

INFRASTRUCTURE PLANNING COMMISSION

GUIDE TO ITS ROLE AND OPERATION

(Working Draft – October 2009)

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1. Preface

1.1 This guide provides an overview of the role of the Infrastructure Planning Commission and its place in the infrastructure planning system introduced in 2009. It is intended to be useful to any individual or body requiring a comprehensive but reasonably concise account of the process, meeting the needs of, for example, local authority councillors, statutory bodies, campaign groups, promoters at the initial stage and the public when affected by major infrastructure proposals.

1.2 For those needing more in-depth information on the different aspects of the new regime, the Government's legislation, regulations and guidance are available from our website. The range of legislation relevant to infrastructure planning on which this guide is based, some of which is still in draft, is listed in section 9.

1.3 To assist those wishing to explore the source documents, abbreviated references are made to them within the individual paragraphs of this guide. The abbreviations are set out alongside each document title in the list. A section number in the Planning Act 2008 is denoted by 's' and regulations are denoted throughout by 'reg' in the text of this guide.

1.4 We would welcome feedback from users of this document, as we will be reviewing it once the secondary legislation that is currently draft is finalised. We would also welcome engagement with promoters, local authorities and statutory bodies on the development of the more detailed operational guidance on separate aspects of the process where a clear need is identified.

1.4 As well as this document, we invite those seeking guidance to refer to the information on the IPC website, including the Frequently Asked Questions section. You can also contact us for advice using the details at the end of this guide.

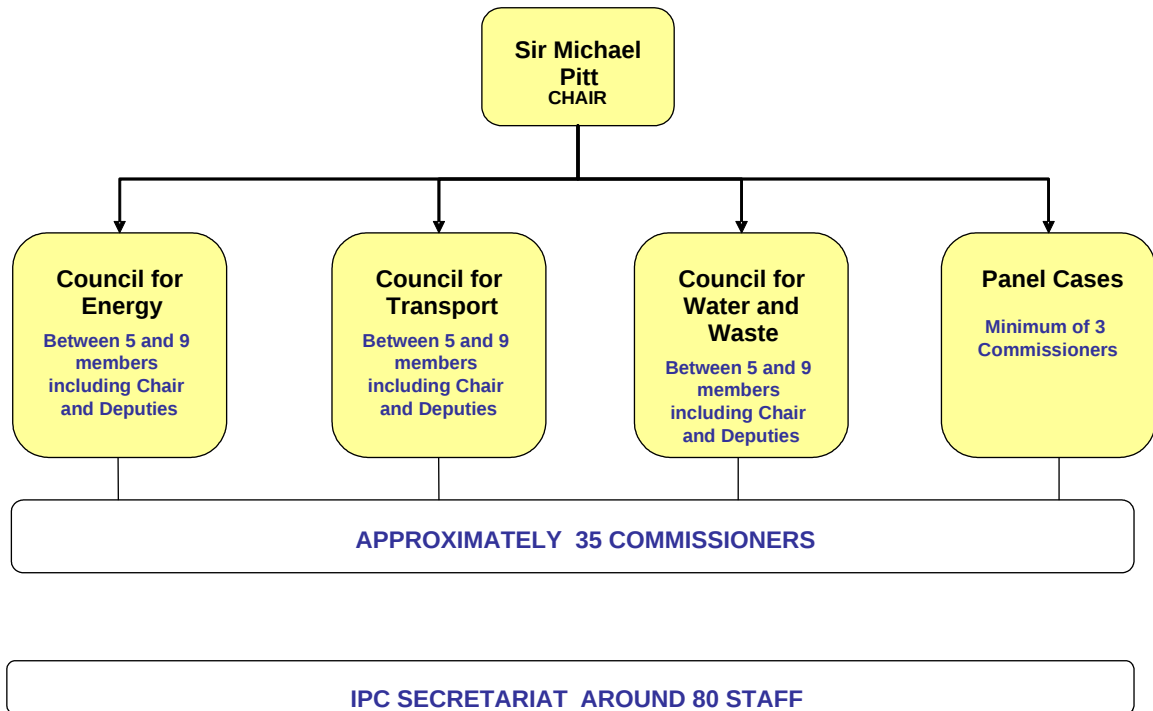
2. Introducing the IPC

Main characteristics

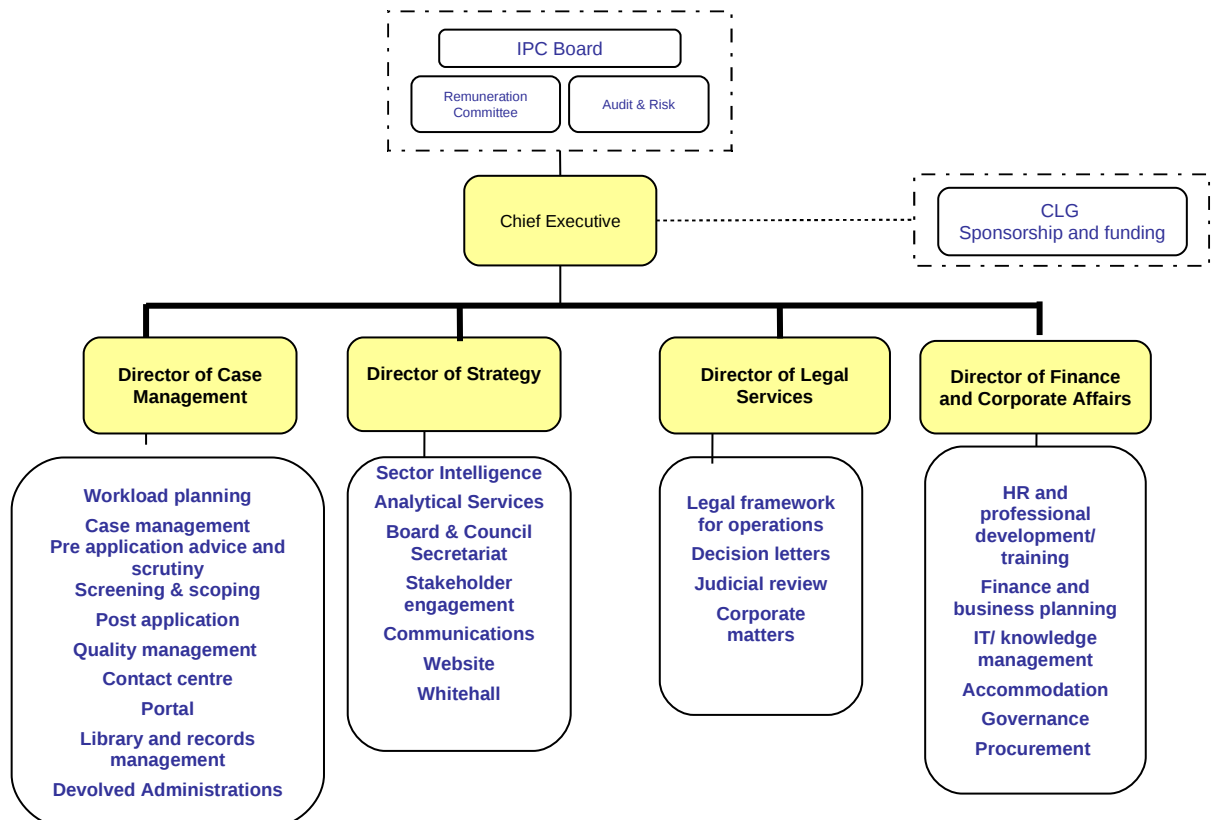
2.1 Commonly known as the IPC, the Infrastructure Planning Commission was established by the Planning Act 2008 (the Act). It is an independent non-departmental public body, set up with the dedicated task of examining and deciding applications for nationally significant infrastructure projects (NSIPs). These are within the five general fields of energy, transport, water, waste water and waste (s14). Examples are power generating stations, including wind farms, railways and major roads, reservoirs, harbours, airports, and sewage treatment works - in other words, the kinds of large scale facilities that support the everyday life of the country.

2.2 In terms of organisational structure, the IPC is governed by a Chair and two Deputy Chairs. A number of commissioners, ultimately around 30-40, examine and decide the applications. All are appointed by the Secretary of State and operate under a published Code of Conduct (part 1 and schedule 1 of Act). The IPC will have three Councils whose primary role is to take decisions on single commissioner cases within their relevant fields of Energy, Transport and, Waste and Water. Alternatively, a panel of between three and five commissioners will be appointed to take decisions on larger, more complex applications. The operation of the IPC is supported by a secretariat, headed by a chief executive and divided into four arms, namely case management, strategy, law and resources. The structure is summarised by the following charts:

Commission



Secretariat



2.3 The NSIPs to be dealt with by the IPC are defined in the Act to cover 16 specific types of infrastructure in the five general fields referred to above, subject to them exceeding certain thresholds of size and importance, for example, an off-shore generating station having a capacity exceeding 100 megawatts, or a rail freight interchange being on a site of over 60 ha (s15-30). The thresholds are summarised for reference in Annex 1 to this guide. In addition, the Secretary of State may direct that an application within the five relevant main fields be treated as an application for an order granting development consent when it does not meet the criteria, if the proposal is considered to be a project of national significance either individually or cumulatively with others in the same field (s35).

2.4 All such applications will be decided by the IPC, except where the Secretary of State remains the decision maker, for example when no National Policy Statement (NPS) covering the type of development has yet been designated (NPSs are another innovation of the Act, explained further below). The Secretary of State may also intervene and thus take over from the IPC as decision-maker, if there are changes in circumstances with the relevant NPS, or if important defence and national security considerations arise (s74, 83, 109-112).

2.5 When the IPC decides an application for a NSIP, it will either make what is known as an order granting development consent, or refuse development consent. The order granting development consent is a new kind of approval, also introduced by the Act. Importantly, it can include a range of separate consents that would previously have had to be obtained under separate strands of legislation and from different authorities, including for example, planning permission, authorisation for compulsory acquisition and approvals under various parts of the Pipelines, Gas, Energy and listed buildings acts (s33). This single consent regime is intended to simplify and speed-up the process of bringing forward large infrastructure projects.

Why is the new Infrastructure Planning system needed?

2.6 The system revolving around the creation of the IPC and the framework of NPSs arises from a general consensus that the previous arrangements resulted in unacceptable delays and costs. There has also been dissatisfaction with the quality of opportunities for all the various parties to participate effectively in the decision-making process. These difficulties have been exemplified by over-long public inquiries and one factor causing this has been a lack of clarity over strategic issues of national policy and need. These aspects have in some instances been subject to extensive debate at individual inquiries, in addition to the merits of specific proposals.

2.7 The measures in the 2008 Act reflect the Government's resolve that the infrastructure planning process will be streamlined and improved, to achieve a faster, more cost effective and transparent system, which assists participation and delivers sustainable development.

3. Summary of the benefits of the Infrastructure Planning system

3.1 The measures established by the Act and outlined in this guide are geared to maintain a system which:-

- Is able to enhance the quality of major infrastructure proposals and facilitate the realisation of those which merit consent, thus helping to secure provision of key infrastructure services and energy and safeguard the welfare of communities and economic competitiveness;
- Is more transparent and accessible for the parties involved and the affected local communities generally, allowing more effective participation in scheme development and decision making;
- Is faster, more reliable and less costly than previous arrangements, with statutory time-scales and avoidance of unnecessary debate over national policy and need when pre-established through NPSs;
- Is more in tune with integrating economic, environmental and social objectives to bring about sustainable development and respond effectively to climate change;
- Is clearly accountable through legal challenge where decisions need to be questioned.

4. The part played by National Policy Statements

Purpose of an NPS

4.1 The National Policy Statement (NPS) provides the means to separate clearly policy making and decision taking. Policy relevant to the type of infrastructure is set out in the NPS prepared by the relevant government department. Decisions on specific applications for nationally significant infrastructure projects (NSIPs) are taken by the IPC in accordance with the relevant NPS.

4.3 All NPSs will be subject to thorough and effective public consultation and Parliamentary scrutiny before they can be designated. Public consultation will provide an opportunity for debate on the national need for the infrastructure. Having had this national debate, the IPC's consideration of applications for particular infrastructure projects can focus on issues specific to the application rather than wider issues of need. NPSs will also be accompanied by an appraisal of the sustainability of the policy set out in the statement, incorporating a strategic environmental assessment where appropriate.

The content of an NPS

4.3 NPSs will establish the national need and set out policy for infrastructure. They will explain how they take account of the Government's relevant social, economic and environmental policies. Importantly they will also include an explanation of how the NPS takes account of Government policy relating to the mitigation of and adaptation to climate change.

4.4 For some types of NSIP, decisions about the location of the infrastructure appropriately remain with Ministers and subject to Ministerial accountability. For these types of infrastructure, the NPS will be location-specific, identifying locations which are considered to be suitable or potentially suitable for the infrastructure. NPSs that set out policy on nuclear power

stations and airport development will be location-specific. Where an NPS is location-specific, the local communities will be consulted on the proposals in the NPS, with the relevant local authorities being consulted on how the NPS should be publicised in the local area.

5. Characteristics of the order granting development consent

5.1 As already noted, the order granting development consent can include a range of permissions and consents previously obtained under separate regulatory regimes. The broad principle behind this range of consents is that they relate to the development of infrastructure, rather than its subsequent regulation, for example under the environmental permitting regime.

5.2 The applicant must submit their draft of the proposed order with the application. It will set out:-

- A full description of the development for which development consent is required, including any necessary associated development. The latter is subordinate to the NSIP, but necessary for its development and effective operation to its design capacity, for example warehousing related to a rail freight interchange (s115(1)-(2));
- Provisions giving the developer authority to take actions necessary for the project to be implemented satisfactorily. These might include, for example, authority for compulsory acquisition of land, or to stop-up streets or extinguish private rights of way, or to carry out protective works to buildings (s120(3)-(4)); schedule 5);
- Other provisions which are necessary for the purposes of the project, or matters ancillary to it, for example, applying or amending existing legislation, or modifying agreements, or protecting the interests of persons potentially affected by compulsory land acquisition (s120 (3)-(5); schedule 5);
- The requirements to be attached (s120(1-2)). Requirements are similar to conditions under existing consent regimes, for example specifying the matters for which detailed approval needs to be obtained before the development can be lawfully begun, for example the external appearance of buildings.

5.3 The IPC will be able to advise applicants on what needs to be covered by the order. In addition, assistance on drafting the provisions and

requirements of the order, generally and for certain specific types of infrastructure, is available from the 2009 model provisions order.

5.4 The normal duration of an order will be 5 years, unless a different period is specified (s154; miscellaneous prescribed provisions reg 4).

5.5 The benefit of the order normally rests with those having an interest in the land in question at any particular time, unless the order specifies otherwise (s156(1)).

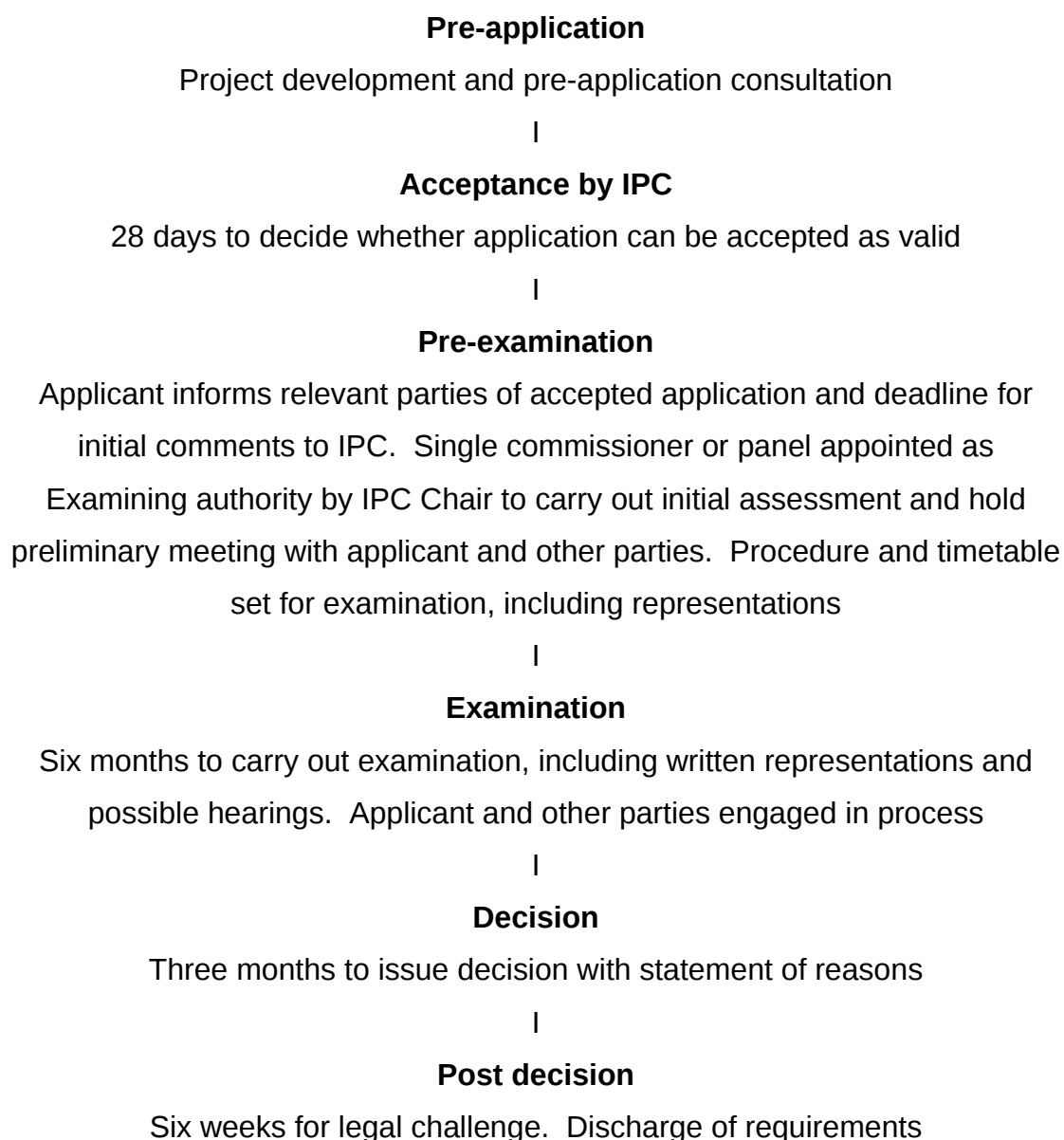
5.6 By means of the 2008 Act amending the Town and Country Planning Act 1990, section 106 legal obligations can be entered into in connection with an application for an order granting development consent (s174). Legal obligations of this kind can be useful, for example, in securing off-site benefits from the applicant, such as tree planting on other land, to mitigate the impacts of an infrastructure development and thus facilitate a positive attitude where this might otherwise not be possible. Promoters should agree the principles of any section 106 obligation before an application is submitted.

5.7 It should be noted that if the order entails the compulsory acquisition of certain special categories of land, such as local authority, statutory undertaker, National Trust or common land, then special provisions apply. These include that the compulsory acquisition of such land cannot be authorised in an order unless either the appropriate certificate of authorisation is issued by the Secretary of State, or, if necessary, the special parliamentary procedure has been undertaken (s127-132). Promoters are encouraged to seek to secure any necessary certificate before they submit an application.

6. The process of handling applications for NSIPs

Overview

6.1 The overall process of handling an application for a NSIP involves a series of stages, covering the progression towards a well-developed proposal for submission, the receiving and examining of the application by the IPC and, ultimately, the decision on the scheme and dealing with any post-decision aspects. This staged process is summarised in the following diagram:-



Nature of the IPC role

6.2 The role of the IPC is distinctive in that it includes important statutory responsibilities at the stage where a scheme is in its formative stages, well before formal submission. These involve not only the specific duties of assisting promoters if required with obtaining land ownership information and necessary access to land (explained further subsequently), but also:-

- Advising promoters on the procedures involved in applying for NSIPs and interested parties on making representations on a proposed application;
- Acting as a sounding-board for ideas on interpreting and implementing procedures, for example those concerning methods of local consultation;
- Encouraging constructive dialogue between promoters, specialist bodies, local authorities and members of the local community of a proposed development location, which will help ensure that all are well-informed and the proposed project itself is enhanced;
- Establishing an approachable contact point for individuals and bodies unfamiliar with infrastructure planning arrangements, to assist them in understanding the opportunities for participating in the process and the means of doing so;
- Generally promulgating with all parties the values of openness, integrity, efficiency, objectivity and accountability that underpin the role of the IPC in infrastructure planning.

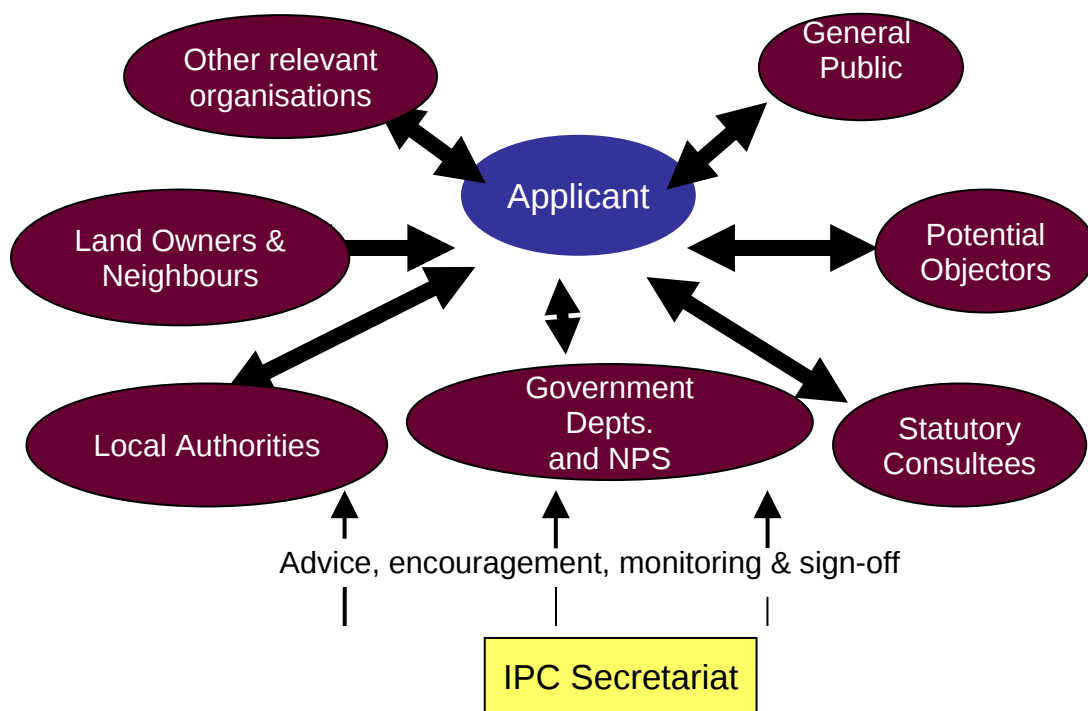
6.3 It should be noted that, whilst the IPC will advise promoters and others on the application process, it may not give advice about the merits of a particular proposal (s51(2)). The details of any advice given on potential or actual applications must be recorded in writing by the IPC. It must also maintain a publicly accessible website on which a record of the details of any advice given will be made available (applications reg 11).

Pre-application steps

6.4 A key aspect of the infrastructure planning system is the degree of consultation and publicity that the promoter must undertake and take into account before an application is formally submitted to the IPC (chap 2 of Act). Underlining the importance of this, the IPC cannot formally accept the application unless it is satisfied that these processes have been thoroughly and correctly carried out. This is to ensure that, through discussion and exchange of information with the local community and technical bodies, the proposal is as refined as it can be and as many issues of format and procedure as possible are resolved, before an application is submitted. The all-round quality of the scheme will thus be maximised and the formal examination process will be streamlined.

6.5 The potential applicant is thus very much at the heart of the process at this stage, with the IPC in the role of advising and facilitating, as depicted in the following diagram:-

Pre-Application



Consultation and publicity

6.6 At the pre-application stage, first there is a duty on the promoter to notify the IPC about the proposed application and provide it with copies of consultation material it intends to use (s46). The promoter must also:-

- Consult on the proposed application (s42) with:
 1. A range of specified bodies, as set out in the applications regulations (included for reference in Annex 2 to this guide);
 2. The local authorities affected which, in the context of section 42, includes those in which the proposal lies and adjoining ones; and
 3. Any party with an interest in the land.

The deadline for responses to this consultation is at least 28 days from receipt of consultation documents (s42-45; applications reg 3);

- Publicise the proposal as required by the regulations, in the press and relevant journals (s48; applications reg 4, included for reference in Annex 3 to this guide).

Community consultation

6.7 In addition, the promoter must consult the local community on the basis of an agreed set of consultation proposals, to be explained in a statement of community consultation (SOCC). In preparing the SOCC, the promoter must consult with the local authority, or authorities, within which the site of the development is located, to ensure that it is drawn up with the benefit of their local knowledge of the area. They will be sent details of the proposal and the promoter's ideas for community consultation and must respond with their views on the consultation proposals within 28 days. Having had regard to the local authorities' views, the promoter must finalise the SOCC and publish it in the area. The promoter is under a duty to undertake this consultation and to take account of relevant responses in finalising the application (s47, 49).

6.8 Whilst the specific duty in this context is to consult the local authority in which the proposal lies, the promoter should be mindful of the overall purpose of section 47 of the Act, of consulting the 'local community'. If, therefore, the site of a proposal is physically within one or more local authorities, but close to the boundary with an adjacent one, the promoter should consider whether in order to meet the requirement for local community consultation fully, it should consult the adjacent authority as well.

Land ownership information and access to land

6.9 In preparing for an application, the promoter will need to verify the owners of the land in question and others with an interest in the land. The promoter may also have to enter the site or adjoining land for the purposes of surveying and taking levels in connection with designing the scheme. If information on ownership or other interests in land is uncertain, or access to land cannot be easily agreed with landowners, then the Act provides for the IPC to give assistance to the promoter (s52-53). This is in the form of authorisations, either to serve notice on individuals requiring them to provide details of ownership, or to enter land for surveying purposes.

Environmental Impact Assessment

6.10 With regard to Environmental Impact Assessment (EIA) at the pre-application stage, the IPC is the relevant body for screening as to whether an Environmental Statement (ES) is required and scoping what it should cover (EIA regs 4, 8). We anticipate that owing to the likely large scale of NSIPs, an ES will be necessary in most instances, but promoters are nevertheless required to either notify the IPC that they intend to provide an ES, or seek a screening opinion from the IPC. Whether a proposal is going to be subject to an ES is to be made clear in the promoter's consultation and publicity material, with preliminary environmental information made available as appropriate. Similarly, the SOCC must set out how the promoter intends to consult on the preliminary environmental information (EIA regs 10, 11). What

the preliminary environmental information may cover is outlined in part 1 of schedule 4 to the EIA regulations and includes details such as a description of the development, the main likely environmental effects and the proposed means of mitigation.

Protected nature conservation sites

6.11 If the proposed development unavoidably affects a protected European nature conservation site, it should be noted that the IPC is a 'competent authority' for undertaking the Appropriate Assessment of the implications of the development for the site. Accordingly, the promoter must prepare the information necessary to enable the assessment to be carried out. The IPC can advise on the necessary information on the basis of its own consultations with the nature conservation bodies.

6.12 Although there are no specific pre-application obligations on the promoter in respect of protected European sites, clearly it is advisable that early contact is made with the relevant nature conservation bodies, to confirm the boundaries and status of any such sites, to explore whether impacts can be avoided or mitigated and to ensure suitable information can be provided with the application.

Agreeing common ground

6.13 In addition at the pre-application stage, the IPC encourages the promoter and any relevant interested bodies and individuals to seek to agree provisional statements of common ground on the various issues.

Transitional arrangements

6.14 Where an application has been made under an existing regime, it will continue to be determined under that regime and will not transfer to the IPC. Some promoters, however, may have been working-up a proposal over a considerable period with a view to submitting an application, but

have not done so before the new regime comes into effect for that kind of development. In order if possible to avoid wastage of effort and resources already committed to consultation before the new system overtook a proposal, transitional arrangements are set out in the applications regulations (reg 12). These may allow such an application to be deemed to have met the consultation requirements for acceptance by the IPC, as referred to in section 55(e) and set out in chapter 2 of part 5 of the Act on pre-application procedure. For this to be the case, the following factors need to apply:-

- Application made before 1 October 2011;
- The IPC being satisfied that between 1 October 2007 and 1 October 2009, consultation began with the statutory bodies set out schedule 1 to the applications regulations;
- Community consultation had begun in that period, with the local authority having first been consulted on how this was to be undertaken;
- The proposed application being publicised in a manner that would have substantially fulfilled the requirements of application regulation 4, had it been in force.

6.15 If these factors apply, the applicant must submit a report with the application setting out how the community consultation was carried out and the account taken of responses in finalising the application.

6.16 If these considerations are thought to apply, the applicant should consult the IPC before any application is submitted to discuss and verify the position.

Application stage and acceptance by IPC

6.17 The application itself must meet the documentation requirements referred to in the Act and set out in more detail in the regulations (applications

regs 5-7, provided for reference in Annex 4 to this guide). Among the range of documents will be a consultation report. This will describe what has been done to fulfil pre-application publicity and consultation requirements, give the details of any relevant responses and explain the account taken of them in finalising the application (s37(3), (7)). The applicant must make the responses themselves available to the IPC to see, if it wishes. The application must in addition include a draft of the consent order itself, as described earlier.

6.18 Also essential is the fee payable to the IPC at this stage, as set out in the fee regulations. The fee regime for applications is outlined further in section 8 of this guidance and Annex 5.

6.19 Once the application is received by the IPC, it has 28 days to decide whether it can be accepted as a valid application. It is for the applicant to demonstrate how the application complies with the requirements of the regulations. In addition to the completeness of the application in terms of documents and forms, a major factor in the IPC's decision is the standard of the pre-application consultation, as reflected in the consultation report and any comments on its adequacy received from a relevant local authority (s55(2), (4)). We will notify relevant local authorities that their views on pre-application consultation are needed and give a timescale for responding.

6.20 If the IPC decides that it cannot accept the application as valid, either because of lack of necessary documentation or inadequate pre-application consultation, then it must notify the applicant and give its reasons. In these circumstances, the unused part of the application fee covering the IPC's initial assessment of the application must be returned by the IPC as soon as possible. The applicant may seek to rectify the deficiencies in the application before reapplying, for example by repeating parts of the consultation and publicity processes in a different way, or modifying the application, whereupon the acceptance process would run again (s55(7)-(8)).

Pre-examination processes

Notification of accepted application

6.21 When informed by the IPC that the application has been formally accepted, the applicant must make the application and its acceptance known to all the bodies and local authorities previously consulted at the pre-application stage and those with relevant interests in the land in question (s56, 57; applications reg 8). In doing so, the applicant will make available a range of information about the application as set out in the regulation and how this can be inspected. Also, a deadline will be specified of not less than 28 days for any initial representations on the application to be submitted to the IPC. Those whose land interests may be affected will be asked to indicate in their representations whether they wish for a compulsory acquisition hearing to be held (described further subsequently in the sub-section on hearings).

Publicity for accepted application

6.22 As well as fulfilling the notification process, the applicant must publicise the acceptance of the application by means of a notice. This will provide a range of information as set out in applications regulation 9, which will again set a time limit for receipt of initial representations by the IPC of not less than 28 days (reg 9, included for reference in Annex 3 to this guide). The notice will be published in the press and other journals in the same way as for a proposed application, as already outlined. In addition, the notice must be displayed in an accessible place at or as close as reasonably practicable to the site, or, if the scheme is linear, then at intervals of no more than 5 km (s56(7); applications reg 9).

Initial representations

6.23 The key purpose of the representations invited at this stage is to enable the IPC to make its initial assessment of the issues and how the

application should be examined. Accordingly, the essential information required from parties and local authorities will be a concise initial summary of key issues and possible impacts identified by the party or local authority, their name and address and preferred method of notification, whether they wish to attend a pre-examination meeting and whether they want to make their views known through an open-floor hearing (explained further in hearings subsection). More detailed representations, including local impact reports, will be submitted in due course once the procedure for the examination has been confirmed including deadlines for submissions.

Certifying compliance with notification and publicity requirements

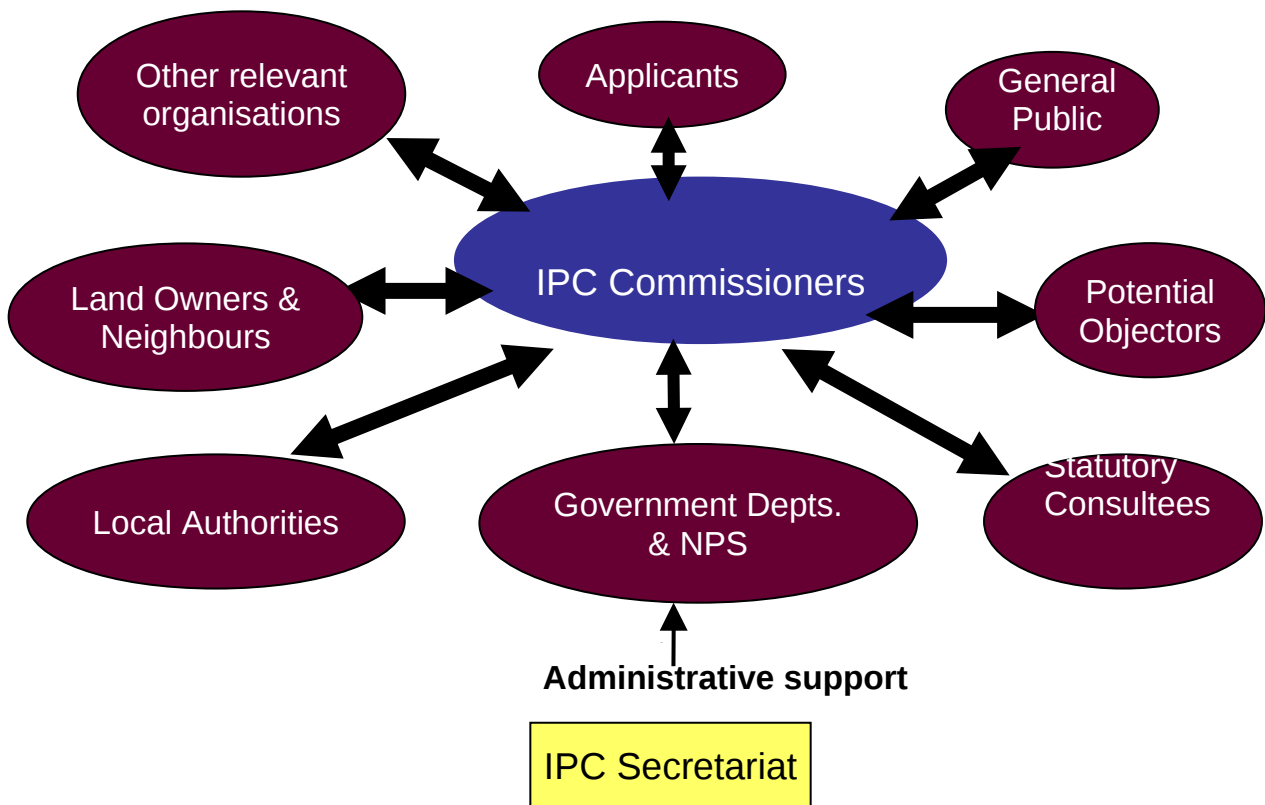
6.24 When the applicant has fulfilled the requirements for notification and publicity of the accepted application, they must formalise this by completing a certificate and sending this to the IPC (s58; applications reg 10 and form in schedule 3). Also at this stage, if the application includes a request for authorisation of compulsory acquisition of land, or of an interest in or right over land, the applicant must provide the IPC with a notice giving the contact details of those affected (s59; applications reg 10 and form in schedule 4). This information will assist the IPC in its examination of the application, in particular in confirming any requirement for a compulsory acquisition hearing and notifying the arrangements. The certificate and notice must be sent to the IPC within 10 working days of the expiry of the 28 day deadline for representations included in the notice publicising the acceptance of the application (applications reg 10).

6.25 The importance of the processes under section 56 is underlined by the Act making it an offence to issue a certificate in a false or misleading way (s58(3)-(7)).

The IPC moving centre stage

6.26 Once the application has been submitted and accepted and the necessary notification and publicity of this undertaken by the applicant, the

IPC takes over from the applicant at the heart of the process. This is illustrated by the following diagram:-



6.27 The Chair of the IPC after consulting senior colleagues appoints the IPC Examining authority appropriate to the particular application as early as possible in the process (s61(2); s65(1-2)). This may be either:-

- A single commissioner; or
- A panel of three or more commissioners, one appointed to chair the panel.

6.28 The different permutations between the alternative Examining authorities and the ultimate decision-maker are covered subsequently in this guide, but may be summarised as follows:-

Examining authority

Decision maker

Where relevant NPS is in place

Single commissioner	Examination and Report	IPC Council
Panel	Examination	Panel

Where no NPS is in effect

Single commissioner	Examination and Report	Secretary of State
Panel	Examination and Report	Secretary of State

Where Secretary of State has intervened

Secretary of State	Examination	Secretary of State
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(may invite IPC to conduct all or part of examination)

Initial assessment and procedural meeting

6.29 The Examining authority has the duty to consider how to examine the application (s87(1)). It will undertake an initial assessment of matters arising from the application within 21 days of the deadline for representations on the accepted application (s88(1); examination rule 5).

6.30 After undertaking this initial assessment, the Examining authority must hold a meeting to which all interested parties are invited (s88(2); examination rule 7). The interested parties are the applicant, the local authorities, the statutory parties defined by the regulations and those that made 'relevant representations' to the IPC within the 28 day deadline notified by the applicant after the application was accepted as valid (s102; interested parties reg 3). Procedural decisions on how the application is to be examined will be made at or immediately after this meeting (s89).

6.31 These decisions will typically include details of the examination timetable, the requirement for any hearings on specific issues, confirmation of any open-floor or compulsory acquisition hearings and their arrangements and whether and on what basis any legal assistance, or assessors, or are to be appointed, for example if specialist knowledge is required on a certain aspect (s100-101). Deadlines will be specified or confirmed for a range of processes

as listed in the rules, including the receipt of written representations from interested parties, submission of the full local impact report by a relevant local authority, dates by which parties may comment on written representations and - if statements of common ground have not already been agreed at the pre-application stage between the applicant and relevant parties as encouraged by the IPC - a deadline for statements to be agreed (examination rule 8).

6.32 The local impact report (LIR) is a report in writing by the local authority on the likely effects of the proposed development on their area (s60). The LIR is invited by the IPC after accepting the application and the applicant certifying compliance with the notification and publicity requirements. A timescale for receipt of the LIR by the IPC is given at that stage and the deadline will be confirmed after the procedural meeting in accordance with examination rule 8. The period in which an interested party may comment on the LIR is also set after the meeting. Separate guidance will be available in due course from the IPC on the preparation of LIRs.

Examination

Written representations

6.33 The basic mode for the examination of the application is the consideration of the written representations. This is a rigorous, structured and transparent process. Written representations must be received within the deadlines set by the Examining authority. If required by the Examining authority, a person or body making written representations can be required to provide further information or clarification within a specified period. The Examining authority will give all interested parties the opportunity of commenting on any other representations relevant to the examination. It must make all written representations and responses to written questions available to all as soon as practicable, giving the opportunity to inspect them and take copies (examination rules 10, 21). Written representations must address not only the aspects where there is disagreement, but also where there is agreement.

6.34 Clearly, therefore, written representations are not merely read by the Examining authority. The IPC seeks to test the written representations, to seek more detail and further clarity when the representations are felt to be inadequate and to put questions about them to the author in writing. As result, written representations are thoroughly examined and tested.

Hearings

6.35 The Examining authority may nevertheless also hold hearings into certain aspects, if the appropriate circumstances apply (s90(1-2)). The arrangements will be addressed at the preliminary meeting. Hearings may be of the following three types (s91-93):-

- On specific issues, if the examining authority considers a hearing of this kind would assist the examination process. More than one may potentially be held at the same time where appropriate, when the examination authority is a panel;
- On compulsory acquisition matters, if one is requested by an affected party (ie whose land or land interests are proposed to be acquired) when responding to the notification by the applicant about the accepted application and confirmed through the procedural meeting; or
- Of an 'open-floor' format. Interested parties have a right to be heard at an 'open-floor' hearing if they request one in response to the applicant's notice of acceptance of the application and this is confirmed through the procedural meeting. This gives people the opportunity to explain their views to the Examining authority in person, for example to emphasise or develop points made in writing.

6.36 The Examining authority will decide how a hearing is to be conducted. Generally these will be inquisitorial in nature with questioning led by the Examining authority, rather than adversarial with cross-examination of witnesses, as is the case for example at planning inquiries. Nevertheless, the

Examining authority can allow a person making oral representations at a hearing to be questioned by another person, if this is necessary to ensure adequate testing of evidence (s94(3),(7); examination rule 14). Oral representations may not repeat other representations, or relate to the merits of policy already set out in a NPS, or, in the case of a compulsory acquisition hearing, concern compensation for acquisition of land rather than the principle. They will also not be allowed if they are 'irrelevant, vexatious or frivolous' (s94(8)).

6.37 If a procedural decision was taken by the IPC Chair to appoint a legal adviser in relation to the conduct of the examination, the person may assist if necessary in the questioning of those making oral representations at a hearing.

Site inspections

6.38 The Examining authority may make unaccompanied site visits before or during its examination of the application without notifying other parties. In addition, the Examining authority may make site visits at any time before the end of the examination accompanied by an interested party. All other interested parties must be notified that this is taking place (examination rule 16).

Making the decision

6.39 There are three main scenarios relating to decision-making on NSIP applications, namely:-

- When a relevant NPS is in place that relates to the type of infrastructure in question, the IPC will be the normal decision-maker. This is expected to be the most common case when the system is bedded-in and a comprehensive suite of NPSs exists. The decisions

by the IPC will be either as a panel, or the IPC Council on the basis of a report with a recommendation by a single commissioner;

- When the relevant NPS is not in place, the IPC will be the examining authority with a duty to provide a report with a recommendation to the Secretary of State as the decision-maker;
- The Secretary of State may intervene in a case being handled by the IPC in certain circumstances and thus take over as the decision-maker, in particular if there is a material change in circumstances affecting the NPS, or important defence or national security considerations arise.

6.40 When the IPC is taking the decision, the panel or IPC Council must have regard to:-

- Any relevant NPS;
- Any local impact report from a local authority;
- Any relevant matters contained in regulations, for example the desirability of preserving a listed building or its setting if an application affects a listed building (decisions regs, eg 3);
- Any other matters thought by the decision-maker to be both important and relevant to its decision (s104(2)).

6.41 As a general principle, the Act requires the panel or IPC Council to decide an application in accordance with the relevant NPS except in certain circumstances (s104(3-7)), namely:-

- Breach of international obligations;
- Breach of any duty imposed on the IPC by any law;
- Contravention of a law;
- The decision-maker being satisfied that the adverse affects of the proposal would outweigh its benefits.

6.42 The Secretary of State will have regard to the same decision-making factors as the IPC, except that there will not be a relevant NPS to take into account, other than in the case of intervention in a decision by the IPC (s105).

6.43 When deciding an application, the decision-maker may disregard representations if they relate to the merits of policy set out in a NPS, or concern compulsory acquisition compensation, or are considered to be 'vexatious or frivolous' (s106).

6.44 Reasons for the decision, either to make an order granting development consent or to refuse, must be put into a statement by the decision-maker, to be publicised and provided to the interested parties (s116).

6.45 The situation may arise of a decision on an application by the IPC Council or Secretary of State potentially departing from the recommendation of the report by the Examining authority (single commissioner or panel). If this is because the decision-maker differs on a matter of fact, or takes into consideration new evidence or a new matter of fact, then before the decision is issued the decision-maker must notify interested parties and explain the circumstances, with the opportunity given for further written representations (examination rule 19).

After the decision

Legal challenges

6.46 The Act specifically allows for legal challenges of decisions on applications for orders granting development consent, as long as the claim is lodged within six weeks. If the challenge is successful and the decision is quashed, the IPC Chair or Secretary of State will send to all parties a statement of the matters for additional representations, to enable the further consideration of the application (s118; examination rule 20).

Correctable errors

6.47 If an order is found to contain a correctable error, then this will be resolved by the IPC or Secretary of State through a correction notice (s119; schedule 4). Appropriate non-material changes may also be made to an order, by means of an application to the IPC (s153; schedule 6).

Approval of details

6.48 Approval of details specified by requirements attached to an order, for example, layout, external appearance and landscaping, is by means of subsequent submissions to the IPC (eg model provisions, schedule 4, 4-38).

Enforcement

6.49 Enforcement of development consent related offences is the responsibility of the relevant planning authority, that is the district authority, borough, unitary or county council for the area, or any other relevant body, for example the appropriate marine organisation or the Environment Agency (s160-170).

Changes to and revocation of an order

6.50 Finally, change to, or revocation of, an order granting development consent are dealt with in schedule 6 to the Act. The power under paragraph 3(1) enables the appropriate authority, that is the IPC or Secretary of State depending on the circumstances, to change or revoke an order on application by the original applicant or successor in title, or a person with an interest in the land, or any other person for whom the order has effect. A local authority within which the site lies may also apply for a change or revocation, if the development has begun but has been abandoned and the amenity of other land is thus suffering (para. 3(5)). In addition, the Secretary of State may apply to vary or revoke an order when the IPC is the appropriate authority, if the development would result in a contravention of Community law or Community rights (relating to human rights), or if other exceptional

circumstances justify use of the power. Where the Secretary of State is the appropriate authority and the above considerations apply, then the power to vary or revoke may be exercised without an application.

6.51 Compensation may be payable to a person with an interest in the land if, as a result of a decision to change or revoke an order, they have incurred abortive expenditure, or sustained other loss or damage.

7. Timescales

7.1 When a NPS is in effect, the Act requires the examination of the application to be completed within six months of the procedural meeting and the decision to be issued within three months of the end of the examination. Where no NPS is in effect, the IPC Examining authority, either single commissioner or panel, has three months from the end of the examination to provide its report and recommendation to the Secretary of State, who then has three months to make the decision (s98(1-3)).

7.2 The time periods for the examining authority examining and reporting on an application can be extended, but the reasons for doing so must be explained to the Secretary of State and included in the IPC's Annual Report (s98(4-6)).

7.3 Similarly, the three month decision period can be extended, although this must be for good reason and appropriately explained. In the case of an IPC decision, the explanation is to the Secretary of State and must be included in the IPC Annual Report. For the Secretary of State, the explanation must be provided to interested parties and laid before Parliament (s107(6-7)).

8. Fees payable to the IPC

8.1 The full details and amounts of the fee arrangements for NSIP applications are set out in the fees regulations. It should generally be noted about the fee regime that:-

- Some fee elements relate to specific items;
- Fees are staged through the process;
- The level of fees reflects the scale, complexity and, hence, time-intensity, of the IPC dealing with the application;
- The appropriate part of the application fee is returnable if the application is not formally accepted as valid by the IPC.

8.2 The following is a summary of the key stages of the fee regime:-

- At the pre-application stage, a fee is payable to the IPC if an authorisation is requested either for obtaining information on land ownership, or for gaining access to land for surveying purposes;
- If the proposal progresses to an application then this must be accompanied by a two-part fee. The first, smaller, part covers the IPC assessing whether an application can be validly accepted to start the examination process. The second part is the fee for the initial assessment of the application and the procedural meeting. This is returnable if the application is not accepted as valid by the IPC. If the two-part fee is not paid, the IPC need not consider the application;
- The next fee stage is the initial payment for the examination of the application. This is based on a rate per day for the number of days estimated for the examination by the Examining authority, after the procedural decisions have been made which will set the length and scope of the examination. The day rate is progressively higher depending on whether the Examining authority is a single commissioner, or a three, or four commissioner panel. If this fee is not paid, then the IPC need not take the application further;

- The last stage is the final payment for handling the application. This reconciles the estimated and actual number of days of the examination, which will be known once it has closed. A higher day rate is applied to the actual number of days than at the estimated stage. The amount of the payment is the resulting sum minus the initial payment. Without this fee, the IPC may extend the dead-line for reporting and decision-making on an application.

8.3 The currently proposed levels of fees for each item or stage are summarised in Annex 5 to this guide.

9. Further information and guidance

9.1 For more detailed information on the new regime and the role of the IPC, reference may be made in particular to:-

- Planning Act 2008, Parts 1-8 and Chapter 1 of Part 9 and Schedules 1-6 (**the Act**);
- The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (**application regulations**);
- The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (**model provisions order**);
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (**EIA regulations**);
- The Conservation (Natural Habitats, &c.) (Amendment) (No.2) Regulations 2009 (**natural habitats regulations**);
- The draft Infrastructure Planning (Examination Procedures) Rules 2010 (**examination rules**);
- The draft Infrastructure Planning (National Security and Appointed Representatives) Rules 2010;
- The draft Infrastructure Planning (Decisions) Regulations 2010 (**decisions regulations**);
- The draft Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (**CA regulations**);
- The draft Infrastructure Planning (Fees) Regulations 2010 (**fees regulations**);
- The draft Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 (**miscellaneous prescribed provisions**);
- The draft Infrastructure Planning (Interested Parties) Regulations 2010 (**interested parties regulations**).

9.2 For further assistance and guidance please contact the IPC:-

- Telephone: 0303 444 5000;
- e-mail: enquiries@infrastructure.gsi.gov.uk

ANNEX 1

Summary of criteria for Nationally Significant Infrastructure Projects

The 16 infrastructure types and the relevant threshold criteria set out in the Act (s14(1) and 15-30) are summarised below:-

Construction or extension of a generating station

- Onshore – capacity over 50 megawatts;
- Offshore, in the territorial sea and the Renewable Energy Zone – capacity over 100 megawatts.

Electricity lines

- Above ground in England and Wales;
- Nominal voltage of 132 kilovolts and above;

Underground gas storage

- In England and applying to the creation or commencement of use of underground gas storage facilities;
- In Wales, commencement of use of facilities in natural porous strata and the developer being a gas transporter;
- In either case, the working capacity is at least 43m standard cubic metres and the maximum flow rate at least 4.5m standard cubic metres per day.

LNG (liquid natural gas) facilities

- In England, applying to LNG from outside the country;
- Storage capacity for new facility of at least 43m standard cubic metres and the maximum flow rate of at least 4.5m standard cubic metres per day (capacity measured as if LNG regasified);
- Alteration of a facility to increase capacity and flow rate by at least the above amounts.

Gas reception facilities

- In England and the gas does not originate in England, Wales or Scotland, or arrive from Wales or Scotland;
- For a new facility a maximum flow rate of at least 4.5m standard cubic metres per day, or, for the alteration of a facility, an increase of flow rate of at least this amount.

Gas transporter pipelines

- Wholly or partly in England, with the consent only being for the part in England;
- More than 800mm diameter and 40 km in length, a design operating pressure more than 7 bar gauge, supplying to at least 50,000 customers;
- Construction likely to have a significant effect on the environment.

Other pipelines

- Cross-country;
- Otherwise requiring authorisation under Pipelines Act 1962;
- Both ends in England or Wales;
- If an oil or gas pipeline, the other end may be in Scotland;
- In most circumstances to include diversions of pipelines.

Highways

- Construction, improvement or alteration of a highway in England, where the Secretary of State is the highway authority;
- In the case of an improvement, likely to have a significant effect on the environment.

Airports

- Existing or new airport in England or English waters;

- Construction of an airport providing transport services for at least 10m passengers per year, or at least 10,000 cargo aircraft movements per year;
- Alteration of an airport by means of construction, extension or alteration of a runway, building, or apparatus, having the effect of increasing passenger or cargo traffic by at least the above amounts;
- Increase in permitted use of an airport also leading to the above passenger and cargo traffic increases.

Harbour facilities

- England or Wales;
- Construction or alteration having the effect of increasing handling capacity per year in the case of facilities for container ships by 500,000 TEU (twenty-foot equivalent units), for ro-ro ships by 250,000 units, other cargo ships by 5m tonnes, or for facilities for more than one of these types by an equivalent quantity of material;
- 'Equivalent quantity of material' assessed in terms of the sum of the fractions for each cargo type based on the likely increase (numerator) over the specific threshold in each case (denominator), where a result of 1+ indicates an equivalent quantity.

Railways

- Construction or alteration of a railway in England which is part of the network of an approved operator. It is proposed to designate the operator(s) of the Network Rail, Channel Tunnel Rail Link (High Speed 1) and Heathrow Express spur networks under section 25 of the Act.
- Not Permitted Development under article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (article 3 refers to schedule 2 to the Order).

Rail freight interchanges

- New or altered facilities in England;

- Site area for new facility at least 60ha, or, for an alteration, an increase of at least this amount;
- Capable of handling goods from more than one origin to more than one destination, involving at least 4 trains per day;
- Part of the railway network;
- To include warehouses, either directly rail linked, or connected by other transport;
- Not part of a military establishment.

Dams and reservoirs

- In England, by one or more water undertakers;
- Volume of water in new facility exceeding 10m cubic metres, or, for an alteration, an increase in volume of the same amount.

Transfer of water

- In England, by one or more water undertaker;
- Annual volume to be transferred exceeding 100m cubic metres;
- Between river basins, or water undertakers' areas, or between a river basin and a water undertaker area.

Waste water treatment plants

- In England;
- For a new facility, capacity exceeding population equivalent of 500,000 people, or, for an alteration, a capacity increase of the same amount.

Hazardous waste facilities

- In England;
- Capacity for a new facility, when landfill or deep storage, of more than 100,000 tonnes per year, or in the case of any other type of facility, at least 30,000 tonnes per year;
- For an alteration to an existing facility, an increase in capacity of at least the above amounts.

ANNEX 2

Statutory Consultees

Taken from

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

SCHEDULE 1

Regulations 3 and 8(1)

Table

<i>Column 1; Consultee</i>	<i>Column 2; Circumstances when that person must be consulted about a proposed application.</i>	<i>Column 3; Circumstances when that person must be notified about an application.</i>
The Welsh Ministers	All proposed applications likely to affect land in Wales	All applications likely to affect land in Wales
The Scottish Executive	All proposed applications likely to affect land in Scotland	All applications likely to affect land in Scotland
The relevant Northern Ireland Department	All proposed applications likely to affect land in Northern Ireland	All applications likely to affect land in Northern Ireland
The relevant Regional Planning Body	All proposed applications likely to affect land in England and Wales	All applications likely to affect land in England and Wales
The Health and Safety Executive	All cases	All cases
The relevant Strategic Health Authority	All proposed applications likely to affect land in England and Wales	All applications likely to affect land in England
The relevant Health Board ⁽¹⁾	All proposed applications likely to affect land in Scotland	All applications likely to affect land in Scotland
Natural England ⁽²⁾	All proposed applications likely to affect land in England	All applications likely to affect land in England
The Historic Buildings and Monuments Commission for England	All proposed applications likely to affect land in England	All applications likely to affect land in England
The relevant fire and rescue authority	All cases	All cases
The relevant police authority	All cases	All cases
The relevant parish council, or, where the application relates to land in Wales or Scotland the relevant community council	All cases	All cases

¹ () See section 2 of the National Health Service (Scotland) Act 1978 (c.29)

² () See section 1 of the Natural Environment and Rural Communities Act 2006 (c.16).

The Environment Agency	All proposed applications likely to affect land in England and/or Wales	All applications likely to affect land in England and/or Wales
The Scottish Environment Protection Agency	All proposal applications likely to affect land in Scotland	All applications likely to affect land in Scotland
The Commission for Architecture and the Built Environment	All proposed applications likely to affect land in England	All applications likely to affect land in England
The relevant Regional Development Agency	All cases	All cases
The Equality and Human Rights Commission	All proposed applications likely to affect land in England and Wales	All applications likely to affect land in England and Wales
The Scottish Human Rights Commission	All proposed applications likely to affect land in Scotland	All applications likely to affect land in Scotland
The Commission for Sustainable Development	All cases	All cases
AONB Conservation Boards	All proposed applications likely to affect an AONB that is managed by a Conservation Board	All applications likely to affect an AONB that is managed by a Conservation Board.
Royal Commission on Ancient and Historical Monuments of Wales	All proposed applications likely to affect the historic environment in Wales	All proposed applications likely to affect the historic environment in Wales
The Countryside Council for Wales	All proposed applications likely to affect land in Wales	All applications likely to affect land in Wales
The Homes and Communities Agency ⁽³⁾	All proposed applications likely to have an effect on its areas of responsibility	All applications likely to have an effect on its areas of responsibility
The Joint Nature Conservation Committee	All proposed applications likely to affect the marine environment	All applications likely to affect the marine environment.
The Commission for Rural Communities	All proposed applications likely to affect rural communities in England	All applications likely to affect rural communities in England
Scottish Natural Heritage	All proposed applications likely to affect land in Scotland	All applications likely to affect land in Scotland
The Maritime and Coastguard Agency	All proposed applications likely to affect the maritime or coastal environment, or the shipping industry	All applications likely to affect the maritime or coastal environment, or the shipping industry.
The Marine and Fisheries Agency	All proposed applications likely to affect the marine area in England and Wales	Where the proposal would involve carrying on any activity in the marine area in England and Wales
The Scottish Fisheries Protection Agency	All proposed applications likely to affect the fisheries industry in Scotland	All applications likely to affect the fisheries industry of Scotland
The Civil Aviation Authority	All proposed applications	All applications relating

3 () See section 2 of the Housing and Regeneration Act 2008 (c.17)

	relating to airports or which are likely to affect an airport or its current or future operation	to airports or which are likely to affect an airport or its current or future operation
The Highways Agency	All proposed applications likely to affect road or transport operation and/or planning on roads for which the Secretary of State for Transport is the highway authority.	All applications likely to affect road or transport operation and/or planning on roads for which the Secretary of State for Transport is the highway authority.
Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs)	All proposed applications likely to affect transport within, to or from the relevant integrated transport area of the ITA or PTE	All applications likely to affect transport within, to or from the relevant integrated transport area of the ITA or PTE
The relevant Highways Authority	All proposed applications likely to have an impact on the road network or the volume of traffic in the vicinity of the proposal	All applications likely to have an impact on the road network or the volume of traffic in the vicinity of the proposal
Transport for London	All proposed applications likely to affect transport within, to or from Greater London	All applications likely to affect transport within, to or from Greater London
The Rail Passengers Council	All proposed applications likely to affect rail passenger transport	All applications likely to affect rail passenger transport
The Disabled Persons Transport Advisory Committee	All proposed applications likely to affect access to transport for disabled people	All applications likely to affect access to transport for disabled people
The Coal Authority	All proposed applications that lie within areas of past, present or future coal mining.	All applications that lie within areas of past, present or future coal mining.
The Office of Rail Regulation and approved operators ⁽⁴⁾	All proposed applications likely to affect the rail transport industry	All applications likely to affect the rail transport industry
The Gas and Electricity Markets Authority	All proposed applications likely to affect gas and electricity markets	All applications likely to affect gas and electricity markets
The Water Services Regulation Authority	All proposed applications likely to affect the water industry in England and Wales	All applications likely to affect the water industry in England and Wales
The Water Industry Commission of Scotland	All proposed applications likely to affect the water industry in Scotland	All proposed applications likely to affect the water industry in Scotland
The relevant waste regulation authority	All proposed applications likely to affect waste infrastructure	All applications likely to affect waste infrastructure
The relevant internal	All proposed applications	All applications likely to

4 () For the definition of “approved operators” see section 25 of the Planning Act 2008.

drainage board	likely to increase the risk of flooding in that area or where the proposals relate to an area known to be an area of flood risk	increase the risk of flooding in that area or where the proposals relate to an area known to be an area of flood risk
The British Waterways Board	All proposed applications likely to have an impact on inland waterways or land adjacent to inland waterways	All applications likely to have an impact on inland waterways or land adjacent to inland waterways
Trinity House ⁽⁵⁾	All proposed applications likely to affect navigation in tidal waters	All applications likely to affect navigation in tidal waters
The Health Protection Agency	All proposed applications likely to involve chemicals, poisons or radiation which could potentially cause harm to people	All applications likely to involve chemicals, poisons or radiation which could potentially cause harm to people
The relevant local resilience forum	All cases	All cases
Relevant statutory undertakers	All proposed applications likely to affect their functions as statutory undertakers	All applications likely to affect their functions as statutory undertakers
The Crown Estate Commissioners	All proposed applications likely to impact on the Crown Estate	All applications likely to impact on the Crown Estate
The Forestry Commission	All proposed applications likely to affect the protection or expansion of forests and woodlands	All applications likely to affect the protection or expansion of forests and woodlands

Note to Table

“relevant”, in relation to a body, shall mean the body which has responsibility for the location where the proposals may or will be sited or has responsibility for an area which neighbours that location.

5 () The Corporation of Trinity House of Deptford Strond.

ANNEX 3

Publicity Requirements

Taken from

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Publicising a proposed application

4.—(1) This regulation prescribes for the purpose of section 48(1) (duty to publicise), the manner in which an applicant must publicise a proposed application.

(2) The applicant must publish a notice, which must include the matters prescribed by paragraph (3) of this regulation, of the proposed application—

- (a) for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;
- (b) once in a national newspaper;
- (c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette;

and

- (d) where the proposed application relates to offshore development—
 - (i) once in Lloyd's List; and
 - (ii) once in an appropriate fishing trade journal.

(3) The matters which the notice must include are—

- (a) the name and address of the applicant;
- (b) a statement that the applicant intends to make an application for development consent to the Commission;
- (c) a statement as to whether the application is EIA development;
- (d) a summary of the main proposals, specifying the location or route of the proposed development;
- (e) a statement that the documents, plans and maps showing the nature and location of the proposed development are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice;
- (f) the latest date on which those documents, plans and maps will be available for inspection (being a date not earlier than the deadline in sub-paragraph (i));
- (g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;
- (h) details of how to respond to the publicity; and
- (i) a deadline for receipt of those responses by the applicant, being not less than 28 days following the date when the notice is last published.

Publicising an accepted application

9.—(1) The applicant must publish a notice, which must include the matters prescribed by paragraph (4) of this regulation, of the accepted application, in the same manner as is prescribed in relation to a proposed application, by regulation 4(2)(a) to (d), and also in accordance with paragraph (2) and where applicable (3), of this regulation.

- (2) The notice must be displayed at, or as close as reasonably practicable to, the site of the proposed development at a place accessible to the public;
- (3) Where the proposed development consists of, or includes, a linear scheme exceeding five kilometres in length, the notice must be displayed at intervals of not more than five kilometres along the whole proposed route of the works, except where this is impracticable due to the land in question being covered in water.
- (4) The matters which the notice must include are—
- (a) the name and address of the applicant;
 - (b) a statement to the effect that an application for an order granting development consent has been made to the Commission and that the Commission has accepted the application;
 - (c) the reference number applied to the application by the Commission;
 - (d) a summary of the main proposals, specifying the location or route of the proposed development;
 - (e) a statement saying whether the application is EIA development;
 - (f) a statement that a copy of the application form and its accompanying documents, plans and maps are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice;
 - (g) the latest date on which those documents will be available for inspection (being a date not earlier than the deadline date under subparagraph (j));
 - (h) a statement as to whether a charge will be made for copies of any of the documents and if so the amount of any charge;
 - (i) details of how to make representations (giving notice of any interest in, or objection to the application), and if the notice is published on or after 1st March 2010, a statement that such representations must be made on a registration form; and
 - (j) a deadline for the receipt by the Commission of those representations being not less than 28 days following the date that the notice is last published.

ANNEX 4

Application Documents

Taken from

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Applications for orders granting development consent

5.—(1) An application for an order granting development consent must be made in writing in the form set out in Schedule 2 to these Regulations, which is the form prescribed for the purpose under section 37(3)(b).

(2) The application must be accompanied by—

- (a) where applicable, the environmental statement required pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulation 2009 and any scoping or screening opinions or directions;
- (b) the draft proposed order;
- (c) an explanatory memorandum explaining the purpose and effect of provisions in the draft order, including in particular any divergences from the model provisions(a);
- (d) where applicable, the book of reference;
- (e) a copy of any flood risk assessment;
- (f) a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990(b), and if so how the applicant proposes to mitigate or limit them;
- (g) any report identifying any European site to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994(c) applies, or any Ramsar site(d), which may be affected by the proposed development, together with sufficient information that will enable the Commission to make an appropriate assessment of the implications for the site if required by regulation 48(1);
- (h) if the proposed order would authorise the compulsory acquisition of land or an interest in land or right over land, a statement of reasons and a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded;
- (i) a land plan identifying—
 - (i) the land required for, or affected by, the proposed development;
 - (ii) where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any right to use land;
 - (iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and
 - (iv) where the land includes special category land and replacement land, that special category and replacement land;
- (j) a works plan showing, in relation to existing features—
 - (i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and
 - (ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order;
- (k) where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions, extinguishments or creation of rights of way or public rights of navigation;

- (l) where applicable, a plan with accompanying information identifying
 - (i) any statutory or non-statutory sites or features of nature conservation such as sites of geological or landscape importance;
 - (ii) habitats of protected species, important habitats or other diversity features; and (iii) water bodies in a river basin management plan, together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development;
 - (m) where applicable, a plan with accompanying information identifying any statutory or non-statutory sites or features of the historic environment, including scheduled monuments, World Heritage sites, listed buildings and other historic structures, archaeological sites and registered battlefields, together with an assessment of any effects on such sites, features or structures likely to be caused by the proposed development;
 - (n) where applicable, a plan with any accompanying information identifying any Crown land;
 - (o) any other plans, drawings and sections necessary to describe the proposals for which development consent is sought, showing details of design, external appearance, and the preferred layout of buildings or structures, drainage, surface water management, means of vehicular and pedestrian access, any car parking to be provided, and means of landscaping;
 - (p) any of the documents prescribed by regulation 6 which are relevant to the particular project;
 - (q) any other documents considered necessary to support the application; and
 - (r) if requested by the Commission, three paper copies of the application form and other supporting documents and plans.
- (3) Any plans, drawings or sections required to be provided by paragraph (2) shall be no larger than A0 size, shall be drawn to an identified scale (not smaller than 1:2500) and, in the case of plans, shall show the direction of North.
- (4) Where a plan comprises three or more separate sheets a key plan must be provided showing the relationship between the different sheets.
- (5) The applicant shall make available, at the request of the Commission, all responses to the consultation carried out under Part 5 of the Act (applications for orders granting development consent).

Matters prescribed in relation to applications for specific types of projects

- 6.—(1)** If the application is for the construction or extension of a generating station the application must be accompanied by—
- (a) if the application is for a generating station, that is not an offshore generating station—
 - (i) a statement of who will be responsible for designing and building the connection to the electricity grid; and
 - (ii) if a gas fuelled generating station, a statement of who will be responsible for designing and building the gas pipeline connection to the generating station; and
 - (b) if the application is for an offshore generating station—
 - (i) details of the proposed route and method of installation for any cable; and
 - (ii) a statement as to whether applications will be made for safety zones.

(2) If the application is for highway related development or for the construction or alteration of a railway, it must be accompanied by section drawings to suitable horizontal and vertical scales, which show, by reference to Ordnance Survey or Chart datum—

(a) the levels of the proposed works, including in particular and where relevant—

- (i) ground levels;
- (ii) the height of every proposed bridge, viaduct, aqueduct, embankment and elevated guideway;
- (iii) the depth of every proposed cutting and tunnel;
- (iv) the levels of the bed of any tidal waters or inland waterway in which it is proposed that any works should be situated;
- (v) the height of every structure or device (including a cable, but not catenary and related equipment) intended to be erected above, on or below the surface of, or on or beneath the bed of tidal waters or an inland waterway; and
- (vi) drainage outfall details for highways;

(b) a cross section of every intended tunnel and any altered gradient of a carriageway or a way forming part of a guided transport system on either side of every level crossing, bridge, tunnel or underpass which would carry the carriageway or way or through which it would pass.

(3) If the application is for the construction or alteration of harbour facilities, it must be

accompanied by a statement setting out why the making of the order is desirable in the interests

of—(a) securing the improvement, maintenance or management of the harbour in an efficient and economical manner; or

(b) facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships.

(4) If the application is for the construction of a pipeline, it must be accompanied by details of—

- (a) the name of the proposed pipeline;
- (b) the owner of the proposed pipeline;
- (c) the start and end point of the proposed pipeline;
- (d) the length of the proposed pipeline in kilometres;
- (e) the external diameter in millimetres of the proposed pipeline;
- (f) what will be conveyed by the proposed pipeline; and
- (g) whether the grant of any rights in land or consents to road or river crossing works are required and if so whether they can be obtained by agreement.

(5) If the application is for the construction or alteration of a hazardous waste facility the application must be accompanied by a statement detailing the proposed purpose of the facility and an estimate of the annual capacity of the plant for the final disposal or recovery of hazardous waste.

(6) If the application is for the construction of a dam or reservoir the application must be accompanied by a statement setting out what if any recreational amenities will be made available.

Meaning of “book of reference” in these Regulations

7.—(1) In these Regulations “book of reference” means a book, in five Parts, together with any relevant plan, and which—

(a) in Part 1 contains the names and addresses for service of each person within Categories 1 and 2 as set out in section 57 (categories for purposes of section 56(2)(d)) in respect of any land which it is proposed shall be subject to—

- (i) powers of compulsory acquisition;
- (ii) rights to use land, including the right to attach brackets or other equipment to buildings; or
- (iii) rights to carry out protective works to buildings;
- (b) in Part 2 contains the names and addresses for service of each person within Category 3 as set out in section 57;
- (c) in Part 3 contains the names of all those entitled to enjoy easements or other private rights over land (including private rights of navigation over water) which it is proposed shall be extinguished, suspended or interfered with;
- (d) in Part 4 specifies the owner of any Crown interest in the land which is proposed to be used for the purposes of the order for which application is being made;
- (e) in Part 5 specifies land—
 - (i) the acquisition of which is subject to special parliamentary procedure;
 - (ii) which is special category land;
 - (iii) which is replacement land; and for each plot of such land within which it is intended that all or part of the proposed development and works shall be carried out, the area in square metres of that plot.

(2) In this regulation—

“land” includes any interest in or right over land; “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development and authorised works; and
 - (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development and authorised works; and
- “relevant plan” includes the land plan (containing the replacement land and special category land).

(a) See S.I. 2009/2265

(b) 1990 c.43. Section 79(1) is amended by section 2 of the Noise and Statutory Nuisance Act 1993 (c.40; sections 107 and 120 of, and Schedules 17 and 22 to, the Environment Act 1995 (c.25); section 101 of the Clean Neighbourhoods and Environment Act 2005 (c.16); and, in respect of Scotland, sections 109, 110 and 112 of the Public Health etc (Scotland) Act 2008 (asp.5).

(c) S.I. 1994/2716. Regulation 48 was amended by S.I. 2007/1843 in respect of England and Wales and by S.S.I. 2007/80 in respect of Scotland.

(d) See section 77 of the Countryside and Rights of Way Act 2000 c.37 for the definition of Ramsar site.

ANNEX 5

Summary of fee levels

Pre-application

Authorisations under sections 52 and 53 (land interests information and access for surveying)	£950
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Acceptance by IPC

IPC decision on whether to accept an application as valid	£7,000
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Pre-examination

Initial assessment and procedural meeting (returnable if not accepted)	£29,000
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Examination and decision

Initial Payment for handling an application:

Single commissioner (per estimated day)	£640
Panel of 3 commissioners (per estimated day)	£1,425
Panel of more than 3 commissioners (per estimated day)	£1,970

Final Payment for handling an application:

Single commissioner (per actual day)	£1,280
Panel of 3 commissioners (per actual day)	£2,850
Panel of more than 3 commissioners (per actual day)	£3,940

(Final Payment for handling an application is minus Initial Payment)

Source: The draft Infrastructure Planning (Fees) Regulations 2010