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Consultation on operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process.

Suffolk County Council (SCC) welcomes the opportunity to respond to this consultation on operational reforms to the NSIP consenting process. This response draws on the Council's experience of dealing with around 18 NSIPs since 2012, with 15 currently being "live". The Council is recognised nationally as a Centre of Excellence for dealing with NSIPs. As mentioned in paragraph 1.3 of the consultation, SCC will continue to collaborate with the Planning Advisory Service NSIP Local Authority group, to support the professional development of local authority officers, and to support the sharing of NSIP experiences between local authorities.

The Council broadly welcomes the three reform areas set out in the consultation, that are:

1. Operational reform to support a faster consenting process.
2. Recognising the role of local communities and strengthening engagement; and
3. System capability – building a more diverse and resilient resourcing model.

The Council welcomes in particular, the government's move towards full cost recovery.

The Council supports the proposal, in paragraph 8.3 of the consultation, to publish "new guidance" by spring 2024, to provide greater clarity on community engagement expectations.

The Council's current views on community engagement, and the importance of social licence, are summarised in evidence submitted to the Energy Security and Net Zero Committee, in August 2023.¹

Full cost recovery and PPAs

SCC expects all NSIP developers in Suffolk to enter into a PPA. In September 2023, the Council published its guidance on PPAs, this outlines the Council's expectations for NSIP PPAs, which has been included as part of the response to this consultation (see questions 36, 37 and Appendix B).²

However, this response also identifies a number of concerns, particularly regarding community consultation.

The Council's principal concerns are:

- That operational **reforms to improve the speed of the consenting process should not be to the detriment of constructive input from local authorities and communities**, as these essential elements of the NSIP regime enable positive scheme evolution in the pre-application stage (see question 2a).
- **That the role of town and parish councils, in representing localities, is not sufficiently or appropriately recognised by the current processes.** Given that these bodies are the properly constituted and democratically accountable entities in a locality, it is necessary to ensure that they have the required capacity and skills to represent their communities, when faced with infrastructure proposals (see question 8).
- Whilst the Council strongly **welcomes the proposed introduction of an early 'adequacy of consultation' milestone; it is essential that the purpose of consultation with both statutory consultees and communities should be clarified, and additional criteria, denoting what adequate and outstanding consultation is, should be established.** This would set a benchmark for developers to aspire to, over and above the minimum threshold, and more adequately capture the nature and effectiveness of consultation for a project, thereby fostering public trust (see questions 8, 9, 10 and 11).

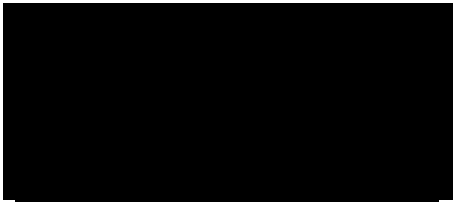
¹ <https://committees.parliament.uk/writtenevidence/123464/pdf/>

² <https://www.suffolk.gov.uk/planning-waste-and-environment/major-infrastructure-projects/nationally-significant-infrastructure-projects-nsips>

The Council's detailed responses to the consultation questions, relevant to Local Authorities, are outlined in Appendix A.

Officers of the Council are ready to engage with the further development of these evolving reforms. The Council, however, recognises that its experiences are generally limited to energy infrastructure proposals and that it does not, unlike other local authorities, have experience with water or transport projects.

Yours faithfully,



Richard Rout

Deputy Leader of Suffolk County Council
and Cabinet Member for Finance &
Environment

Appendix A

Suffolk County Council's Response to the Consultation Questions

It is of paramount importance that NSIP reforms do not dismiss, or work to the detriment of, the effectiveness and engagement of communities or local authorities. This is the key consideration in the Council's answers to those questions which are not wholly relevant to the Council's responsibilities.

Question 1: Do you support the proposal for a new and chargeable pre-application service from the Planning Inspectorate?

Yes. The Council welcomes these proposals as they support the transition to net zero; Suffolk County Council declared a climate emergency in March 2019.³ The Council is therefore supportive of planning reforms where they can improve the delivery of essential national infrastructure.

In the experience of the Council, it is increasingly true that issues are left unresolved throughout and beyond the Examination stage and thus the Council supports the ambition to frontload the resolution of outstanding issues where achievable.

However, these fast-track delivery services should continue to ensure that the proposed developments support the principles of good design, conform to the mitigation hierarchy, include effective engagement with local communities and key stakeholders, and that projects evolve in response to the ongoing community consultation and engagement.

Question 2a: Do you agree with the 3 levels of service offered?

Yes, if it is ensured that the services introduced are not at the detriment of community or local authority engagement, continue to support positive scheme evolution, and seek to resolve issues prior to the examination stage.

³ <https://www.suffolk.gov.uk/planning-waste-and-environment/initiatives/our-climate-emergency-declaration>

Question 2b: If you are an applicant, which of the 3 tiers of service would you be most likely to use and for how many projects?

Please explain your reasons for choosing this tier / these tiers.

The Council's promoted DCO project, the Lake Lothing Third Crossing (Gull Wing Bridge) at Lowestoft, is in the construction phase and with no further forthcoming NSIPs, the Council does not foresee the need to use any tier at present.

Question 3: Would having the flexibility to change subscriptions as a project progresses through pre-application be important to you?

From a local authority perspective, SCC would encourage flexibility where projects do not meet thresholds for sufficient community, statutory consultation, or community engagement.

Further, flexibility to increase fast track would only be supported where there has been sufficient progress in resolving major outstanding issues in Statement of Common Ground / Principal Areas of Disagreement discussions between local authorities and the applicant.

Question 4: To what extent do you agree that the overall proposals for merits and procedural advice will enable the policy objective to be met?

Wholly agree.

Question 5: Do you have any specific comments on the proposals in the Table above?

No comment.

Question 6: Do you agree with the proposed changes to the consolidated list of statutory consultees outline above?

The Council recognises that AONB Conservation Boards are listed and notes that the rebranding from AONB to National Landscapes⁴ is due imminently and thus may need to be revised.

Otherwise, the proposed changes to the list are acceptable. The inclusion of Neighbourhood Planning or Development Groups (the Council believes that this should be Neighbourhood Forums) is particularly important in urban areas where parish councils are absent.

Question 7: Are there any other amendments to the current consolidated list outlined in table 2.1 that you think should be made?

Relevant National Parks and *Relevant Lead Local Flood Authority* are missing from this list, and should be added.

SCC queries the omission of *Relevant Regional Planning Body* from the list, as set out in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

Question 8: Do you support the proposed introduction of an early ‘adequacy of consultation’ milestone?

Yes. An early adequacy of consultation milestone is an important opportunity not only to review the quantity of consultation, and its ability to reach all the audiences required.

It is also an opportunity for the Planning Inspectorate, interested parties and the applicant to consider the objectives of the consultations overall, and the degree to which they provide an effective opportunity for *both* professional and non-professional interested parties to effectively participate in the development and co-design of the project.

To date, there are a number of examples of effective collaboration between statutory consultees and project promoters delivering effective co-design of projects, and this has minimised the areas of disagreement at the Examination stage. Such a collaborative approach has not generally been used with non-professional interested parties and communities.

⁴ <https://www.gov.uk/government/publications/landscapes-review-national-parks-and-aonbs-government-response/landscapes-review-national-parks-and-aonbs-government-response#:~:text=As%20part%20of%20that%20work,sustainable%20funding%20and%20robust%20governance.>

However, the ability of communities that are directly impacted by proposals for nationally significant energy infrastructure, to engage meaningfully with both the process of consenting and with the project promoters, requires significant reform.

The current process is perceived by communities as favouring, at the expense of those directly affected, the applicants, the views of non-departmental public bodies, local government statutory consultees, and assorted professionals and experts.

The role of town and parish councils in representing localities is not sufficiently or appropriately recognised by the current arrangements. Given that these bodies are the properly constituted and democratically accountable entities in a locality, it is necessary to ensure that they have access to the required capacity and skills to represent their communities, when faced with infrastructure proposals.

When parish and town councils are unable to engage with the process effectively, and so properly represent the locality, ad hoc community, and amenity groups, of passionate, like-minded, and self-selecting individuals, tend to become the sole voice of the locality.

Whilst such groups have an important role to play in the planning process, they are not, unless they are a sub-committee of the Parish or Town Council, properly constituted or democratically accountable bodies, under the terms of the Local Government Act 1972.

Therefore, the participation and importance of first tier of local government, (i.e., town and parish councils) should be recognised and supported. Town and Parish Councils need to have the necessary resources to engage effectively with the project development, examination, and consenting process, of national infrastructure.

Question 9: Are there any additional factors that you think the early ‘adequacy of consultation’ milestone should consider?

The early adequacy of consultation milestone should also consider the quality and type of engagement that is proposed by the applicant, specifically considering the engagement proposals against the International Association for Public Participation (IAP2)’s spectrum of public participation.⁵

The expectation is that communities in particular, and non-professional interested parties in general, should have reasonable and effective opportunities to genuinely participate and engage in the development and co-design of the project.

⁵ [https://iap2canada.ca/Resources/Documents/0702-Foundations-Spectrum-MW-rev2%20\(1\).pdf](https://iap2canada.ca/Resources/Documents/0702-Foundations-Spectrum-MW-rev2%20(1).pdf)

Likewise, statutory consultees should be satisfied that they will have adequate opportunity to engage with the project promoter on the required range of technical matters during the pre-application period.

Therefore, it would be important to find a mechanism to verify/score the adequacy of the quality of consultation in terms of the following two areas:

- Firstly, the degree to which the applicant has informed and consulted.
- Secondly, the degree to which the consultation has enabled involvement and collaboration.

Scores should be given for engagement with statutory consultees and communities respectively.

Scoring could produce the following potential results; outstanding, good, adequate, requires improvement (inadequate).

This would incentivise good behaviour by developers, by both removing the pass and fail, and highlighting any inconsistencies in the approach to engagement between statutory consultees and communities.

The Council considers, based on its significant experience with NSIPs, that such an approach would make the pre-application stage more effective in identifying and resolving, or reaching clear positions on, unresolved issues that need to be dealt with at the Examination.

Question 10: Our evidence shows that there is a substantial amount of community consultation that happens during the lifetime of an NSIP. To guide our reforms, and to ensure that reforms support faster consenting, preventing consultation fatigue, more proportionate community consultation, with clearer tests for adequacy, it is important to gather further information about the causes for multiple consultations. What are the main reasons for consulting with communities multiple times during the lifetime of an NSIP application?

- **What constitutes adequate consultation is not clear from legislation.**
- **What constitutes adequate consultation is not clear from guidance.**
- **What the Planning Inspectorate will accept as adequate consultation is not clear.**
- **It is challenging to get the right level of information from consultations.**

- The age of the National Policy Statements means more consultation is needed than before.
- It is the main way to update a community on changes that are made to a project.
- It is hard to engage with the correct communities.
- It is a means to mitigate legal challenge for the project.
- It is part of how to build enthusiasm for a project over time.
- It is a helpful way to develop the project.

Are there any other factors that play a part in multiple consultations seen to be required by developers?

In many cases, the principal intent of consultation for the applicant is little more than to be seen to carry out a consultation. Due to the absence of a clear definition of the purposes of consultation, or what constitutes adequate quality of consultation, the applicant may undertake consultation as a performative action.

Currently, the success and adequacy of a consultation round is measured by the **number** of engagements and events, without sufficient weight being given to the **quality** of those engagements. In the absence of clearly defined qualitative measures of success, it is necessary for project promoters to focus on the quantity of consultation, and this has driven significant increases in the amount of consultation undertaken.

In addition, the largest and most complex projects will inevitably require additional rounds of consultation, as they continue to develop their proposals, resulting in new impacts on new communities emerging during a pre-application stage.

Question 11: Are there any other measures you think that government could take to ensure consultation requirements are proportionate to the scale and likely impact of a project?

There is a need to define the purposes of consultation. This will then allow the process to define more clearly what constitutes good (adequate and outstanding) consultation, that is, by defining the desired outcomes which support the defined purposes.

Proportionate consultation for any project could then be determined, based on whether the consultation proposals are likely to meet the purposes of that consultation, and the desired outcomes.

The proposed revised guidance on consultation would be an opportunity to define in general, both the purposes and desired outcomes of consultation.

It is suggested that the general purposes of consultation could be defined as follows:

To inform and consult

- To inform statutory consultees and communities about the nature, extent, and likely effects of the proposals during operation and construction.
- To inform statutory consultees and communities about the relationship of the proposed project to other plans or projects.
- To gather feedback on this material from statutory consultees and communities.

To involve and collaborate

- To involve and collaborate with statutory consultees in the design and development of the proposals, making effective use of their local knowledge, and expertise, and their experience, including on other infrastructure projects.

To engage collaboratively with local communities

- Firstly, to understand from the local community the character and function and nature of the place and people who will be impacted by the proposals.
- Secondly to involve and collaborate with the local community, regarding the construction, design, and mitigation of the proposed project.

The early adequacy of consultation milestone would be an opportunity to identify the purposes and desired outcomes of consultation for a specific project, having consideration for its scale, complexity, clarity or otherwise of design, its spatial extent or routing, as well as its anticipated impacts, both alone and in combination with other projects or proposals.

The Council considers, based on its experience with NSIPs, that such an approach would make the pre-application stage more effective in identifying and resolving, or reaching clear positions, on potential examination issues.

Question 12: To what extent do you agree with the proposal to remove the prohibition on an Inspector who has given section 51 advice during the pre-

application stage from then being appointed to examine the application, either as part of a panel or a single person?

Given that pre-application advice should always be provided without prejudice to any recommendations that any individual inspector may make to the Secretary of State, on any future application, this would be an efficient and effective use of scarce resources.

Question 13: To what extent do you agree that it would lead to an improvement in the process if more detail was required to be submitted at the relevant representation stage?

Please provide your reasons.

Broadly agree, subject to changes to timescales. If the NSIP process is to be reformed with the effort to ensure that the resolution of major outstanding issues is frontloaded, then it is likely that additional detail at the Relevant Representation stage would provide needed certainty regarding the scope of the proposed development sufficiently in advance of the Examination stage.

This would establish a key milestone which could empower communities to engage in the detailed design of the proposals and, thus the co-design of the project in their locality.

The Council is concerned however, that additional detail provided at this early stage would result in additional burdens on local authorities with tight timescales to respond. The Local Impact Report must remain a key document for the Examination and thereby include the detailed concerns of the host authorities, with the Relevant Representations remaining as a means to outline key areas of concern.

If there was an expectation of more detail being provided at the Relevant Representation stage, the timescales from submission of the DCO application to the Relevant Representation deadline would need to be sufficiently extended to allow a proper review of the documentation.

Question 14: To what extent do you agree that providing the Examining Authority with the discretion to set shorter notification periods will enable the delivery of examinations that are proportionate to the complexity and nature of the project but maintain the same quality of written evidence during examination?

Please provide your reasons.

The answer to this question varies significantly based on the scale and complexity of the proposed development and which tier of the new pre-application services is chosen.

Notification periods during Examination are already very tight and challenging for stakeholders, including for SCC, to respond to. Hence, in general, the Council does not agree that shorter notification periods are feasible and consider this would expose the process to significant risks as outlined below.

Particularly, the Council notes that “the Examining Authority must give at least 21 days’ notice of [hearings]” (paragraph 3.2.3). Agendas are then published at least 7 days prior to hearings (these typically do not provide sufficient detail). This does not allow sufficient time to ensure relevant experts are available in instances where unanticipated topics arise and therefore the SCC’s preference would be for agendas to be made available at least 14 days prior to hearings. Furthermore, all too often the detailed agendas provided typically state a short hearing (particularly in regard to Issue Specific Hearings), and then continue until the end of the day without the conclusion of all agenda items.

Where the complexity of the proposed development is exhaustive and comprehensive (as is the case with the vast majority of NSIPs), a shorter examination period would not achieve the same (or better) outcomes. As such, this would only result in undue pressure on statutory consultees and interested parties, compressing detailed responses into unachievable deadlines. Regardless of full cost recovery, statutory consultees may be unable to meet fast-paced deadlines with sufficient information to satisfy the resolution of issues during the Examination.

However, the Council recognises that where the tier 3 enhanced pre-application fast-track service has resolved the major outstanding issues (or where the proposed development is of very low complexity), a shorter notification and examination period *could* ensure that the projects are delivered at pace whilst mitigating and compensating for community and local authority concerns.

Question 15: To what extent do you agree that moving to digital handling of examination materials by default will improve the ability for all parties to be more efficient and responsive to examination deadlines?

Whilst SCC supports the move towards digital handling of examination material, however, the Council would like to highlight that members of affected communities

may not all be sufficiently digitally literate to engage in the process and thereby inherently exclusionary.

For example, in the Council's experience, a blended Examination (with hearings in-person and virtual) has provided the widest breadth of community and stakeholder engagement (thereby fostering an inclusive process), empowering communities to be present in whichever means is most accessible to their situation. This also allows local authorities and other interested parties to engage more effectively, ensuring contingency where physical attendance is non-desirable due to location, availability, or the timetables of relevant staff.

Question 16: To what extent do you agree that the submission of 'planning data' will provide a valuable addition as a means of submitting information to the Planning Inspectorate?

Please provide your reasons.

The Council wholly agrees that the submission of planning data would be a valuable addition, however, it would likely require additional skills and capacity funding across the board for organisations to take advantage of its benefits.

Question 17: Are there any other areas in the application process which you consider would benefit from becoming 'digitalised'?

There could perhaps be a requirement for digital mapping, if so, this would preferably be an interactive map. Further, requiring the provision of digital mapping data to local authorities would ensure that they can be fed into internal mapping systems.

Question 18: To what extent do you agree that projects wishing to proceed through the fast track route to consent should be required to use the enhanced pre-application service, which is designed to support applicants to meet the fast track quality standard?

Please provide your reasons.

Wholly agree. The "merits advice" and the continued inspector / specialist resource at appropriate stages will provide a necessary means to resolve major outstanding issues and principal areas of disagreement prior to the Examination stage. These in-built milestones would prove to be crucial quality standard checks in the fast-track process.

Question 19: To what extent do you consider the proposed fast track quality standard will be effective in identifying applications that are capable of being assessed in a shorter timescale?

Please provide your reasons.

Please see the response to question 18. SCC considers that the proposed fast track quality standard tests and early inspector / specialist input will ensure that only applications that are of sufficient quality, low complexity, and few areas of principal disagreement will go through the fast track consenting process.

Question 20: On each criteria within the fast track quality standard, please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes. Please also include any additional criteria that you would propose including within the fast track quality standard?

Quality standard specific criteria	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree	Reasons
1. Principal areas of disagreement	x					
Procedure	x					
2a Fast track programme document	x					
2b(i) include fast track intention in consultation material	x					

Quality standard specific criteria	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree	Reasons
2b(ii) formal agreement to use enhanced pre-application	x					
2b(iii) publicise fast track programme	x					
2b(iv) provide evidence at submission of 2a – 2c	x					
3. Regard to advice	x					

Question 21: To what extent do you agree that the proposals for setting the fast track examination timetable strike the right balance between certainty and flexibility to handle a change in circumstance?

Please provide your reasons.

Broadly agree. SCC welcomes the fast-track programme document (including its publication and supporting policy evidence) which will provide certainty that enables statutory consultees to effectively plan and dedicate resources to respond to the application; provided sufficient funding is secured for local authority engagement via a Planning Performance Agreement.

The Council is however concerned that statutory consultees are not proposed to be consulted on the adequacy of a proposed development for fast-track consenting. The

Council considers that this could be effectively sought at the new proposed early adequacy of consultation milestone (see question 11).

The Council is content that the Planning Inspectorate tests (see question 20) will be sufficient to maintain flexibility.

Question 22: To what extent do you agree that there is a need for new guidance on which application route proposed changes should undergo?

Please provide your reasons.

Wholly agree. The existing process is currently based on a case-by-case basis. This results in uncertainty and thereby reducing procedural fairness as stakeholders and communities cannot be assured of whether the proposed development is undergoing a standard process.

Question 23: In addition, what topics should new guidance cover that would help to inform decisions on whether a proposed change should be considered as material or non-material?

The proposed guidance should cover a variety of tests to decide whether a proposed change is material or non-material, not unlike the proposed fast track quality standard tests. It should cover a requirement to consult with hosting local authorities. The guidance could include case studies to assist the Planning Inspectorate / Secretary of State in deciding whether a consultation is required during the Examination stage.

Question 24: To what extent do you support the proposal to introduce a statutory timeframe for non-material change applications?

What do you consider is a reasonable timeframe for determining non-material applications? Please note, determination is referred to as the time it takes for the relevant department to make a decision on an application once the appropriate consultation has been undertaken. Any timeframe included in legislation would need to provide a specific timescale for determination.

- 6-8 weeks
- 8-10 weeks
- 10-12 weeks
- Other - Please justify your selection

Wholly agree, introducing a statutory timeframe ensures procedural fairness and certainty. SCC feels that 8-10 weeks provides a sufficient balance between certainty and flexibility, ensuring that the Planning Inspectorate / Secretary of State have sufficient time allowance to determine the materiality of a proposed change.

Question 25: Taking account of the description of the services in section 2.2.1 to what extent do you believe a cost-recoverable pre-application service will represent value for money in supporting applicants to deliver higher quality applications with minimal residual issues at submission?

Please provide your reasons.

Wholly agree. In the Council's experience, local authority engagement (funded by a Planning Performance Agreement) has provided additional value for applications, encouraging the applicant to develop positive scheme evolution and provide a critical voice through the process (see question 36).

The Planning Inspectorate can equally provide expert advice on the application to improve its quality. Thus, this cost-recoverable pre-application service provided by the Planning Inspectorate should provide a further critical voice at an earlier stage for applications to improve at earlier stages of the process to ensure that the application is fit for examination.

Question 26: To what extent do you agree with the proposal to charge an overall fee (appropriate to the tier of service that will cover the provision of the service) for a fixed period?

Please provide your reasons.

Somewhat agree. The Council recognises that there is a balance between providing applicants with certainty in the expenditure of the service (and thus recognises the benefits of a 12-month subscription with optional renewal and service switching), however, the involvement and engagement expected of the Planning Inspectorate may vary depending on the quality, nature and scale of the application as received.

For this reason, the Council wholly supports the powers of the Planning Inspectorate to switch an application to a lower tier service where they do not meet specified quality standard tests (for all tiers, not simply for tier 3 fast track).

Question 27: The government has set out an objective to move to full cost recovery for the Planning Act 2008 consenting process. To what extent do you support the proposal to support the Planning Inspectorate to better resource their statutory work on consenting by reviewing and updating existing fees, and introducing additional fee points?

Please provide your reasons.

Wholly support. As the Council understands, the Planning Inspectorate is currently working on the basis of partial cost recovery via the consenting process. As the demand for infrastructure is increasing (as noted in paragraph 7.2.1), the Planning Inspectorate should be resourced to service its statutory responsibilities as pressures on their services increase. This full cost recovery should therefore also ensure robust, and fair fast track consenting.

Question 28: To what extent do you support the proposal to review and update existing fees in relation to applications for non-material changes to achieve cost recovery and support consenting departments in handling these applications?

Please provide your reasons.

Wholly support. Statutory consultees should not be forced into self-financing the assessment of proposed changes to an application.

Question 29: To what extent do you agree that the proposed review and update of existing fees and introduction of additional fee points will support the Planning Inspectorate to better resource their statutory work on consenting?

Please provide your reasons. If do not agree, are there any other ways to support the Planning Inspectorate to better resource their statutory work?

Wholly support (see question 27).

Question 30: To what extent do you agree that defining key performance measures will help meet the policy objective of ensuring the delivery of credible cost-recoverable services?

Please provide your reasons. If do not agree, are there any other mechanisms you would like to see to ensure performance?

Key Performance Indicators will establish measures for the engagement of specific statutory consultees and therefore provide applicants and interested parties with certainty of output, and therefore robust assessment of impacts by the relevant public bodies.

Question 31: Do you agree with the principles we expect to base performance monitoring arrangement on? Please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes:

	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree
Be outcome and not output focussed to ensure better planning outcomes		x			
Please give reasons:	Ensures flexibility whilst maintaining key outcomes and providing certainty of output.				
Consider quality of customer service provision		x			
Please give reasons:	Assures communities of assessment of impacts.				
Cover the provision of statutory and non-statutory advice provided by the specific prescribed bodies (outlined in section 7.2.2) through pre-application,	x				

	Strongly agree	Agree	Neither agree/disagree	Disagree	Strongly disagree
pre-examination, Examination and Decision					
Please give reasons:	Ensures certainty of output.				
Monitoring should be tailored to the context of each organisation	x				
Please give reasons:	Ensures flexibility where roles and responsibilities differ.				
Reporting should be timely, transparent, simple to understand, easily accessible and evolved over time	x				
Please give reasons:	Ensures certainty of output.				

Question 32: We would like to monitor the quality of customer service provided, and the outcomes of that advice on applicant's progression through the system where practicable. Do you have any views on the most effective and efficient way to do this?

See question 30.

Question 33: To what extent do you support the proposal to enable specific statutory consultees to charge for the planning services they provide to applicants across the Development Consent Order application process?

Please provide your reasons.

The Council wholly supports the proposal. The Council would welcome the outcomes of increased engagement from prescribed statutory consultees. However, this should not result in lesser funding for Planning Performance Agreements with the host local authorities.

Question 34: To what extent do you agree with the key principles of the proposed charging system? Please select from the options listed in the table below and give reasons in the 'comment' text box.

	Strongly agree	Agree	Neither agree/ disagree	Disagree	Strongly disagree
Initially limit the ability to charge to the organisations listed in table 7.1			x		
Please give reasons:	Not for local authorities to comment.				
Recover costs for non-statutory and statutory services provided throughout Pre-application, Pre-examination, Examination and Post-Decision	x				
Please give reasons:	The Council has encountered challenges with the engagement of Non-Departmental Public Bodies throughout the process, resulting potentially undesirable and under-scrutinised				

	Strongly agree	Agree	Neither agree/disagree	Disagree	Strongly disagree
	externalities and thereby insufficient mitigation and compensation measures.				
Setting charging schemes	x				
Please give reasons:	Provides certainty for each named statutory to assess their expected level of service and engagement and therefore empowers their ability to plan required resources.				

Question 35: Do you have any comments on the scope and intended effect of the principles of the charging system?

The Council welcomes the intention of the charging system to “help plug gaps across these expert bodies to support them to be more self-financing and enable them to play a crucial role in shaping development proposals” (as noted in paragraph 7.2.2). The Council further supports the intended results of the charging system.

Question 36: Do you support the proposal to set out principles for Planning Performance Agreements in guidance?

Yes, this is strongly supported. To provide greater clarity to applicants and local authorities, principles for Planning Performance Agreements should be set in guidance. The Council does not consider the alternative to setting our principles, i.e., a standard planning fee for NSIPs, as practical, given the distinctive nature of every single NSIP, where scale (be it geographical footprint or investment volume) does not automatically correlate with the level of required involvement of the Council. The principles for a Planning Performance Agreement should be the same for all NSIPs.

SCC welcomes the recognition in paragraph 2.2.4 that some “10% of local authorities have handled the vast majority of DCOs”. In respect of the resourcing of Local Authorities, the Suffolk County Council advocates for Planning Performance

Agreements. As stated in paragraph 8.3, there will be “new guidance by spring 2024 on the principles for the use of [Planning Performance Agreements] with local authorities”.

Suffolk County Council published its Planning Performance Agreement Guidance Document in September 2023, which provides guidance for local authorities.⁶ This document should be a helpful and important input to this discussion and is included in Appendix B for ease of reference.

Question 37: Do you have any further views on what the proposed principles should include?

Yes (see also question 36). Suffolk County Council’s Planning Performance Agreement Guidance Document (see Appendix B) sets out key principles for NSIP Planning Performance Agreements, which should be replicated in national guidance. These principles have also been discussed and agreed by the Planning Advisory Service’s local authority NSIP network.

In terms of clear principles for fair Planning Performance Agreements, as part of the NSIP consenting approach, applicants are expected to engage with local authorities in effective and systematic discussion in all phases of a project, from pre-application through to Examination and post-decision. A fair Planning Performance Agreement with local authorities will help all parties to efficiently move the NSIP through the process. It will also protect Council services, and taxpayers, from the adverse impacts of consenting costs.

For a project applicant, a fair and sufficiently flexible Planning Performance Agreement with Councils secures full engagement of the Council, and hence strengthens their scheme. This will be beneficial to the promoter, as it allows them to:

- Improve the NSIP proposals so that they can become more acceptable to local communities, hence reducing friction and controversy in later phases of the project;
- Tap into the Council’s expertise, in terms of both local and technical knowledge, to help refine modelling, assumptions and design; and
- Reduce the areas of disagreement to be considered during the examination.

In summary, the principles are as follows. Further detail on each key principle is included in the Council’s guidance document in Appendix B.

⁶ <https://www.suffolk.gov.uk/planning-waste-and-environment/major-infrastructure-projects/nationally-significant-infrastructure-projects-nsips>

1. Mutually beneficial “Without prejudice” engagement between the Council and promoter.
2. Commitment to service level agreements from both parties.
3. Covering all stages, from project inception and initial discussions to discharge of requirements and ongoing monitoring, including the Examination in Public.
4. Full cost recovery (including staff costs, consultants, legal services).
5. Medium term arrangements that give sufficient certainty and confidence for staff investment by the Council.
6. Simple and unbureaucratic way of recording and recharging levels of engagement, with agreed fixed sum regular payments and simple format of recording.
7. Index linked and with Value Added Tax (VAT) charge.

Question 38: To what extent do you agree that these proposals will result in more effective engagement between applicants and local communities for all applications?

Please provide your reasons.

The proposed early adequacy of consultation milestone would allow communities to engage in the co-design of proposed developments and empower their collaboration (see questions 8 – 11). These reforms should therefore provide *procedural fairness*, which could foster positive *relationship quality* between (and *public trust* in) the industry (applicants) delivering the projects and local communities.

A further part of achieving social licence for NSIP is *distributional fairness*, which community benefits are sought to address.

The Council further supports proposals noted in paragraph 8.2.3, particularly the revised pre-application guidance to make clear that community feedback should contribute to the applicant’s programme of consultation activities. As well, the Council wholly supports the proposal that applicants should demonstrate in their application the principal issues raised by local communities and how they have been considered and clearly establish examination issues that remain.

SCC welcomes the proposals for a community liaison chair / forum to support community engagement and input into the application.

Question 39: Do you face any challenges in recruiting the following professions? Please complete the table below and give reasons.

Standard Occupation Classification (SOC) 2020	Profession	Yes/No	Reasons
SOC2452	Town Planning Officers	Yes	Senior/principal vacancies are difficult to fill (see below)
SOC2455	Transport Planners	Yes	Significant Resource Required (Cumulative Impact) – competition from NSIP developers – particularly difficult to recruit experienced professionals (see below)
SOC3581	Planning Inspectors	n/a	n/a
SOC3120	Administrators	n/a	n/a
SOC4112	Local government administrative occupations	No	n/a
SOC2451	Architects	n/a	n/a
SOC2453	Quantity Surveyors	n/a	n/a
SOC2455	Construction project managers and	n/a	n/a

Standard Occupation Classification (SOC) 2020	Profession	Yes/No	Reasons
	related professionals		
SOC2481	Planning engineers (including windfarm)	n/a	n/a
SOC2151	Conservation professionals	n/a	n/a
SOC2152	Environmental professionals	Yes	Ecologists with experience difficult to recruit (see below)
SOC2483	Environmental health professionals	n/a	n/a
SOC2121	Water engineers	Yes	Senior principal water engineer roles are difficult to fill (see below)
SOC3520	Legal associate professionals	No	n/a
SOC3544	Data analysts	No	n/a

In the Council's experience (and those of neighbouring authorities), recruiting senior planners, senior and junior transport planners, senior and junior transport engineers and experienced water engineers and ecologists is an ongoing challenge for local authorities. The key reasons for this are:

- (a) low wages when compared to similar professions;
- (b) restricted number of professionals in planning and transport (despite increasing demand for their services);
- (c) additional workload pressures as a result of high demand for infrastructure at present;
- (d) provincial and rural authorities have significant spatial challenges in recruiting and retaining planning and other professionals; and
- (e) Competition from the private sector.

Question 40: Are there any other specific sectors (as identified above) that currently face challenges in recruiting? If so, please state which ones and give reasons why.

See Question 39 – in addition to those listed in the table, transport engineers are difficult to recruit.

Question 41: Do you have any ideas for or examples of successful programmes to develop new skills in a specific sector that the government should consider in developing further interventions?

Suffolk County Council's NSIP Centre of Excellence sessions and conference in 2022/2023 (which were funded through the DLUHC NSIP Innovation and Capacity Fund) provided significant value in training local authority officers and councillors in the East of England region at various levels of knowledge of NSIPs throughout a variety of specialist disciplines.

Planning Apprenticeships have been invaluable for the Council's planning team to attract new entrants to the planning profession.

Using career-grade roles, linked to apprenticeship funding, has been effective in attracting staff to roles in planning, water engineer and transport roles.

Question 42: To what extent do you agree that updated guidance on the matters outlined in this consultation will support the Nationally Significant Infrastructure Project reforms?

Please provide your reasons.

Provided that the fast track quality standard tests and early adequacy of consultation milestone measures (see questions 8 – 11) are enforced then SCC are content that

the reforms and updated guidance will be sufficient alongside further guidance updates (see question 44).

Question 43: Do you support a move towards a format for guidance that has a similar format to the national planning practice guidance?

Please provide your reasons.

Yes. The Council would support a consistent approach across planning regimes.

Question 44: Are there any other guidance updates you think are needed to support the Nationally Significant Infrastructure Project reforms?

The Council encourages that Government to publish the revised Energy (Infrastructure) National Policy Statements, as consulted on from March to June 2023, as soon as possible.

Question 45: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010.

No comment.

Appendix B

Suffolk County Council's PPA Policy Document



Suffolk County Council's expectations for Planning Performance Agreements (PPAs) for Nationally Significant Infrastructure Projects (NSIPs)

Guidance for project promoters

Version 1.0, 17 July 2023

Context

Nationally Significant Infrastructure Projects (NSIPs) are very resource intensive for a local authority as a statutory consultee in the process, with multiple responsibilities and interests across a wide range of topic areas. The great majority of involvement of a local authority in the NSIP consenting process is discretionary. NSIPs do not generate planning fees for local authorities, nor was the Planning Act 2008 deemed to place any new responsibilities on them, hence the [New Burdens doctrine](#) did not apply.

Therefore, to avoid under-resourcing, and to protect local taxpayers and local services from bearing the burden of these costs, a fair Planning Performance Agreement (PPA) facilitating full recovery of costs incurred is essential for the local authority to undertake its multiple roles as a statutory consultee to the best effect. Whilst applicants are currently under no duty for to enter into a PPA, advice from the Planning Inspectorate (PINS) recommends a PPA (see [Advice Note 2: Planning Performance Agreements, from 2015, Paragraph 10](#)).

Suffolk must manage multiple NSIPs simultaneously. The resourcing challenge arising from this presents a significant financial risk to Suffolk County Council ('the Council'), and the Council is of the firm opinion that local taxpayers and local services should be adequately protected from these risks. For each NSIP, project promoters rely on appropriately resourced Council services for good quality service delivery; however, without appropriate resourcing and funding, promoters would have to compete for the limited resources available.

Therefore, to adequately protect the interests of promoters and the Council, it is essential to ensure a predictable pattern of timely and flexible full cost recovery. This will allow the Council

to plan for and provide the necessary staff, to support engagement with multiple project promoters, and thereby provide timely and effective engagement simultaneously across multiple projects.

Suffolk County Council's PPA guidance for NSIP promoters

This guidance builds on the Council's vast experience of dealing with around 18 NSIPs since 2012, with 15 currently being "live". This experience is reflected in the professionalism and depth of understanding of planning officers and technical experts across the Council, who, given appropriate funding arrangements with the promoter, and without prejudice to the Council's overall position on an individual project, can add real value to the development and delivery of NSIPs.

Suffolk County Council's Cabinet, at its [meeting on 16 May 2023](#), recognised the importance of effective engagement by the Council in all phases of an NSIP, and the need for a coherent PPA approach for NSIPs to allow for full cost recovery. Cabinet instructed officers to prepare and publish guidance for promoters of NSIPs setting out the Council's expectations for PPAs, to allow full cost recovery for the Council's engagement with project promoters.

HM Government, in its policy paper ["Nationally Significant Infrastructure: action plan for reforms to the planning process"](#) (2023) recognises the need for full cost recovery to ensure there is sustainable and scalable capacity and capability in the system. The policy committed to "putting in place measures to support the more effective use of planning performance agreements" for local authorities. This guidance will be reviewed as and when new guidance on cost recovery from NSIPs is available from HM Government.

This guidance provides the key principles that the Council expects to be followed in any PPA with promoters of NSIPs. The Council does not consider it practicable to have a standard planning fee for NSIPs, given the distinctive nature of every single NSIP, where scale (be it geographical footprint or investment volume) does not automatically correlate with the level of required involvement of the Council. However, the principles are the same for all NSIPs.

Benefits of a PPA

As part of the NSIP consenting approach, promoters are expected to engage with local authorities in effective and systematic discussion in all phases of a project, from pre-application through to examination and post-decision. A fair PPA will help all parties to efficiently move the NSIP through the process.

Engagement with promoters throughout the NSIP process places a considerable burden on the Council. Work relating to the consenting of an NSIP, or post consent discharge of requirements, or further monitoring of or engagement with the project, are not clearly defined as statutory duties for local government; therefore, funding is not provided by government under the terms of the [New Burdens doctrine](#). Hence, the Council expects that the full costs of its engagement will be covered by an appropriate PPA. This will protect Council services, and Suffolk's Council taxpayers, from the adverse impacts of consenting costs.

For a project promoter, a fair and sufficiently flexible PPA with the Council secures full engagement of the Council, and hence strengthens their scheme. This will be beneficial to the promoter, as it allows them to:

- Improve the NSIP proposals so that they can become more acceptable to local communities, hence reduce friction and controversy in later phases of the project,
- Tap into the Council's expertise, in terms of both local and technical knowledge, to help refine modelling, assumptions and design, and
- Reduce the areas of disagreement to be considered during the examination.

Project risks to the promoter if a fair PPA is not in place

A promoter does not have a statutory obligation to enter into a PPA. However, without appropriate levels and sufficient certainty of funding through a PPA, the Council may not be able to politically and financially justify re-purposing Council resources towards the NSIP in order to fully engage with the promoter and the DCO process. Lack of a, or an inadequately funded, PPA are detrimental to the promoter and their progressing of the project, as it may force the local authority to, for example:

- a. Scale back its engagement to the minimum, focussing solely on the interests of the local authority and the community it serves. This may result in a focus on areas of concern and of objection, and may restrict the authority's ability to engage with the promoter on how to resolve the areas of objection;
- b. Have much more limited, if any, engagement with the promoter in terms of providing advice, guidance and sharing local knowledge, in order to resolve issues;
- c. Not be able to offer its technical expertise to aid the process, which may result in the promoter's Environmental Assessments and Designs being less accurate, having gaps, or being easier to challenge;
- d. Scale back its participation in the examination – either by not attending at all, or by not having the full technical expertise, at the examination hearings. This may make hearings less effective, also to the detriment of the promoter's interests;
- e. If there is insufficient certainty and flexibility in the PPA, the Council may not be able to recruit additional staff and may have to fall back on more expensive consultants with less local knowledge.

Such reduced engagement would make it difficult to establish in the pre-decision phase a positive working relationship, trust and common "without prejudice" understanding between the promoter and the local authority. This may make implementation of the project and discharging of requirements more difficult for promoters.

Suffolk County Council's Guidance on PPAs for NSIPs

Summary of key principles for NSIP PPAs with Suffolk County Council

1. Full cost recovery.
2. Covering all stages, from project inception and initial discussions to discharge of requirements and ongoing monitoring, including the Examination in Public.
3. Commitment to service level agreements.
4. Mutually beneficial "Without prejudice" engagement between the Council and promoter.
5. Arrangements that give sufficient certainty and confidence for investment by the Council.
6. Simple and unbureaucratic way of recording and recharging levels of engagement, with agreed fixed sum regular payments.
7. Index linked and with Value Added Tax (VAT) charge.

The Council expects that any PPA for NSIPs will adhere to the following principles. The Council will welcome discussions with project promoters how these principles can best be met for individual projects and the service levels the promoter expects in return, recognising that each NSIP and promoter has its own specific requirements, and a level of flexibility is important.

1. "Without prejudice" engagement

The purpose of the PPA is to engage professionally between the Council and the promoter, to reduce areas of disagreement and pursue areas of benefit for the local community; the engagement is aimed at improving the proposals put forward but must be without prejudice with regard to the stance, views and representation that the Council will take at any stage of the process.

2. Commitment to service level agreements

By entering into the PPA, the Council will commit to levels of collaboration, response times and to enter "without prejudice" professional engagement with the promoter about the proposals. In return, the promoter will commit to proactive engagement and timely provision of relevant information.

3. Covering all stages, from pre-examination to post-examination

A PPA needs to cover all stages, i.e., from project inception and initial discussions, through pre-submission consultations and the Examination in Public, to discharge of requirements and ongoing monitoring. Promoters will wish to positively engage with the Council at all stages, including at the very early stages, and during examination when it will be beneficial to the promoter if engagement goes over and above serving the requirements of the Examining Authority.

Note It might be appropriate to establish a separate agreement for the construction period, through a Section 106, Deed of Obligation, PPA, or other means, which secures Council funding for discharging of requirements, implementing the Section 106 or similar agreement, and participating in relevant governance and monitoring. It

is expected for post-decision costs of the Council related to works affecting highways to be covered by Section 278 agreements.

4. Full cost recovery

The PPA should secure full cost recovery of any costs related to the Council's engagement in relation to the development proposals. This cost will include officer time, any consultants required, and legal services (solicitors and barristers), and should reflect the wide remit of the Council in the process (e.g. planning/technical, community liaison, and pursuing wider opportunities of mutual interest such as skills). This is essential to secure a wide-ranging engagement of the Council.

Note It is the Council's preference for its legal fees in drafting and negotiating a Section 106 agreement to be outside of the PPA, and secured by a solicitor's undertaking given by the promoter's solicitors to the Council's solicitors before the Council's solicitor starts work on the matter (as is common practice for TCPA applications). The undertaking provides that the Council's full legal fees will be paid, even in the event of the agreement not being completed for whatever reason, or where planning permission (or here, development consent) is refused.

5. Arrangements that give sufficient certainty and confidence for investment by the Council

The aim of the PPA is to ensure that the Council's relevant services (planning and technical areas) are resourced to enable an effective and efficient response to the proposals and requests for information by the promoter. Given the scale of NSIPs, both individually and in combination with the number of NSIPs in the area, this is likely to require additional staff resource in several core topic areas. To gain corporate approval to recruit additional staff, the Council's management will need to be assured that there is a regular flow of PPA contributions over the period of the project, with reasonable certainty, and with the flexibility as to investing into additional staff where required. This needs to be reflected in the PPA arrangements (see also principle 6).

Note Promoters need to recognise that, without such a flexible and medium-term funding approach, the Council is unlikely to be able to commit to recruiting additional staff resource. The alternative approach would be for the Council to commission consultants instead of using its own staff; however, this would be as costly (if not more expensive) and would result in the Council, through its consultants, not being able to share the local knowledge that the Council's officers would be able to offer, hence being of less benefit to the promoter.

6. Simple and unbureaucratic way of recording and recharging levels of engagement, with agreed fixed sum regular payments

The claiming process should be simple and unbureaucratic, for the benefit of all parties, and provide flexibilities to deal with peaks and troughs in the process and ensuring that the Council's NSIP resourcing can be maintained. To achieve this, the preference is to both:

- a. **Agree fixed regular payments, with review points:** The Council's clear preference is to agree fixed monthly/quarterly payments for the whole period of the PPA, based on realistic resource estimates. Such an approach should be helpful for both the promoter and the Council, as it provides funding/expenditure certainty to parties, allows the Council to flex resources in response to the demands of the promoter (i.e., for the Council to continue offering quality services also during peak periods of demand

for the NSIP), and minimises bureaucracy. The PPA would set out review points to consider if the level of regular payment remains at an appropriate level.

- b. **Use a simple format of recording activity and engagement:** To avoid creating an industry of time recording and to reduce costs and administrative burdens, the Council advocates activity sheets with detail of the Council staff involved and high-level activity information, rather than detailed time sheets, to evidence engagement.

7. Index linked and with Value Added Tax (VAT) charged

PPA rates should be index linked to reflect inflation. Also, HM Revenue & Customs (HMRC) has confirmed¹ that councils must charge VAT at the prevailing rates.

Please contact Suffolk County Council at nsips@suffolk.gov.uk for further information.

¹ In a letter from HMRC to the CIPFA VAT Committee, dated 15 June 2021.

Annex 1: Draft heads of terms for a PPA

1. Principles of the PPA

Based on full cost recovery of Council engagement, including legal services and necessary consultants fees, and securing service levels to the promoter.

2. Scope of activities funded by the PPA

Reflecting the full remit of the demands on the Council.

3. Duration of the PPA

Recommended: First PPA to cover Inception to end of examination and commencement; second PPA (or alternative legal mechanism) to cover construction and discharge of requirements.

4. Expected service levels

To include response times, “without prejudice” engagement and other requirements, to be agreed between the promoter and the Council.

5. Scale of required resources

Monthly/quarterly sums, agreed for whole period of PPA, subject to regular reviews.

6. Charging of VAT

7. Index linked payments

8. Payment schedule

Proposed: Quarterly invoices.

9. Evidence

Unbureaucratic approach of activity sheets rather than timesheets.

10. Review points

Renegotiable, reflecting on practicalities of implementation, changes to project and to the demands on the Council.

11. Sealed by legal departments or signed by senior officers

Dependant on scale and duration of the PPA, to be agreed between promoter and the Council.

Appendices:

A. Cost predictions for each stage of the process

B. Activity sheet template.