



The Planning
Inspectorate

Consents Service Unit

for Nationally Significant Infrastructure



Prospectus for developers

Executive summary

The Consents Service Unit (CSU) aims to help developers for Nationally Significant Infrastructure Projects (NSIPs) navigate the consenting requirements for 12 non-planning consents which may be required in addition to a Development Consent Order (DCO). It works closely with consenting bodies like the Environment Agency and Natural England to achieve this. Its remit relates only to those NSIPs situated in England including off-shore projects within English waters.



This Prospectus sets out the CSU's purpose, its roles and responsibilities and how it operates.

The CSU was established in April 2013 to improve co-ordination and communication between the Planning Inspectorate (PINS), developers and other consenting bodies in relation to certain non-planning consents. Its purpose is to make the overall process more efficient by drawing on the expertise and resources within the relevant consenting bodies.

Based in PINS, the CSU offers an optional service to developers for which there is currently no charge¹. The CSU is particularly valuable to developers when engaged at the earliest stage possible, preferably well in advance of submitting an application for development consent. Early dialogue between developers, the CSU and consenting bodies enables potential issues to be identified and a resolution sought prior to the submission of the DCO application. This will therefore minimise risks to the project.

1. A review of fees is currently under way and, whilst currently a free service, this may change later in 2015.

The role of the CSU

- To offer advice and guidance to developers in relation to twelve non planning consents that may be required in addition to a DCO. For details of the twelve consents, please see Annex 1.
- Its aim is to identify and then minimise any issues (or potential issues) relating to the non-planning consents in order that their potential impact is clear during the examination of the DCO.
- Help to ensure coordination and clear communication between PINS, the developers and other consenting bodies.
- Work with developers to establish a bespoke Consents Management Plan (CMP) where this would be of benefit to the developer.

The benefits of working with the CSU

- Help developers better understand which consents are needed in addition to the DCO, at the earliest stage possible, how they can be obtained, and the different requirements of each consenting process.
- Proactively facilitate early engagement, primarily at the pre-application stage, between developers and relevant consenting bodies to enable efficient resolution of potentially difficult issues regarding non-planning consents.
- Ensure that all parties are clear what is expected of them and when, in order for all relevant consents to be obtained.
- Identify and address any potential issues up front, avoiding delays during the examination of the DCO.
- Offer a process for resolving difficult issues between developer and consenting body, where appropriate.

For specific examples of where we have assisted developers, please see Annex 2.



How the CSU will work with others

Developers are free to contact the CSU at any stage of their project for independent advice about the consenting processes and procedures or the need for consent. As advice in relation to non-planning consents is not subject to the same requirements² as that given in relation to the DCO application, the CSU is able to handle speculative queries in relation to projects that are not yet in the public domain. Developers should however, be aware that anything shared with the CSU remains subject to the Freedom of Information Act.

As most value can be gained from early engagement, the CSU will aim to attend each initial meeting between the developer and PINS case teams in the early stages of pre-application.

If required, CSU will help the developer to establish and maintain a bespoke Consents Management Plan (CMP) in conjunction with the other consenting bodies. The decision to create a CMP is the choice of the developer. Once a CMP is in place, the CSU will arrange regular meetings with the developer to monitor progress and address any issues as required.

It is recognised that a CMP will be more appropriate to some projects than others. However, the absence of a CMP does not prevent developers from engaging with the CSU.

The consenting bodies are committed to delivering a more efficient non-planning consents process for NSIPs via the CSU, thereby offering the developer a more integrated service. The CSU encourages developers to engage early with the relevant consenting bodies to identify issues, and potential risks, from the pre-application stage onwards. They will advise the developer of the most appropriate time to apply for the relevant consents to minimise delays during examination and / or issues following a decision on the DCO.

The CSU can also advise which consents are most likely to be deemed suitable to be incorporated into the DCO and under what circumstances. If the developer wishes to include any non-planning consents covered by s150 of the Planning Act within the DCO, they must seek agreement from the consenting bodies to do so. At the request of the developer, the CSU can help facilitate such discussions.

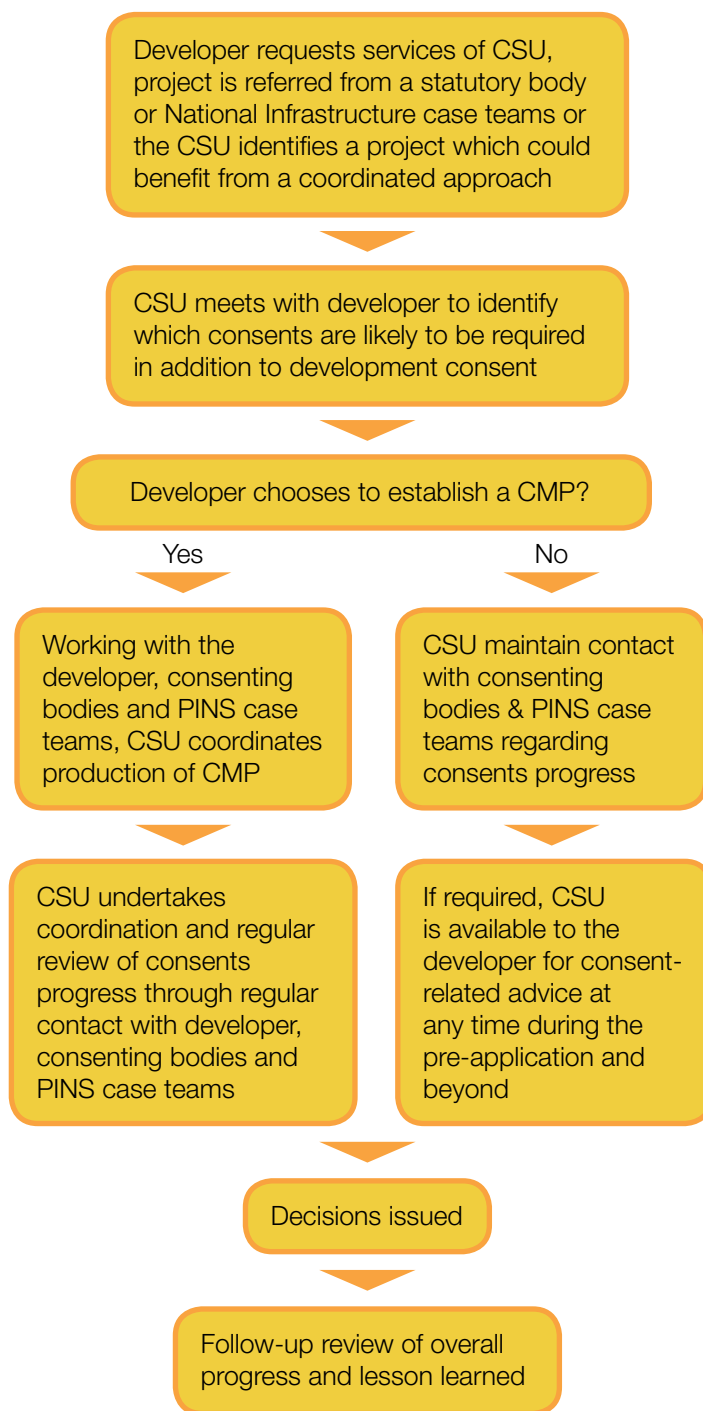


Figure1. How the process works

2. (under s51 of the 2008 Planning Act)



While the CSU's input is most valuable during pre-application (for the DCO), it can continue to provide support on consenting matters throughout the entire application process. This is especially the case where consents are not in place prior to submission of the DCO.

The CSU will liaise regularly with the relevant officers in the consenting bodies and PINS case teams, working together to share intelligence and identify any issues in a timely manner, to enable them to be resolved early or addressed as part of the examination wherever possible. The CSU can attend further meetings between the PINS case teams and the developer and / or other consenting bodies as required. For an overview of the process, see Figure 1 on previous page.

Developers should be aware that, while the scope of the DCO application is much wider, it is likely that more detailed information will be required in relation to the non-planning consents to satisfy the requirements of other consenting regimes compared to that required for the DCO application. It is worth noting that where developers choose to apply for non-planning consent later in the process, it may be difficult to provide the Examining Authority with reassurances about the likelihood of obtaining them. Developers should be aware that whilst the service the CSU provides is without cost to the developer³, other charges may apply. These charges are not set aside by the involvement of the CSU. The CSU will seek to make clear (where known) which elements of the consenting processes are likely to fall under charging regimes.

What the CSU will not do

- Be an advocate for any project, body or decision. It will maintain an impartial position whilst seeking to facilitate co-operation and engagement in the process. The consenting bodies retain their independence, expertise and decision making powers as set down by legislation.
- Duplicate the detailed project management role of the developer. The developer is ultimately responsible for ensuring that it has all of the consents required in order to carry out the development.
- Provide advice on the merits of applications or provide technical solutions for the developer.
- Replace existing complaints / appeals processes which remain open for developers to use. The preferred approach is to resolve difficult issues via pro-active engagement and negotiation.

3. A review of fees is currently under way and, whilst currently a free service, this may change later in 2015.

Escalation procedures

In the rare event that issues arise which cannot be resolved between the developer and the consenting bodies, the CSU will consider whether it is appropriate to escalate these to senior managers within the consenting bodies. Should it prove impossible to resolve matters at this level, the CSU has the ability to escalate matters further, including to relevant Ministers. As escalation is a last resort, it is anticipated that it will rarely be needed. However, it underpins the importance of the process and the backing that it has across the consenting bodies and in government. It is important to note that escalation is about resolving process issues, rather than the merits of a particular proposal.

How to contact us

The CSU can be contacted on 0303 444 5000 or by email – ConsentsServiceUnit@pins.gsi.gov.uk

Please mark correspondence for the attention of the Consents Service Unit by post to:

Consents Service Unit,
Zone 3/18 Eagle Wing,
The Planning Inspectorate,
Temple Quay House,
Temple Quay,
Bristol,
BS1 6PN

Head of Major Applications and Consents: Janet Wilson

What to do if you have concerns about the CSU

If you have concerns with the service provided by the CSU, then these should be raised with the manager of the CSU in the first instance.

If you remain dissatisfied then you should contact the Director of Major Applications and Plans at the Planning Inspectorate at:

Zone 3/18 Eagle Wing,
The Planning Inspectorate,
Temple Quay House,
Temple Quay,
Bristol,
BS1 6PN

Telephone: 0303 444 5080

Email: nienquiries@pins.gsi.gov.uk

Annex 1

Consents covered by this approach

Issue	Consent	Consenting body
Protected species licensing	European Protected Species Licensing - a licence under Regulation 53 of the Conservation of Habitats and Species Regulations 2010 (grant of licences for certain purposes)	Natural England / Marine Management Organisation
	A licence under section 10 of the Protection of Badgers Act 1992 (licences)	Natural England
	A licence under regulation 49 of the Offshore Marine Conservation (Natural Habitats. &c) Regulations 2007 (power to grant licences)	Marine Management Organisation
	A licence under section 16 of the Wildlife and Countryside Act 1981 (power to grant licences)	Natural England / Marine Management Organisation
Environmental / water / waste / drainage	An environmental permit under the Environmental Permitting (England and Wales) Regulations 2010	Environment Agency
	Water Abstraction: Licence under sections 24 and 25 of the Water Resources Act 1991 (restrictions on abstraction and impounding; restrictions on impounding)	Environment Agency
	A consent under section 32 (relates to investigative consents e.g. for boreholes), section 109 (main river flood defence consenting) or section 164 (governs the Environment Agency's own discharges to watercourses when doing works), and under byelaws made under paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991 (Environment Agency flood defence and drainage byelaws and fisheries byelaws)	Environment Agency
	A consent under section 166 of the Water Industry Act 1991 (consents for certain discharges under section 165)	Environment Agency
	An authorisation under regulation 8 of the Persistent Organic Pollutants Regulations 2007	Environment Agency
	A notice of determination of a reference by a sewerage undertaker under Chapter 3 of Part 4 of the Water Industry Act 1991 (trade effluent)	Environment Agency
	A consent under section 23 of the Land Drainage Act 1991	Lead Local Flood Authority
Offshore renewables	Notices under section 95 of the Energy Act 2004 dealing with safety zones around offshore renewable energy installations	Department for Energy & Climate Change

Annex 2

Examples of how the CSU has supported developers

The CSU has helped developers to avoid issues related to the non-planning consents by:

- Identifying that existing consents owned by third parties may not be appropriate for the new development.... and that this may have implications for the DCO application, particularly in relation to in combination assessments required under the Habitats Regulations.

For example, one developer was proposing to utilise an environmental permit owned by a third party for a closed landfill, which could not accept any further deposits. On further examination, it was recognised that the developer required a marine licence. This was able to be included in the DCO upon submission.

Another developer intended to rely on existing environmental permits for mining waste & water discharge and an existing abstraction licence, owned by a third party. Following discussions about the suitability of these consents, they have since delayed submission of their application, to enable them to clarify whether these can be utilised and, if not, undertake further assessment in relation to in combination effects.

- Identifying additional consents that may be required, which the developer has overlooked.

For example, the CSU identified two additional consents in relation to dewatering activities that may be required. They then facilitated engagement with the Environment Agency. As a result, an approach for obtaining these consents was agreed prior to submission of the DCO.

- Explaining the interactions between the DCO application and other consenting regimes.

For example, CSU has outlined the risks of not applying for an environmental permit from the Environment Agency in parallel with the DCO application to a developer wishing to utilise novel technology. This enabled them to make an informed decision based on business risk.

Another developer intended to wait until after the DCO was made before engaging with Natural England about a protected species licence which was required and therefore would not be issued with a “letter of no impediment” (LONI) during the DCO application process. CSU were able to explain the risks associated with this not obtaining a LONI and were able to arrange for Natural England to make clear their position on this matter to the developer during the pre-application stage. Such discussions enabled the developer to make an informed decision based on business risk.

CSU also identified an issue around gaps in a developer’s protected species surveys and its implications for applying for a “letter of no impediment” from Natural England and were able to facilitate further discussions between the two parties to reach agreement on this matter at the pre-application stage.

- Explaining the requirements for disapplication of legislation relating to Environment Agency consents.

For example, the CSU has explained to a developer that flood defence consents are of the type and nature that the Environment Agency may agree to being incorporated into the DCO (as they are for the construction rather than operational phase). However, in order to do so protective provisions would need to be agreed with the Environment Agency.