with the application
- Evidence Plans



Preparation of Statements of Common Ground

- What is agreed, and what is not agreed
- Simple and Soon – don't overcomplicate, and don't delay
- Just because an issue is agreed, doesn't mean it won't be examined. You may want to include reasoning within the SoCG



Examination stage

- 6 months – **tight timescales**
 - Quick turnaround of documents
 - Prepare draft documents now/Pre-Exam stage
 - Resource appropriately
- Primarily **written process** (supplemented by hearings)
- Responding to written questions and requests for information from the ExA
- Requests for Statements of Common Ground
- PINS **project website**
- **Types of questions** that may arise (see other NSIPs)



Emerging Learning

- Discuss draft DCO requirements early
- Start preparing Statements of Common Ground as early as possible
- Agree key points in writing to minimise 'change in positions' from misunderstanding
- Discuss land interests early





Service improvements

- Pre-application discussion and prospectus
- Good example documents
- Drafting DCO Advice Note
- Website improvements
- Post decision case review meetings – learn lessons
- Improved Examination practice



Advice note fifteen: Drafting Development Consent Orders

The Planning Act 2008¹ (the PA 2008), and related secondary legislation sets out the regime in relation to applications and proposed applications orders granting development consent for Nationally Significant Infrastructure Projects (NSIPs).

The Planning Inspectorate carries out certain functions related to national infrastructure planning on behalf of the Secretary of State.

Experience to date has shown that applicants and others welcome details on a number of aspects of the PA 2008 regime. This advice note forms part of such advice provided by the Planning Inspectorate. It has no statutory status.

A Development Consent Order (DCO) is a statutory instrument and should follow statutory drafting conventions. The DCO must be drafted in full by the applicant and submitted, together with other prescribed documents, with its application². It will not be drafted by the relevant Government Department for these reasons. DCOs differ substantially from planning permissions under the Country Planning Act 1990 which are granted by local planning authorities.

This advice note sets out advice from the Planning Inspectorate on the preparation of a draft DCO. It also reflects the views, on DCO drafting matters, of the Government Departments that are most involved in the PA 2008 regime.

It is not intended to be a comprehensive advice note on all aspects of the drafting of such DCOs, but rather it focuses on a number of key issues which are considered that advice could most usefully be given.

Whilst this advice note is aimed primarily at applicants, it should also be helpful to other persons involved in the PA 2008 regime.

This advice note is intended to be a "living document" so it will be kept under review and updated when necessary.

Further advice is set out in Planning Inspectorate Advice Note 13: Preparation of a draft order granting development consent and explanatory memorandum which largely deals with non-drafting aspects of DCOs and the explanatory memorandum, including procedural matters.

1. All references to the Planning Act and any other legislation in this advice note are taken to mean "as amended".
2. See section 37(2)(g) of the Planning Act 2008 and regulation 52(2)(b) of the Infrastructure Planning Applications: Prescribed Forms and Procedures Regulations 2009.

Drafting Development Consent Orders
October 2014

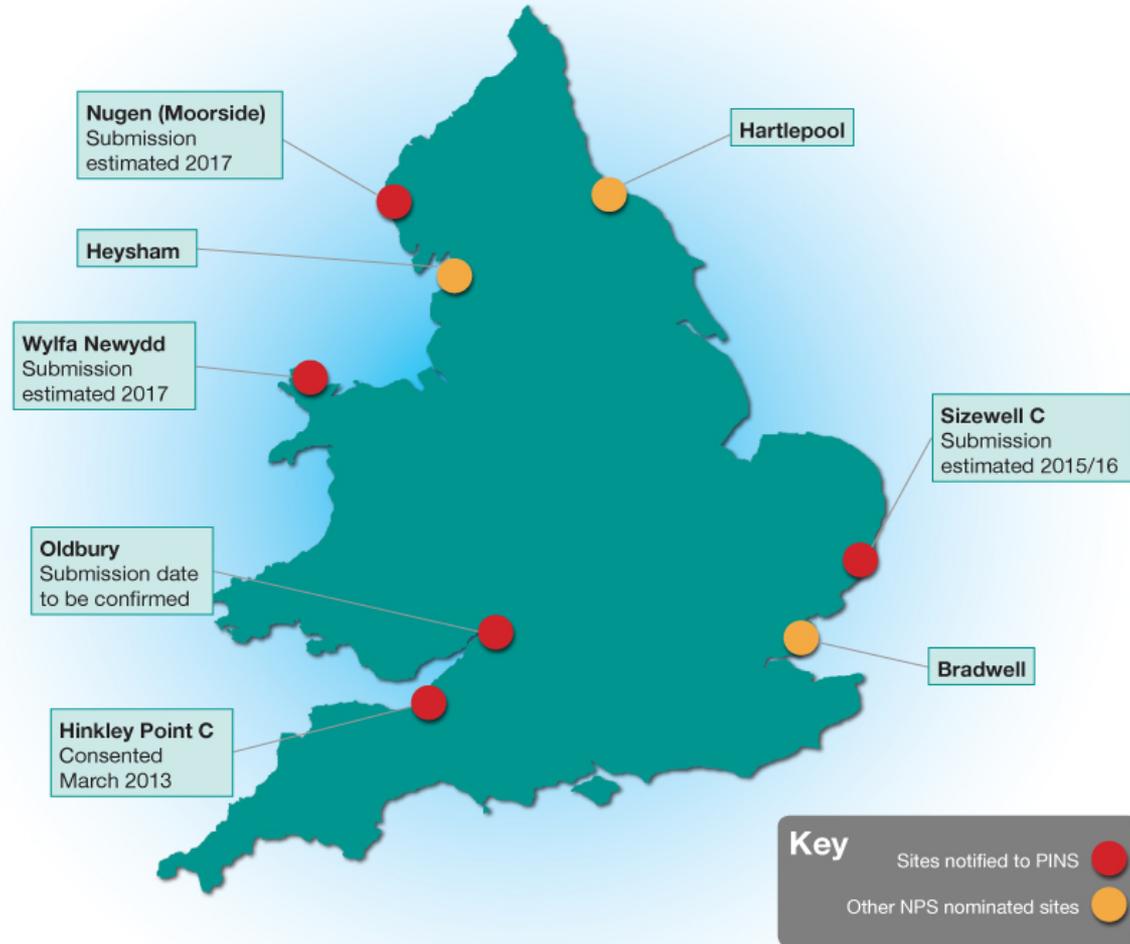
Pre-application service for Nationally Significant Infrastructure Projects



Prospectus for Applicants



EN-6 Nuclear Projects





Hinkley Point C Application

- Submitted 31 Oct 2011
- Circa 46,000 pages
- 800 Plans





The Planning
Inspectorate

Hinkley Examination Statistics

- 1600 Interested Parties (1200 registrations)
- Principal Issues – *Traffic; Socio Economic; Landscape / Visual Impact; Combrich (site specific); Dev't Consent Order*
- 2150 examination documents submitted
- 15 days of hearings
- 3 days of accompanied site visits
- Duration - 21 March 2012 to 21 Sept 2012 (6 months)



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