



Meeting note

File reference	Mace
Status	Final
Author	Gareth Leigh
Date	5 July 2017
Meeting with	Mace
Venue	Bristol
Attendees	Mace: Martin Clarke Anna Eastgate The Planning Inspectorate: Simone Wilding Gareth Leigh
Meeting objectives	Discussion of generic planning issues
Circulation	Mace Publication on website

Summary of key points discussed and advice given:

The Planning Inspectorate advised on its openness policy, explaining that any advice given would be recorded and placed on the National Infrastructure website under section 51 of the Planning Act 2008 (as amended) (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Mace explained their partnership with Highways England (HE) on major projects. Staff were seconded to HE into leadership positions to manage capacity and review HE governance. There was strict separation between this client-side role and any consultation work awarded to Mace on specific projects. MC explained that he was also on the council of the National Infrastructure Planning Association (NIPA).

Mace asked about the engagement with central government Departments on policy issues. The Inspectorate advised that if developers wished to raise policy issues with Departments, they should do so on the basis of the generic policy issue and not within the context of any live planning application (including projects at the pre-application stage).

Mace had noted that some developers were concerned that applications with statutory deadlines (eg. applications made under the Planning Act 2008 (PA2008)) could take undue priority over applications made under other regimes (eg. Transport and Works Act Orders). The Inspectorate noted that, whilst it was of course important to meet statutory deadlines, if developers were able to provide lists of forthcoming projects with reasonably accurate timescales, it would help the Inspectorate and Departments

to plan to ensure that the necessary resources were in place to deal with all cases in a timely manner.

Mace noted that at the NIPA conference, the Inspectorate's presentation had advised that Applicants should explain what investigations they had made to establish which statutory undertakers' interests were affected by the project. The Inspectorate advised that this referred to undertakers with statutory licences, eg. for the transmission of electricity or distribution of gas. Lists of such licensees were available from the appropriate regulators eg. on the Ofgem website.

MC raised a couple of issues on behalf of NIPA. Some promoters felt that on occasion, the Examining Authority's (ExA) line of questioning was pressurising them to make concessions that were not necessary in planning terms. The Inspectorate noted the feedback and in turn queried whether some Applicants may have over-interpreted the ExA's questions who may have just been giving the Applicant an opportunity to explain why, in the Applicant's opinion, it was not appropriate to make certain concessions. It was for Applicants to decide, taking into account the facts of the case, whether they wished to make concessions during the examination or maintain their position that no concessions were necessary.

NIPA members had also highlighted that when the Secretary of State (SoS) made changes to the Development Consent Order (DCO) at the decision stage, the consequences of such changes for other parts of the DCO were not always recognised and this then led to a Corrections Order having to be applied for. It was suggested that one way to avoid this would be for the SoS to issue the decision and then, assuming that the DCO being made had been changed by the SoS, ask the Applicant if any consequential changes to the DCO were necessary before making the DCO. The Inspectorate noted that if consequential changes were suggested by the Applicant, there might be the need for a period of correspondence between the SoS and the Applicant whilst the SoS decided whether such changes should be made. Until the final DCO was published, the start of the judicial review period would have to be delayed. However, the Inspectorate agreed to raise this matter with Departments.

NIPA had suggested that, in the light of the findings of its recent report, *Effective National Infrastructure: Balancing detail & flexibility, through planning to delivery*, if Practice Advice Note¹⁵ was being revised, then it would be helpful if further explanation of the flexibility available in the system was included. The Inspectorate confirmed that this was its intention although it could not give any timescale for the revision.

MC explained that NIPA was currently working on a couple of projects – one was the development of a toolkit for developers in respect of flexibility in the PA2008 system and the other was titled the 'mitigation maze', looking at how mitigation is secured in DCOs and collating good practice on the issue.