



Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing

Frequently Asked Questions (FAQ)

Version 2 issued: 25 April 2023

This FAQ document aims to assist all parties involved in the Examination who may have questions about the Pre-examination stage, the Examination itself, procedures and arrangements for the Lower Thames Crossing (LTC) Nationally Significant Infrastructure Project (NSIP) Examination.

[Version 1 FAQs issued 19 December 2022](#)

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Pre-examination

1. Who are the Panel members?

The Planning Inspectorate identified the need to appoint a five-person panel (known as the 'Examining Authority') for the Lower Thames Crossing examination. The first four members of the panel were formally appointed as they became available in December 2022 [PD-004] and after the application was accepted for examination so that they could start considering the application and issuing advice as soon as possible. The fifth and final member was added to the panel in February 2023 [PD-009].

The Lower Thames Crossing Examining Authority (ExA) panel members are:

Lead Member: Rynd Smith

Rynd holds a bachelors degree in Law from the London School of Economics (LLB) and a masters degree in Town and Regional Planning from the University of Sheffield (MA). He is a fellow of the Royal Society of Arts (FRSA), a Member of the Royal Town Planning Institute (MRTPI) and a chartered town planner. Rynd has served as a planner and a senior manager in roles mainly specialising in planning systems and policy reform, environmental management and infrastructure development assessment. Between 2006 and 2012 he spent time as a Director responsible for policy for the Royal Town Planning Institute and then as a Director responsible for Policy and Quality at the Planning Inspectorate. He served as a Senior Panel Member (Inspector) in the State of Victoria (Australia) from 1999 to 2006 and again as a Planning Inspector in England and Wales from 2012 to date. He has specialised in the examination of Nationally Significant Infrastructure Projects: major transport and energy proposals and development in or affecting marine and estuary environments. Rynd was recently lead member of the Panel for East Anglia ONE North and East Anglia TWO offshore wind farms and for the proposed London Resort development located in the Dartford, Gravesham and Thurrock council areas.

Member: Janine Laver

Janine holds a bachelors degree in History from Portsmouth University (BA), a masters degree in City and Regional Planning from Cardiff University (MSc) and a post graduate diploma in Law from Leeds Beckett University (PGDL). She is a Member of the Royal Town Planning Institute (MRTPI) and a chartered town planner. Janine has worked in development management for several local planning authorities in England, primarily specialising in major residential development, planning appeals and department management, but she has a wide-ranging experience in planning, including policy development, public consultation facilitation and EIA preparation from her work in planning consultancy. Janine also worked for eight years in planning in the State of Victoria (Australia) from 2004 – 2012, where she became the City of Port Phillip's appeal advocate at the Victorian Civil and Administrative Tribunal in appeal hearings and mediations.

Member: Ken Pratt

Ken holds a bachelors degree in Civil Engineering from the University of Dundee (BSc). He is a Fellow of the Institute of Water (FIWater), the Chartered Institution of Water and Environmental Management (FCIWEM) and the Society of Antiquaries of Scotland

(FSAScot) and is a Member of the Institution of Civil Engineers (MICE) and the Chartered Management Institute (MCMI). Additionally, Ken is a Chartered Engineer, Chartered Environmentalist, Chartered Water and Environmental Manager, and Chartered Manager. Ken has a background in Engineering Consulting and in Public Authorities, working across a variety of technical disciplines. His recent specialisms have been based in Public Sector Flood Risk Management in England where he has worked closely with Planning, Risk Management, and Highway Authorities, alongside developing Consent and Enforcement practices for Internal Drainage Boards and a Lead Local Flood Authority. Experienced in developing capital and revenue projects, including maintenance operations, and undertaking development and other checks, Ken has wide-ranging experience in many aspects of civil engineering, planning, public consultation, health & safety, and Environmental Impact Assessment.

Member: Ken Taylor

Ken has a bachelors degree in Physical and Environmental Geography (BSc), a post graduate diploma in Town Planning (PGDip), is a Member of the Royal Town Planning Institute (MRTPI) and a chartered town planner. Ken has been a Planning Inspector for six years undertaking a blend of Town and Country Planning Act and National Infrastructure casework. Prior to this, he held senior managerial roles in local planning authorities and for the Planning Inspectorate, where he served as Operations Lead. In these roles he worked on Nationally Significant Infrastructure Projects in the energy and transport sectors representing local planning authorities and the Planning Inspectorate. Ken was a member of the Examining Authority for the A303 Stonehenge transport scheme.

Member: Dominic Young

Dominic holds a masters degree in Town & Regional Planning from Leeds Beckett University (MA) and is a Member of the Royal Town Planning Institute (MRTPI), a chartered town planner and a Member of the Institute of Highway Engineers (MIHE). Dominic has a local government background in development management, transport planning and enforcement. He joined the Planning Inspectorate in 2015. During his time with the Inspectorate, Dominic has dealt with several high-profile appeals under the Town and Country Planning Act in transport-related fields including the Bristol Airport expansion. He was the sole Examining Inspector for the Great Yarmouth Third River Crossing scheme, a Nationally Significant Infrastructure Project. Other areas of expertise include Public Rights of Way, Commons, Coastal Access and Transport casework. Dominic is a Justice of the Peace (JP).

2. Who are the Case Team?

The ExA will be supported by the Planning Inspectorate Case Team¹. Eleanor Church and Ted Blackmore are the Case Managers, Ryan Sedgman and Katy O’Loan are the Case Officers and Alice Humphries is a Planning Officer for the application. They can be contacted via the details at question 16. Case staff will also be available at hearings to answer questions that you may have about the process.

¹ Members of the case team may be subject to change.

3. Why were the Relevant Representations taken down from the website for a few days in March 2023?

The Relevant Representations were published on Monday 13 March 2023. On Friday 17 March we discovered some anomalies with the published representations. We were unable to determine the cause or extent and removed all of them from the website in order to run some tests and checks. We were able to do this and get them published again on Tuesday 21 March 2023.

The website error had caused a small number of representations to be published in duplicate and the duplicates were removed, hence a very slight reduction in numbers when they were re-published, and a few that had not published in full. Please only rely on the version of the Relevant Representations as published since Tuesday 21 March 2023. We apologise for the inconvenience and any confusion that this caused.

4. I didn't submit a Relevant Representation, can I still take part in the examination?

Please see question 5 in [Version 1 of these FAQs](#) issued on 19 December 2023.

5. Where can I find the documents and information I need about the proposed development?

You will find information about the application and documents produced for the Examination on the Planning Inspectorate's National Infrastructure Planning website. This has a dedicated page for the project with the Examination Timetable, Relevant Representations and Examination documents. The relevant project page is: <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/lower-thames-crossing/>

6. What is a 'blended' event?

A blended event, sometimes known as a hybrid event, is where the hearing or meeting is held in a physical venue for people to attend in person but simultaneously is also held virtually, via Microsoft Teams, so that anyone who cannot, or does not want to, attend in person is able to take part to the same degree via computer or telephone.

PINS no longer holds physical only events. Hearings or meetings will be either blended or fully virtual. All hearings are also livestreamed and a recording published.

7. Where and how will the examination events be held?

Sometimes we will hold blended events (please see question 6) where people can attend in person at a physical venue and attend online too.

We've been in contact with the Applicant and some of the host local authorities to get views on locations for physical venues. The venues need to meet certain requirements for public NSIP examination hearings. These include being large enough, having reasonable public and private transport access, being disabled accessible and being able to accommodate our room layouts and technical equipment. These factors limit where we can hold events.

We have tried to accommodate events in physical venues. However, sometimes we will hold events virtually – with all attendance on-line. This will be done when there are limitations around physical venues, to ensure that events can take place in a timely manner, or for efficiency reasons such as where a lot of travel might otherwise be needed for a short event or one with a small number of attendees. It should be understood that virtual events have exactly the same status as physical and blended events. A virtual hearing is not a ‘down-grade’. We will try to provide opportunities for Interested Parties who wish to do so to attend meetings in person. We understand the desire for public hearings to be held in person and we will always endeavour to provide a mix of virtual and blended events.

Whether events are blended or virtual, they will always be live-streamed and recorded. Recordings will always be published in good time, so that people who could not attend can write in and have their say by the next deadline.

We cannot avoid holding events during normal working hours (Monday to Friday, 9am to 5pm). However, we do vary the pattern of days used for events and some Open Floor Hearings will be held in the evenings to provide options for some people to attend without losing work time.

8. Why is the Preliminary Meeting being held in London rather than nearer the proposed site?

The Examining Authority has considered the location of the Preliminary Meeting very carefully. The application affects a very large area, but this meeting can only be held in one place. Choosing that place requires a lot of competing factors to be balanced. Accessibility and transport options between parts of the application area north of the River Thames and parts of the area south of the River Thames do create some difficulties. Asking lots of people from (for example) Gravesham to travel to an event in Thurrock or from Thurrock to travel to an event in Gravesham will not always work easily. The numbers of suitable venues in the application area is quite limited too. And all parts of the application area are important. It did not seem to be fair or appropriate to ask people from one part of this large area to take a long or complicated journey to a different part of the area, particularly when it could be easier for most people to travel to a ‘neutral’ location nearby.

Having reviewed a range of possible venues for the Preliminary Meeting, a better choice of suitable venues was found in London. Checks of road and public transport options also suggested that some London venues offered equivalent accessibility to people from all parts of the application area, both north and south of the River Thames. Some participants in the Preliminary Meeting from outside the south-east of England will find London easier to access too.

Taking these factors into account, the Examining Authority decided that a London venue that was broadly equally accessible to all Interested Parties both north and south of the River Thames would provide the best and fairest option. The Preliminary Meeting is also a blended event that is able to be attended virtually. It will be live-streamed and recorded, and the recordings will be published. Question 9 will help you decide whether to attend and if so whether to attend in person or virtually.

9. What happens at the Preliminary Meeting and do I need to attend?

The Preliminary Meeting is purely a procedural event. It will be used to discuss *how* the application will be examined. There will be no discussion relating to the merits of the application or submission of evidence as these tasks are done in the Examination itself, in hearings and written questions (see question 11). The Examining Authority will refuse to hear any views or evidence on the proposal itself at the Preliminary Meeting.

This FAQ is being issued alongside the 'Rule 6² letter' [PD-013] which includes, amongst other things, a draft examination timetable at Annex D and an agenda for the Preliminary Meeting at Annex A. The Rule 6 letter contains the ExA's proposals about *how* to examine the application. The Preliminary Meeting is held to allow you to have your say on process before the examination timetable and related procedural decisions are made final and come into force.

Interested Parties normally attend the Preliminary Meeting because they want to speak about possible changes to the examination proposals, or because they are interested in how other peoples' requests for procedural changes might affect them. If you have questions about the process of examination that are not answered here, then you can ask them at the meeting or contact the Case Team. However, there is no specific need to attend in person. You can make written comments on the procedure and draft timetable by Procedural Deadline B (26 May 2023) and/or you can request to join virtually. In addition, the Preliminary Meeting will be live-streamed and recorded, and the recording will be published. Because the meeting is proposed to be held in two parts, any written or oral comments on the proceedings in Part 1 can be considered at Part 2, before the meeting is closed.

10. Why is a 'Programming Meeting' being held and should I attend?

Most examinations do not require a Programming Meeting. However, The Planning Act 2008 enables the ExA to hold an 'other meeting' in addition to a Preliminary Meeting, where it is useful to do so³.

Because of the scale and timing of this examination, participation by the local authorities who are involved will be quite complex to arrange. Amongst other roles, local authorities prepare Local Impact Reports for their areas and the arrangements for and timing of these must be discussed. For these reasons, the ExA decided to hold a Programming Meeting as a place where the local authorities could speak about timing, resources and their involvement before the Preliminary Meeting is held. This is mainly to ensure that the Preliminary Meeting does not spend too long making detailed arrangements for local authorities, where doing so might take a lot of time and not assist other Interested Parties. The meeting will explore solutions to local authority issues, but no final decisions will be made there. Final decisions about examination procedure will only be taken at the Preliminary Meeting.

² Issued under Rule 6 of the *Infrastructure Planning (Examination Procedure) Rules 2010*

³ The Programming Meeting is an 'other meeting' held under the *Planning Act 2008* section 88(5) and the *Infrastructure Planning (Examination Procedure) Rules 2010* - Rule 6(3).

Any Interested Party is welcome to attend the Programming Meeting if they wish. However, if you are not a local authority representative then there is no *need* to attend. The ExA will confine the business of the meeting to its published Agenda (see Annex C of the Rule 6 letter [\[PD-013\]](#)), which deals with local authority issues.

Because the Programming Meeting is likely to be quite small and technical in nature, it is being held as a virtual event only. No travel is required. It will be livestreamed and recorded, and the recording will be published in time for comments on its business to be raised at the Preliminary Meeting.

11. Which meetings and hearings should I attend?

There will be the opportunity for Interested Parties to attend and speak at hearings in person or virtually. You will need to register to speak or attend in advance⁴. Written submissions of your verbal comments should be submitted at the deadline following the event. The Applicant will be invited to all events and may be asked to set out an oral statement of their case and, where appropriate to respond to points raised by others. The ExA may ask questions of all participants. Please note that all events are recorded and published.

As set out in question 12 there is no need to speak at a hearing, comments can be submitted in writing.

What do you want to speak to the ExA about?	The event that you should attend
If you are a local authority directly affected by the application who wants to speak about aspects of the examination and the draft timetable that have timing and resource implications, including the preparation of Local Impact Reports.	<p><i>Programming Meeting</i></p> <p>This is being held in advance of the Preliminary Meeting and is virtual only. It is mainly for local authorities to discuss their input, though any Interested Party can attend. Details of the meeting, the agenda and registration details are at Annex C of the Rule 6 letter [PD-013]. Written comments can be submitted at Procedural Deadline A (5 May 2023).</p>
The procedure and/or timing relating to the examination and the draft timetable.	<p><i>Preliminary Meeting (PM)</i></p> <p>This is being held in two parts: the first part will be a blended event so attendance is either in person or virtual, the second part is virtual only⁵. Any Interested Party can attend. Details of the PM, the agenda and registration details are at Annex A of the Rule 6 letter [PD-013]. Written comments on the procedural and draft timetable can also be submitted at Procedural Deadline B (26 May 2023).</p>
Your own view of the application.	<p><i>Open Floor Hearing (OFH)</i></p> <p>There are several of these planned. Any Interested Party may attend and have a legal right to speak.</p>

⁴ You do not need to register to watch the livestream of the event.

⁵ Part 2 may not take place if the ExA consider that the PM can be closed in writing.

	<p>Time for each person to speak may be limited if large numbers of people request to speak. Non-Interested Parties may ask to speak at the discretion of the ExA. Written comments on the application can be submitted at deadline 1 (18 July 2023).</p>
<p>The proposed compulsory acquisition or temporary possession of land that you have a legal interest in.</p>	<p><i>Compulsory Acquisition Hearing (CAH)</i> There are at least two of these planned. One will normally ask the Applicant to speak about why it needs the land as a whole. One (or more) will hear from people who want to speak about their land or rights. Affected Persons who have objected to the compulsory acquisition or temporary possession request by the Applicant have a legal right to speak.</p>
<p>A particular topic relating to the application.</p>	<p><i>Issue Specific Hearing (ISH)</i> There are several of these planned; with early ones to discuss the project description and one to discuss the draft Development Consent Order. Others may be arranged as determined as needed by the Examining Authority. The ExA invites those parties who it considers that it needs to hear from to speak at ISHs.</p>

12. Do I have to attend a hearing to put my view to the Examining Authority?

The Examination of the application will principally be a written process (see [Advice Note 8.4: The Examination](#)), supplemented where necessary by various types of hearings (see [Advice Note 8.5: Hearings and site inspections](#) and [Advice Note 8.6: Virtual Examination events](#) and question 11). Any submissions that you make in writing will carry just as much weight with the Examining Authority as speaking at a hearing.

General NSIP information

13. Where can I find out general information about the NSIP process?

More information can be found on our website, in particular:

- [Advice notes](#)⁶
- [How to register to participate in an Examination](#)
- [Explanation and videos explaining the NSIP process](#)
- [A video explaining how to participate](#)
- [General Frequently Asked Question about the NSIP process](#)
- [Glossary of Terms.](#)

⁶ Of particular interest may be *Advice Note Eight: Overview of the nationally significant infrastructure planning process for members of the public and others* and its annexes.

14. What are ‘Rule 6’ and ‘Rule 8’?

All NSIP Examinations take place under the [Infrastructure Planning \(Examination Procedure\) Rules 2010](#), often referred to as the Examination Procedure Rules or EPR. These are rules made by the Lord Chancellor, who is responsible for the fair and effective conduct of business in courts, tribunals and inquiries. The rules are there to provide a fair process for the ExA to follow and for the benefit of all participants in the Examination.

Rule 6 is a rule that requires the ExA to provide notice of the Preliminary Meeting and any other meetings that it holds. The Rule 6 Letter is given that title because it provides the notice of the meetings that the EPR requires under Rule 6. The Rule 6 letter can include other matters, such as the draft examination timetable.

Rule 8 is a rule that requires the ExA to set a statutory timetable for the Examination following its consideration of all relevant procedural submissions at the Preliminary Meeting. The Rule requires the ExA to notify all Interested Parties and any other person that it invited to the Preliminary Meeting of its timetable decision. The Rule 8 Letter meets that requirement.

General Lower Thames Crossing information

15. How can I keep up to date with the latest news about the LTC Examination?

Please visit the [PINS project website](#) regularly for updates. It will be used to communicate with you and to provide access to documents throughout the Examination.

The project website allows you to sign up to receive [automatic updates by email](#) when the page is updated and to alert you to when information is published or documents are issued by the Examining Authority. We recommend that you sign up for this if you have not already done so.

If you have a formal status in the examination (eg you have submitted a valid Relevant Representation and registered as an Interested Party, are an Affected Person or a Statutory Body etc) you will be notified by PINS at certain points of the process, as required by legislation.

16. How do I contact the Planning Inspectorate’s LTC case team?

You can contact the PINS case team the following ways:

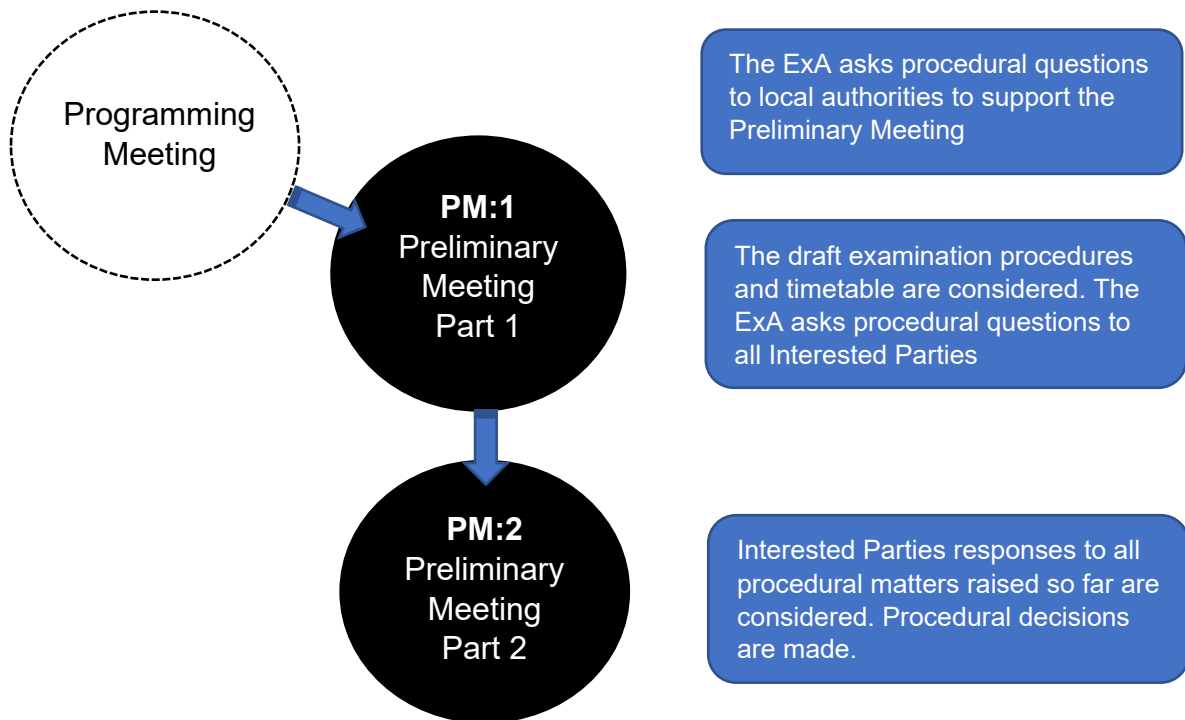
- by email to LowerThamesCrossing@planninginspectorate.gov.uk
- by telephone via 0303 444 5000.

Preparing to get involved in the Lower Thames Crossing Examination

These notes have been prepared to help anyone considering how they can become involved in the examination and what preparation is necessary. They have been written to help people who have not been involved in the examination of a Nationally Significant Infrastructure Project before but will assist all participants.

17. The Process

Procedural arrangements start
(Rule 6 Letter is sent)



Examination starts
(Rule 8 Letter is sent)

Written procedures

- Written representations from Interested Parties
- Written questions from the ExA and responses to those questions
- Local Impact Reports from local authorities

Hearings

- Open Floor Hearings (OFHs) (All Interested Parties can be heard)
- Compulsory Acquisition Hearings (Affected Persons objecting are heard)
- Issue Specific Hearings (ISHs) (People invited by the ExA are heard)

Site inspections

Examination closes

(Six months from commencement)

Reporting

(Three months)

ExA makes a recommendation to the Secretary of State

Decision

(Three months)

Secretary of State makes the decision

18. Introduction to the procedural arrangements

Programming and Preliminary Meetings

This note includes information that supports the ExA's introductory remarks at the Programming Meeting and the Preliminary Meeting. Please read them carefully. The ExA will only present a summary of the key points set out here at the meetings, in order to ensure that the time available for participants to speak is maximised.

Please see [Advice Note 8.3 – Influencing how an application is Examined: the Preliminary Meeting](#) and the Rule 6 Letter [[PD-013](#)].

Meeting methods

The Programming Meeting for the Lower Thames Crossing will take place virtually. It is designed to allow the Examining Authority (ExA) to discuss local authorities' involvement in the examination process, noting that an examination of this scale and with a large number of authorities involved in it poses particular resource and timing issues for the local authorities involved. No procedural decisions will be made at this meeting. Requests to attend this meeting should be made by **Procedural Deadline A** (see Rule 6 Letter Annex D).

The Preliminary Meeting (PM) for the Lower Thames Crossing will be a blended event that will take place both virtually, using Microsoft Teams, and in person in a venue. If needs be, it can continue as a virtual only event, but that is a step that will only be taken if the in-person event cannot proceed for very good reasons. It is to hear all Interested Parties in the round. Requests to attend this meeting and comments on the Programming Meeting should be made by **Procedural Deadline B** (see Rule 6 Letter Annex D).

The Preliminary Meeting for this project is scheduled in two parts, separated by an adjournment period. During the adjournment period any Interested Parties who did not, or could not, make oral representations at Part 1 of the Preliminary Meeting can make written submissions about the examination procedure to **Procedural Deadline C** (see Annex D of the Rule 6 letter). Following consideration of all matters arising from the

Programming Meeting, Part 1 and the representations made in writing at Procedural Deadline C, the ExA will make procedural decisions about how to examine the application. If it is necessary to further hear Interested Parties before doing so, the Part 2 of the Preliminary Meeting will be held virtually to enable that to happen. In the event that submissions to **Procedural Deadline C** do not justify the resumption of an oral Preliminary Meeting at Part 2, the ExA may decide to close the Preliminary Meeting in writing. Interested Parties should not rely on Part 2 of the Preliminary Meeting to make oral representations about the Examination procedure.

To facilitate this process a link to public livestreams of the Programming Meeting and both parts of the Preliminary Meeting will be made available on the [project webpage on the National Infrastructure Planning website](#) shortly before each event is scheduled to begin. Recordings will also be published on the website as soon as practicable after the event takes place. Livestreams and recordings are publicly accessible and you do not need to register with the Planning Inspectorate in order to view them. If you are unable to attend a meeting, you can use the recordings to identify matters to comment on in writing at the procedural deadlines.

The ExA intends to deliver these meetings as set out in the agendas. However, to manage unforeseen events and for other good reasons such as technology failure, the ExA may need to adjust and amend the agendas up to and including during the meetings themselves, including adjourning business to another time or date and moving an in person event into a virtual event. If it does so, announcements will be made in any meeting in progress and advice will also be provided on the [project webpage on the National Infrastructure Planning website](#).

19. The purpose of the Programming Meeting

The Programming Meeting is being held in advance of the Preliminary Meeting to enable multiple local authorities to provide their views about draft examination procedures and timings, in the light of their resource considerations. Arrangements for the preparation of Local Impact Reports will also be discussed.

Such matters are normally discussed at a Preliminary Meeting. However, in a case of this size, involving many local authorities with complex work programmes and resourcing considerations, the ExA considered that it would be valuable to consult local authorities in an initial meeting that would in turn provide a starting point for the consideration of local authorities' issues at the Preliminary Meeting. This meeting should reduce the length, detail and complexity of the issues that need to be discussed at the Preliminary Meeting. No procedural decisions will be taken at this meeting however. All procedural decisions are made taking account of all procedural submissions in the round, whether these are made here, in writing or orally at the Preliminary Meeting.

20. Programming Meeting invitees

The Applicant is invited to the meeting and will normally be asked to reply to any representations made, either orally at the time or in writing by Procedural Deadline B. Everyone who has made a valid Relevant Representation has been registered as an Interested Party (IP) and has been sent a copy of the Rule 6 letter. Each IP is entitled to participate in this meeting. However, it will be confined to the main business set out in

the agenda found at Annex C to the Rule 6 Letter. That business is to consider the procedural arrangements for local authorities. Local authorities particularly are invited to this meeting.

21. The purpose of the Preliminary Meeting

The purpose of the PM is to discuss how the application should be examined. It focuses on the process only, and it will not be looking at the substance of the proposals. Questions, discussions and representations about the merits or disadvantages of the Proposed Development are for the Examination itself, which will begin after the close of the PM.

The PM will be your opportunity to influence the process that we intend to follow, and you should read the Rule 6 letter and all accompanying annexes thoroughly beforehand. The agenda for the PM is attached to the Rule 6 letter at Annex A. It is important to have the letter and the agenda in front of you and to refer to them during the course of the PM, if you intend to attend. If you are not experienced with videoconferencing and using multiple documents on screen, you may wish to print these in advance of the PM for reference.

22. Preliminary Meeting invitees

The Applicant is invited to the PM and is generally given the opportunity to reply to any representations made, either orally at the time or in writing during the adjournment of the meeting.

Everyone who has made a Relevant Representation has been registered as an IP and has been sent a copy of the Rule 6 letter. Each IP is entitled to participate in this Examination.

Each person or organisation with an interest in land or rights that are affected by a Compulsory Acquisition request in this application is an Affected Person (AP). In addition to a general entitlement to involvement in the Examination, APs have a right to be heard in relation to any objection about the effects of Compulsory Acquisition on their interests in land, and a right to be notified of any Compulsory Acquisition Hearing. APs are IPs, whether or not they have made a Relevant Representation.

Certain bodies are Statutory Parties. Statutory Parties can elect to become IPs without having made a Relevant Representation.

The ExA has the power to involve people who are not IPs in the Examination as though they are IPs, including by inviting them to the PM. However, this is only done in exceptional circumstances, for example if it was clear that the application would materially affect a person, they are not automatically or eligible to elect to become an IP and they had been unable to take the necessary action to register as an IP.

23. Virtual participation and digital recordings

The Programming Meeting will be a virtual event. The Preliminary Meeting Part 1 will be a blended event at which people can attend in person or participate virtually if they wish. If it proceeds, the Preliminary Meeting Part 2 will be a virtual event. Hearings may be

blended or virtual and the draft Timetable (see Rule 6 Letter Annex D) makes clear which processes are intended to be used for which events.

All events have been designed to support two types of virtual participation.

- Oral participation, where the participant has an interactive link to Microsoft Teams (our virtual meetings system) and can hear and speak in the event in real time; and
- Written participation, where the participant watches a live stream of the event in real time, or a recording of it later, and then provides their observations in writing at the next relevant deadline.

Participants in meetings and hearings may have to make allowances and be patient if there are delays associated with the technology used to enable virtual participants to join. In recognition of the fatigue associated with on-screen communication, the ExA will provide breaks as appropriate – and these may be more frequent than the breaks typically provided for events that do not allow virtual participation. For those who pre-register to be involved virtually, your joining instructions will provide more information your involvement.

A digital video recording will be made available on the project page of the NI Planning website as soon as practicable following each event. The digital recording allows any member of the public who is interested in the application and the Examination to find out what has been discussed, whether they are able to attend or observe the event or not. The making and publication of these recordings are a key means by which we meet the legal requirement to hold events in public for people who are disabled, unable to travel or have other reasons preventing them from attending a venue in person. In this regard, anyone speaking at an event will need to introduce themselves each time they speak, to ensure that someone listening to the recording after the event is clear who was speaking. A written note of the PM will be produced and published as soon as practicable following the closure of the PM. There is no obligation to provide a written note of the Programming Meeting or Hearings. For these events the digital recording and a digitally produced transcript are published and a summary written action list may be published if required. Please note that the transcripts are machine generated and so personal names, place names and infrequently used words may not be accurately recorded and may be misspelled.

As digital video recordings are retained and published, they form a public record that can contain personal information to which the UK General Data Protection Regulation (UK GDPR) applies. Participants must do their best to avoid making public any information which they would otherwise wish to be kept private and confidential. If there is a need to refer to such information, it should be submitted in written form. Although this will also be published, personal and private content can be redacted or removed before it is made publicly available. Any person who is unclear on this point should ask the Case Team for guidance before they include personal and private information in any submissions. The Planning Inspectorate's practice is to publish the recordings and retain them for a period of five years from the SoS's decision on the application. If you actively participate in an event, it is important that you understand that you will be recorded and that the

recording will be made available in the public domain. Please see our [Privacy Notice](#) for more information about how we handle your data.

Following the ExA's introductions, each participant who has been registered to speak will be asked to introduce themselves, including any organisations or groups that they represent. The ExA will then conduct the event in accordance with the agenda. If you prefer not to have your image recorded, you can switch off your camera at any point. If you prefer not to have your personal surroundings recorded, you may be able to use Microsoft Teams to blur it, or to apply a virtual background image. Please switch off your microphone when you are not speaking to ensure that we do not inadvertently record background noise and events from your surroundings, as these can disturb other participants in the events and may also lead to the recording, retention and publication of material that you would otherwise prefer to keep private.

24. Government guidance and policy

The application is a NSIP under the Planning Act 2008 (PA2008) as a consequence of sections 14 and 22 of PA2008: it includes the construction of a new highway (other than a motorway) that is of greater extent than 12.5 hectares and is wholly in England. The designated National Networks National Policy Statement applies to this Examination and to decision-making relating to this application.

The Applicant considers that the application may also include further NSIP development in respect of sections 16 (electric lines) and 20 (gas transporter pipelines) of PA2008. Whether it does or whether the proposed works are associated development to the highway development under section 22 of PA2008, is a matter that the ExA will examine. If the proposed development does include electric line and / or gas transporter pipeline NSIP development, then further designated national policy statements may also apply. Again, this is a matter that will be considered in examination.

The ExA will consider the Proposed Development in accordance with the designated national policy statement(s) and any other applicable policy or considerations the ExA deem to be important and relevant. The PA2008 makes it clear that, in making a decision, the relevant Secretary of State (SoS) "*must decide the application in accordance with any relevant NPS*" (s104(3)), subject to certain provisos. Essentially, the provisos are that the application must not breach legal or treaty obligations, and that any adverse impact of the Proposed Development would not outweigh its benefits. The SoS is entitled to disregard any representations that relate to the merits of the designated National Policy Statement (NPS). In practice, this means that the ExA will not spend time examining representations that challenge policy set out in NPSs, or the validity of NPSs themselves. The focus will be on the merits or disadvantages of the Proposed Development, tested to the appropriate extent using the tests set out in relevant designated NPSs that are in force.

Other important and relevant planning policies that the ExA may consider include policies in the relevant local authorities' development plans. However, if these conflict with policy in a NPS, then the NPS will take precedence.

In summary, the Preliminary Meeting will establish the procedures and timetable for the Examination of the Proposed Development. It will set a framework for the ExA to enable the SoS to consider and decide the application, by identifying relevant policy and examining the application in the light of it. In doing so, the ExA will have regard to:

- The positions and representations of all Interested Parties (IPs);
- any Local Impact Reports (LIR) prepared and provided by relevant local authorities;
- other prescribed matters; and
- any other matters that appear to be both relevant and important to the relevant SoS's decision.

25. The Examination process

The examination of NSIPs follows different processes to those, for example, of a Public Inquiry into a planning appeal following the refusal of planning permission. The main differences are that the examination of NSIPs are primarily a written process and hearings take on an inquisitorial approach as opposed to an adversarial one.

This means that the ExA will probe, test and assess the evidence primarily using written questions. While some hearings are held to provide supplementary evidence, questions to the Applicant or to witnesses will come from the ExA. Questioning or cross-examination of witnesses by other parties will not generally be allowed. In terms of opportunities to provide evidence in writing, the draft Examination Timetable makes provision for the following written processes:

- Local authorities can submit Local Impact Reports (LIRs) if they wish. Whilst these are voluntary, the PA2008 provides that if they are provided, they must be considered by the SoS in reaching a decision. Consequently, LIRs are a very important method for local authorities to communicate issues of concern to the ExA, the SoS and their residents.
- IPs can make Written Representations (WRs) and comment on WRs made by other parties.
- IPs can respond to the ExA's written questions (ExQs) and comment on responses to these written questions provided by others.
- IPs may be asked to contribute to the making of Statements of Common Ground (SoCG) if it appears that there are matters on which they and the Applicant agrees, and if it would be useful for this to be clarified. SoCGs most usefully extend to catalogue matters that are not agreed or are outstanding.
- In such circumstances, the ExA has also requested the logging of Principle Areas of Disagreement Summaries (or PADS). These are a new examination method designed to help Interested Parties and the ExA to focus on matters that are in dispute and the action necessary to reduce the extent of such matters. If you have been asked to participate in the drafting of a PADS, thank you for your contribution. If you have been asked but have not yet contributed, please consider doing so, as this work is anticipated to have significant value.

The draft Examination Timetable includes a series of numbered deadlines for receipt of written submissions. Timely submissions received by the relevant deadline and that address its purpose will be accepted. Documents received after the relevant deadline are only accepted at the discretion of the ExA and may not be accepted to ensure fairness to all parties. Circumstances where documents are submitted late without good

reason, causing inconvenience or delay to other parties can amount to unreasonable behaviour.

These written processes will be the principal means used by the ExA to gather information, evidence and views about the application. However, the Examination will only be effective if all parties resolve to give timely, full, frank, clear and evidenced answers to every question that is relevant to their interests and to engage fully with any other related processes such as the completion of WRs and SoCGs.

There is no merit in withholding or delaying information, or in failing to co-operate, and, should it occur, any unreasonable behaviour that caused another party to incur wasted expenditure could lead to an award of costs against the offending party.

The ExA has discretion to make amendments to the Examination Timetable for the wider benefit of the Examination. If possible, events will be arranged for times when all relevant parties are available, but the ExA is under a duty to complete the Examination by the end of the six-month period beginning with the day after the close of the Preliminary Meeting. This requirement is set by legislation, and while the ExA will try to rearrange event dates to accommodate all relevant parties, in practice there will be limited scope to alter dates set out in the draft Examination Timetable.

The statutory time limit for the Examination means that where there are matters that still need to be discussed and agreed between the Applicant and IPs, it will be very helpful to the ExA if these could be progressed as early as possible.

26. Hearings

The draft Examination Timetable includes provision for hearings, at which the ExA takes oral evidence from the various parties.

Any registered IP may request an **Open Floor Hearing (OFH)** to make oral representations about the application if they believe this to be preferable to relying on their written representation; though both carry equal weight. Oral submissions should be based on representations previously made in writing, but they should not simply repeat matters previously covered in the written submission. Rather, they should focus on specific detail and explanation to help inform the ExA. There should be no new or unexpected material in oral representations. A written summary note with any supporting evidence or references will be requested of each speaker following the hearing.

As with all Examination events, OFHs are subject to the powers of control of the ExA, as set out in the PA2008 and supporting legislation. Participants must register in advance by the deadline shown in the Examination Timetable and in accordance with the instructions an agenda may be circulated. It is common practice for the ExA to set a time limit for each speaker and speakers with common points are asked to come together to nominate a spokesperson or representative speakers to cover specific topics, so as to avoid repetition. Speakers representing public authorities, community and membership organisations or multiple IPs are normally provided with an additional time allowance, recognising their representative role.

The Applicant's draft DCO provides for the Compulsory Acquisition of land and rights, and the Temporary Possession of land. Affected Persons (ie those whose land or rights over land are affected) have a right to request and be heard at a **Compulsory Acquisition Hearing (CAH)**. If one or more APs request to be heard then at least one CAH must be held. Provisional dates for CAHs are included in the draft Examination Timetable along with deadlines by which requests to be heard must be submitted.

The ExA has the discretion to hold **Issue Specific Hearings (ISHs)** if it would aid in the Examination and there is a specific reason this would be more helpful than reliance on written evidence only. The lack of an ISH on one or more topics does not suggest that that topic is less important than others which are subject to a hearing. Rather, it is an indication that the ExA is satisfied that the issues can be fully considered through written submissions and responses to its written questions and that each party has had a fair opportunity to put its case.

The draft Examination Timetable includes a number of reservations for ISHs and IPs may make suggestions for topics in their written or oral representations to the PM. It may be necessary for the ExA to hold more than one ISH on the draft DCO. This is normal practice, and they are held on a without prejudice basis. Parties can suggest modifications and amendments to the draft DCO provided with the Proposed Development applications by the Applicant, without prejudicing their overall position on the application which may be (for example) that the DCO should not be consented.

Holding such hearings does not imply that the ExA has reached any judgements on the merits of the application. Whatever the ultimate recommendation is, the ExA must make sure that the draft DCO is fit for purpose if the SoS decides to grant consent, as any consent will be subject to Requirements (ie conditions) set out in the DCO.

At hearings it will not normally be necessary for parties to make long and detailed submissions that require (for example) PowerPoint presentations. Any supporting detail/information can be provided in writing following the event by the relevant deadline.

The draft Examination Timetable includes a deadline (18 July 2023) for participants to notify the ExA that they wish to speak at an OFH or a CAH.

27. Site inspections

As part of the Examination process the ExA may undertake site inspections. These can be either unaccompanied, access required or accompanied. The purpose of these is for the ExA to see features of the proposals within the context of the evidence put forward. Unaccompanied Site Inspections may take place at any time without notice. The Inspectors involved will confine their work to public and publicly accessible land. Notes of Unaccompanied Site Inspections (USIs) are published on the project webpage on the NI Planning website.

Accompanied Site Inspections (ASI) will only be necessary to view land to which there is no public right of access, with no clear view from nearby locations with open public access or where a person needs to accompany the inspection to ensure that a particular location or feature is seen. The purpose of ASIs is for familiarisation only. They are not

hearings and no discussion of the merits of the Proposed Development will be entertained during an ASI.

If necessary, some site inspections on private or operational land can be held as Access Required Site Inspections. These are conducted with notice, but with limited attendance. A land-owner/ occupier/ site operator attends to provide access and/ or to assure the safety of the ExA, but in all other respects the inspection proceeds on the same basis as a USI.

The draft Examination Timetable includes a deadline the Applicant and IPs to nominate routes and sites for inspection, which the Applicant will compile into an itinerary and IPs will comment on. The submissions will be used to inform further USIs as well as possible ASIs and access required site inspections. Before nominating any sites or routes for inspection, please read the ExA's existing USI notes and assure yourself that an inspection is required.

28. The decision

All important and relevant matters submitted during the examination will be taken into account when the ExA makes a recommendation to the Secretary of State for Transport, who will take the final decision in this case.