



Meeting note

Project Name	River Thames Scheme
File reference	N/A
Status	Final
Author	The Planning Inspectorate
Date	20 August 2019
Meeting with	Environment Agency
Venue	Temple Quay House
Attendees	The Planning Inspectorate Environment Agency (the Applicant)
Meeting objectives	To discuss the Planning Act 2008 process
Circulation	All attendees

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely. It was explained that names of attendees (personal data) would not be published, in accordance with the General Data Protection Regulation (GDPR).

Summary of key points discussed and advice given:

The Applicant explained that their proposal currently falls under the Town and Country Planning Act process and that it is considering applying for a section 35 Direction to enable the development to be treated as development for which development consent is required (under the PA2008). The Inspectorate advised the Applicant on the PA2008 process using a presentation and explained that the Applicant should contact the Department for Environment, Food and Rural Affairs (Defra) prior to applying to Defra for a section 35 Direction, to understand what level of information is required and to ascertain if Defra would consider a flood alleviation scheme to fall within section 35(2)(a)(i) '*a project (or proposed project) in the field of energy, transport, water, waste water or waste*'.

Project Summary

The Applicant explained that their proposal is a flood alleviation scheme that would cover the largest undefended floodplain in England. The Applicant stated that 3 channels would be created alongside the River Thames, to increase the capacity of the

system and reduce the risk of flooding. It is a partnership project between the Environment Agency and the relevant local authorities.

The Applicant explained that in order to achieve a development of this nature, the topography of the site would be altered to make way for the scheme and it would create potential new country parks, foot paths, cycle ways etc. The Applicant stated the development is proposed within a landscape which currently has poor public access, but is within green belt land. The scheme would reduce flood risk to approximately 15,000 homes, as well as protecting businesses and critical infrastructure.

General Questions

Responding to specific queries from the Applicant, the Inspectorate advised that the PA2008 examination process is inquisitorial as opposed to adversarial. It is primarily a written process which is supplemented with hearings where the Examining Authority will ask relevant questions of parties. Cross-examination can take place, however this is not standard practice under the PA2008. The hearings are not likely to cover issues which are already agreed or resolved, provided there is an audit trail of this, instead they will be used to clarify matters and understand where disagreement still remains. Statements of Common Ground are requested by the Examining Authority between parties towards the start of the examination process, if they have not already been submitted with the application.

The Inspectorate confirmed that the Environmental Impact Assessment (EIA) scoping process is undertaken by the Inspectorate (on behalf of the Secretary of State) under the PA2008 upon receipt of a scoping request from an Applicant. This identifies the 'scope' of information to be included in an EIA. The Preliminary Environmental Information Report is a document which the Applicant is required to consult on at the pre-application stage and identifies the Applicant's preliminary environmental findings. The Inspectorate advised that the Applicant must either request a screening opinion or write to the Inspectorate to state that they will undertake an EIA (prior to or at the same time as requesting a scoping opinion).

The Applicant asked whether there's any existing guidelines on submitting section 35 requests. The inspectorate advised that information is contained within section 35 of the PA2008 and that they should contact Defra ahead of submitting their request.

The Inspectorate advised that the Examining Authority is only appointed after the Application is submitted and if it is accepted for examination. The Examining Authority will therefore not be involved in the pre-application stages of the project.

As discussed as part of the above presentation, the Inspectorate confirmed that multiple consents can be wrapped up within a development consent order, for example including compulsory acquisition powers. There are statutory deadlines throughout the process, providing the Applicants with a level of certainty regarding when they may receive a decision (however the Secretary of State does have power to extend certain deadlines, although this power is not exercised routinely).

The Inspectorate explained the elements of the pre-application stage and that any previous consultation undertaken by the Applicant would not be likely to meet the PA2008 requirements, unless the Secretary of State includes such a decision in any Direction, if made. In addition, and subject to any wording in a Direction (if made), the proposal would be likely to be considered and decided under s105 of the PA2008,

where no National Policy Statement has effect. The Inspectorate did advise that any existing consultation could be useful to demonstrate how it has informed the design.

The Inspectorate outlined the costs associated with the PA2008 process (which can be found on this link: <https://infrastructure.planninginspectorate.gov.uk/application-process/application-fees/>)

The applicant asked whether the DCO could be made in conjunction with their partners. The Inspectorate explained that it was not an issue for a DCO to be submitted as a joint development however noted that details will be given out to the public so need to be clear throughout as to who the developers are. It had caused confusion historically where names of companies have changed.



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Nationally Significant Infrastructure Projects

The Planning Act 2008 Process

Kathryn Dunne

Infrastructure Planning Lead

The Planning Inspectorate



Outline

- Key features
- The Planning Act 2008 - Principles
- NSIP application process - Engagement
- Policy



Key Features

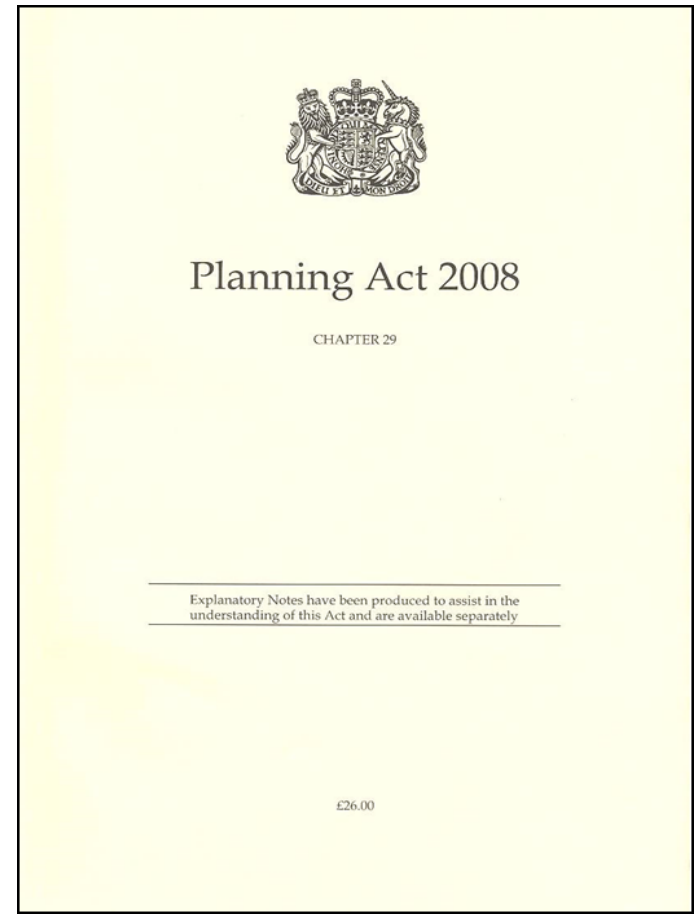
- Policy
- Early engagement
- Detail and evidence
- Statements of Common Ground
- DCO Requirements



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The Planning Act 2008 Principles

- Development Consent Order (DCO)
- Single Consent regime
- National Policy addresses need and principles - NPSs
- Front loaded
- Predominantly Written Process
- Compulsory acquisition powers





Open & Transparent

National Infrastructure Planning

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Enquiries: 0303 444 5000

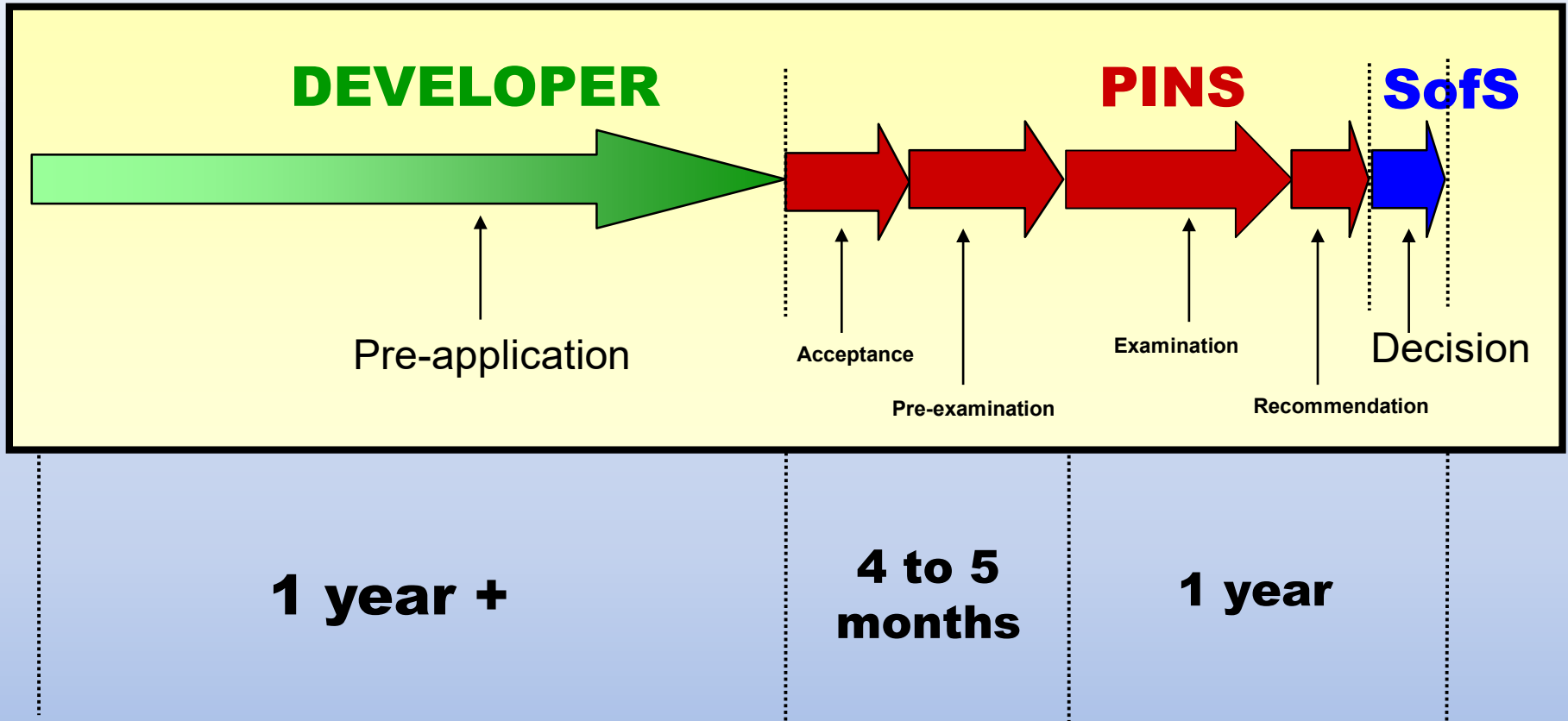
The screenshot shows the website's navigation menu with 'Projects' selected. A dropdown menu is open under 'Projects', listing: Legislation, Guidance, Advice notes, National Policy Statements, Consents Service Unit, and Register of advice. The main content area features a 'Welcome to National Infrastructure' section and a search box for project names.

- Government Guidance (statutory)
- Register of applications
- Register of advice
- Project webpages

<https://infrastructure.planninginspectorate.gov.uk/projects/>



The PA2008 process





Pre-application

- Early and ongoing dialogue
- Scoping
- S42/PEIR consultation
- Statements of common ground





How Much Detail?

Needs to satisfy:

- NPS expectation
- Sufficient to
 - Assess worst case
 - Understand what's being consented
- Relevant legal tests



Pre-Examination and Examination

- Time management -crucial
- Local Impact Reports
- Written Representations
- Written questions
- Hearings
- Statements of Common Ground
- DCO Content



Decisions s104 PA2008

Secretary of State must have regard to:

- Relevant **national policy statement** and (where relevant) the appropriate **marine policy documents**
- any **local impact report**
- any **matters prescribed** in relation to the development
- any other matters which the Secretary of State thinks are both **important and relevant**

Decisions are made under s105 where no National Policy Statement has effect



National Policy Statements (NPSs)



- Laid before Parliament
- A statement of Policy for a given category of NSIP
- Form the policy basis for DCO decisions



s35 Direction

S35 (2) The Secretary of State may give a direction under subsection (1) only if—

(a) the development is or forms part of—

(i) a project (or proposed project) in the field of energy, transport, **water, waste water** or waste, or...

....Located in England....

(c) the Secretary of State thinks the project (or proposed project) is of national significance, either by itself or when considered with—

(i) in a case within paragraph (a)(i), one or more other projects (or proposed projects) in the same field;



Fee in respect of venue costs

Where the applicant does not provide a venue for a hearing to be held, the Planning Inspectorate may charge a fee in respect of the reasonable costs it incurs in respect of that hearing, or where the hearing has been arranged but does not take place, the costs reasonably incurred in respect of those arrangements.

The Applicant will be notified of the amount of the fee

Fee to accompany application

The Planning Inspectorate must charge the Applicant a fee in respect of the decision by the Secretary of State under section 55 (Acceptance of applications) whether or not to accept the application. The fee must accompany the application.

£7,106

Pre-examination fee

Following a decision under section 61 (Initial choice of Panel or single Inspector) the Planning Inspectorate must notify the Applicant in writing of the Pre-examination fee. The Pre-examination fee is:-

-
- | | |
|---------------------------------------|-----------|
| • Single Inspector | • £20,567 |
| • Panel of two Inspectors | • £34,015 |
| • Panel of three Inspectors | • £47,462 |
| • Panel of more than three Inspectors | • £68,029 |



***Initial payment in respect of the handling of an application**

The fee payable is dependent upon the number of days estimated to be required for examining the application and the number of Inspectors handling the application.

- | | |
|--|-------------------------------------|
| • Where an examination is handled by a single Inspector | • £973 per estimated relevant day |
| • Where an examination is handled by a panel of two Inspectors | • £1,547 per estimated relevant day |
| • Where an examination is handled by a panel of three Inspectors | • £2,120 per estimated relevant day |
| • Where an examination is handled by a panel of more than three Inspectors | • £3,228 per estimated relevant day |
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Final payment in respect of the handling of an application

Following notification of the completion of the Examination stage under section 99.

The final payment is dependent on the number of days actually required for the examination:-

- | | |
|--|----------------------------|
| • Where a single Inspector has examined the application | • £1,946 per relevant day* |
| • Where a panel of two Inspectors has examined the application | • £3,094 per relevant day* |
| • Where a panel of three Inspectors has examined the application | • £4,240 per relevant day* |
| • Where a panel of more than three Inspectors has examined the application | • £6,455 per relevant day* |
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*Less the initial payment



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