



National Infrastructure Planning Development Consent Order Process – Energy Projects

*Based on the Planning Inspectorate
Guidance*

The Process

The Planning Act 2008 (PA2008) process was introduced to streamline the decisionmaking process for major infrastructure projects, with the intention of making it fairer and faster for communities and applicants.

Under the Development Consent Order Process, unlike a normal planning application, the project is submitted and evaluated by the Planning Inspectorate and is ultimately determined by a Government Minister.

Pre-Submission

In the early stages, a developer will identify the site, design the scheme, carry out an appraisal of its environmental impact, establish arrangements with land owners and / or assess if compulsory purchase will be required and also identify the ability and means to connect the distribution grid. Much of this work will not be in the public domain. The process is regarded as being 'front loaded'. The purpose is to make the decision making stage as efficient as possible.

Before submitting an application, potential applicants have a statutory duty to carry out consultation on their proposals with local authorities, statutory bodies and members of the public. The length of time taken to prepare and consult on a project will vary depending upon its scale and complexity.

Responding to an applicant's Pre-application consultation is the best time to influence a project, although experience is that publicity may not be very wide. However, it is important to monitor and engage as soon as there is any



information about a new scheme (for example in the local press) as it is more likely to be able to influence a scheme in the early stages.

This process may take around 2 years.

Submission

When the developer has a fairly well-developed scheme and has consulted, it will submit the project and environmental information to the Planning Inspectorate. A register of all schemes is at:

<https://infrastructure.planninginspectorate.gov.uk/projects/register-of-applications/>

Acceptance

After Submission there is a period of up to 28 days (excluding the date of receipt of the application) for the Planning Inspectorate, on behalf of the Secretary of State, to decide whether or not the application meets the standards required to be accepted for examination.

Pre-examination

At the Pre-Examination stage, organisations and members of the public may register with the Planning Inspectorate to become an 'Interested Party' by making a 'Relevant Representation'. The Relevant Representation sets out the interest of the organisation or person and explains concerns and objections. This is a crucial stage to ensure access to the application documents and allow active engagement with the Examination process.

Examination

An Examining Authority (normally a Planning Inspector) is appointed at the Pre-examination stage, and all Interested Parties will be invited to attend a Preliminary Meeting, run and chaired by the Examining Authority. Although there is no statutory timescale for this stage of the process, it usually takes approximately three months from the Applicant's formal notification and publicity of an accepted application Examination





The Planning Inspectorate has up to six months to carry out an examination.

During this stage Interested Parties who have registered by making a Relevant Representation may provide more details of their views in writing and may request the right to attend the Examination and speak in order to set out any concerns.

The Examining Authority reviews all relevant matters including the representations of all Interested Parties, any supporting evidence submitted and answers provided to the Examining Authority's questions set out in writing or posed at hearings.

It is important to note that the Examination Process is subject to a rigid timetable for registering, attending the Examination, submitting material and responding to additional information provided by the Applicant or other parties.

Recommendation and Decision

The Planning Inspectorate must prepare a report on the application to the relevant Secretary of State, including a recommendation, within three months of the close of the six month Examination stage. The relevant Secretary of State then has a further three months to make the decision on whether to grant or refuse development consent.

Post decision

Once a decision has been issued by the relevant Secretary of State, there is a six week period in which the decision may be challenged Judicial Review in the High Court.

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