



The Planning
Inspectorate

The Planning Act 2008

Presentation to local authorities
affected by the proposed East
Midlands Gateway Rail Freight
Interchange

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What we will cover today

1. The Planning Act 2008 (as amended) and National Infrastructure
2. The process and the role of local authorities
3. Discussion



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The Planning Act 2008 (as amended)



National Infrastructure regime

- Created by Planning Act 2008
- First application received August 2010; first decision issued October 2011
- National Infrastructure: energy, transport, waste, water and waste water projects
- England and Wales
- Current caseload:
 - 56 at Pre-application; 2 at 'Acceptance'
 - 5 at Pre-examination and 11 in examination
 - 4 in Decision
 - 14 decided (of which 13 consented)



The Planning Act: key features

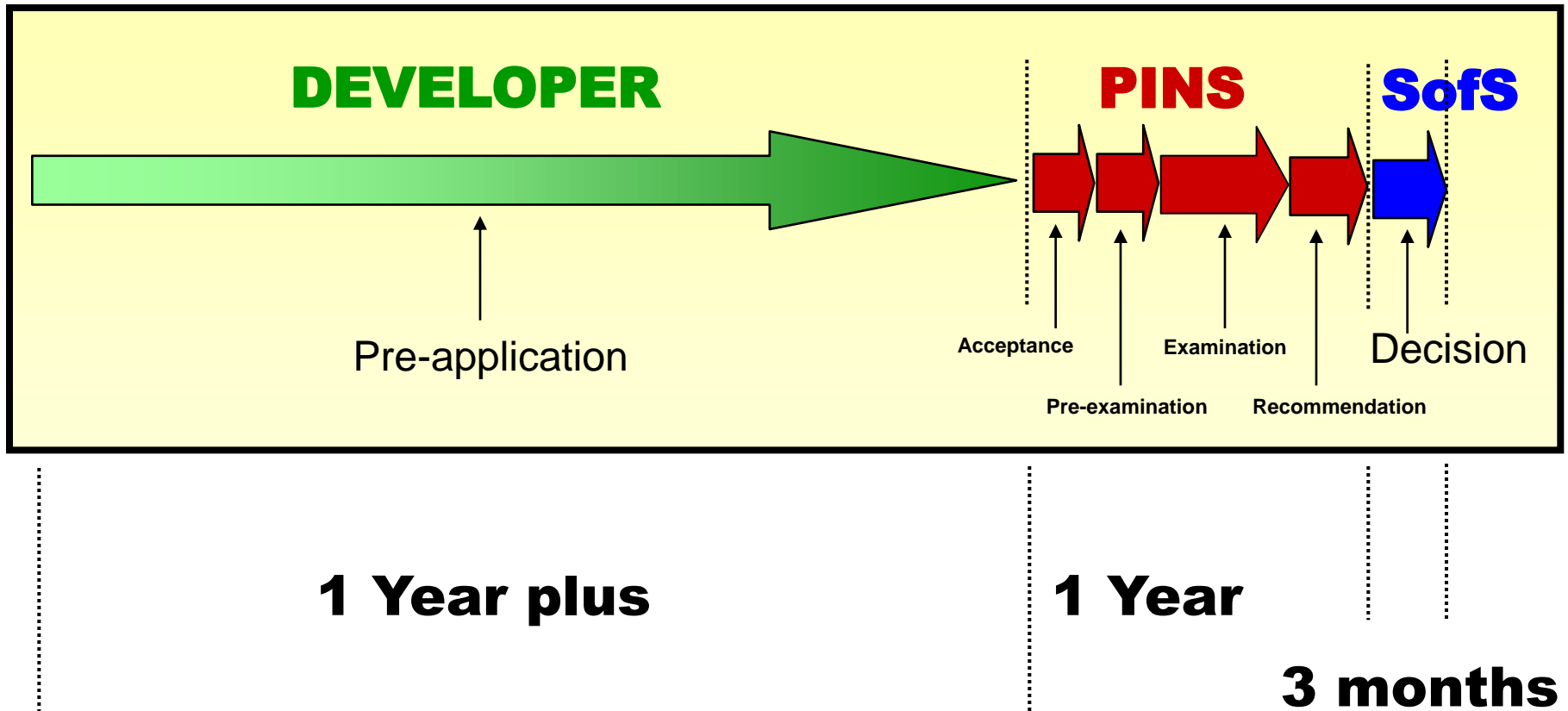
- Front-loading: mandatory pre-application consultation
- Total and complete application – limited scope for post-application changes
- Statutory timescales for handling applications
- Streamlined consenting regime – can bring together a range of consents
- National Policy Statements provide policy framework
- Planning Inspectorate examines and makes a recommendation
- Decision by Secretary of State





The Planning Act 2008

As amended by Localism Act 2011



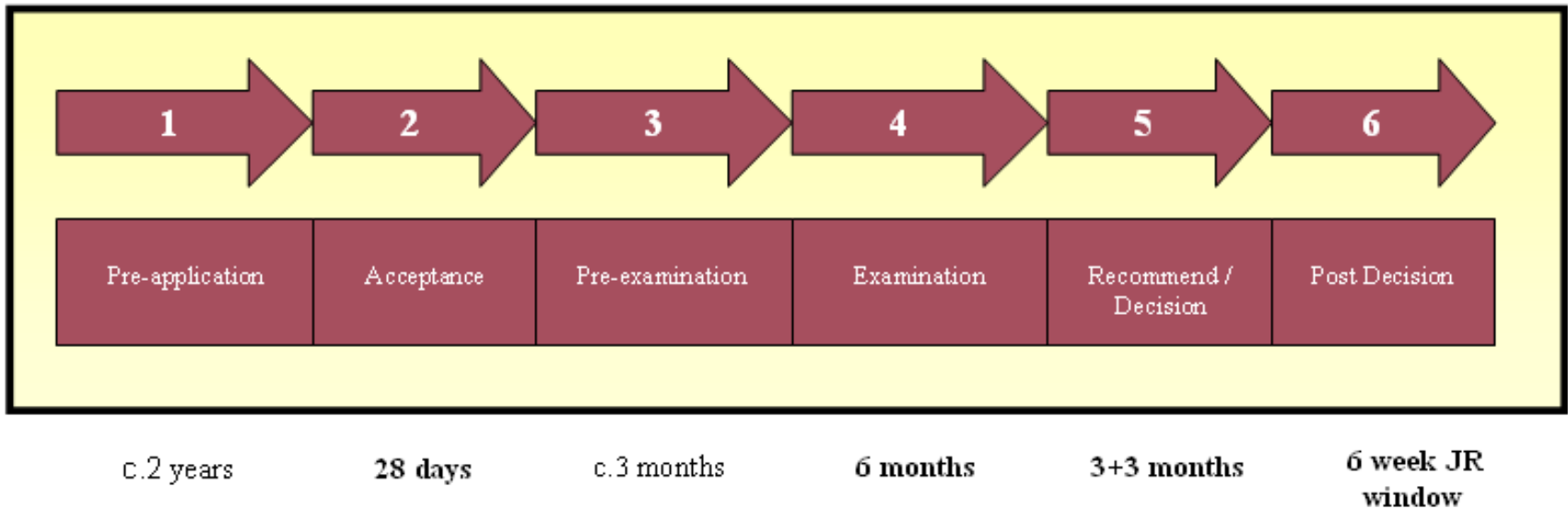


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The process and role of local authorities



The Development Consent Process



Times in **bold** are statutory



Role of LAs – Pre-application

Developer leads pre-application stage; PINS and LAs advise

Local authority role:

- Prescribed consultee for Planning Inspectorate's EIA scoping opinion
- Must be consulted on developer's draft Statement of Community Consultation (s47)
- Prescribed consultee for developer's pre-application consultation (s42), including Preliminary Environmental Information
- Developer duty to 'have regard' to responses received (s49)
- Discuss and agree ES methodologies, findings and mitigation
- Review draft application docs – Development Consent Order



Role of LAs – Application submitted

- **'Acceptance' stage:** PINS has 28 days to decide whether the application meets the standards to proceed to examination
 - Consultation report – has developer met commitments?
 - Environmental Statement and HRA report checks
 - Plans and other supporting documents
- During this stage, views from the relevant local authorities about the adequacy of the developer's consultation will be invited
 - Consultation Report provided
 - 14 days to respond



Role of LAs – Pre-examination stage

- Developer gives notice of accepted application
- Host LAs are automatically 'interested party' in examination
- Make a 'relevant representation' – this informs the Examining Authority's list of issues and examination timetable (min. 28 days)
- All relevant representations are published and Examining Authority appointed
- Receive 'Rule 6' letter – Examining Authority's initial assessment of principal issues and draft examination timetable
- Attend Preliminary Meeting (held locally) - procedural meeting held to discuss how the Examination will be conducted
- Pre-examination stage normally 3-4 months in total



Role of LAs - Examination

- Examination can not exceed 6 months - timetable sent to all parties
- Primarily a **written process**. Key written submissions:
 - Written representation (your full evidence)
 - Response to Examining Authority's written questions
 - Local Impact Report
 - Possible Statements of Common Ground
- **Hearings** may also be held: Open-floor, Issue Specific and Compulsory Acquisition
- PINS website publishes ALL examination documents



The Local Impact Report

- A report on the “likely impact of the proposed development” on your area – across all the Council’s functions (not just planning)
- Secretary of State **must** have regard to it
- Deadline in examination timetable; but you can start work now - Get your delegations in place.



Statements of Common Ground

- What is agreed, and what is not agreed – ‘Statements of Uncommon Ground’
- 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



Planning Obligations (s106)

- We can't be party to any negotiations
- Get your cards on the table now
- The ExA will set a date for the receipt of a "planning obligation" (agreement or Unilateral Undertaking) during the examination
- Interested parties will be given time to comment on it.



Statutory timescales

Pre-app	EIA Scoping Opinion consultation (PINS)	28 days
	Pre-application consultation with local people (s47)	Min. 28 days
	Pre-application consultation with prescribed bodies including LAs (s42)	Min. 28 days
	Publicity in newspapers (s48)	Min. 28 days
Pre-examination	Submission of relevant representation following application acceptance	Min 28 days
Examination	Submission of detailed written representations	Min 21 days
	Possible participation at hearings	Min 21 days notice



Recommendation and Decision

- ExA recommendation (3 months); SofS decision (3 months)
- SofS Competent Authority - HRA consultation as necessary
- Where no NPS exists, decisions need to take into account (s105):
 - Local Impact Reports
 - 'Important and relevant matters'
 - Any prescribed matters
 - International obligations (eg on biodiversity)
- PINS notifies all interested parties of SofS decision



Role of LAs – Post-decision

- SofS decision challengeable through application for Judicial Review – 6 week period following decision
- Discharging requirements (akin to planning conditions):
 - key role for local planning authorities in discharging requirements, monitoring and enforcement
- Limited scope for post-consent changes to the scheme or mitigation





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Any questions?

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<http://infrastructure.planningportal.gov.uk/>