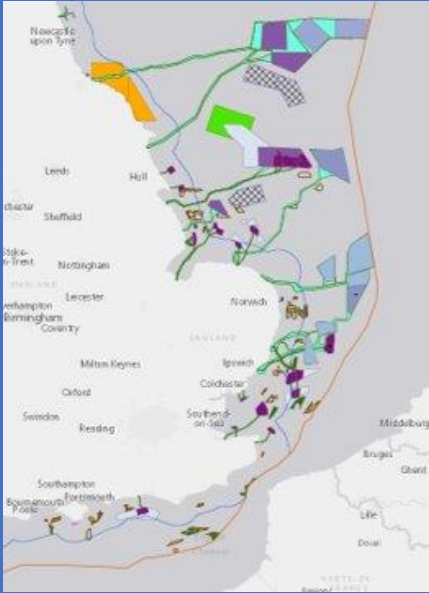


# NSIP Centre of Excellence



## The NSIP Journey from Start to Finish Tips for Local Authority Officers

# **Key NSIP Principles:**

## **Lessons Learned from the A14 Project**

**David Allatt**

**Assistant Director: Transport Strategy and Network Management**

**Cambridgeshire County Council**

**To consider critical learnings from the A14 project, and how these have/can shape the approach and key priorities for the A428, and future major infrastructure projects.**

# INTRODUCTION

## The A14 Project

- The **£1.5bn** A14 Cambridge to Huntingdon improvement scheme includes a major new bypass to the south of Huntingdon and upgrades to 21 miles of the A14, providing significant benefit to the Strategic Highway Network.
- The scheme includes **new local highway assets** to be adopted: Side road junctions, **30km new carriageway for adoption, and numerous NMU routes**. Collaborative working enabled agreement on a generally good NMU improvement package that was scheme-wide and integrated into the wider PROW/NMU network
- As a Nationally Significant Infrastructure Project (NSIP) powers were secured by National Highways (then Highways England) through a **Development Consent Order (DCO)**.
- Key learnings from **pre-application, examination / DCO, construction and beyond**

## 2013 - 2015

Development Consent Order (planning permission needed for an infrastructure project of this scale) submission and examination period

## 2017

- Early** Work to build new wildlife habitat begins
- Start of work on Bar Hill junction (most complex part of the scheme)
- September** A1198 Ermine Street bridge opens

## 2018

- February** First bridge demolition at Brampton/Grafham
- September** Bar Hill bridges installed
- October** Woolly mammoth discovery
- November** Swavesey bridge demolition

## 2020

- Spring** Local access road (A1307) between Huntingdon and Cambridge opens to traffic
- Bar Hill junction complete
- Swavesey junction complete
- Scheme opens for traffic (excluding Huntingdon local works, which are due to complete in 2022)

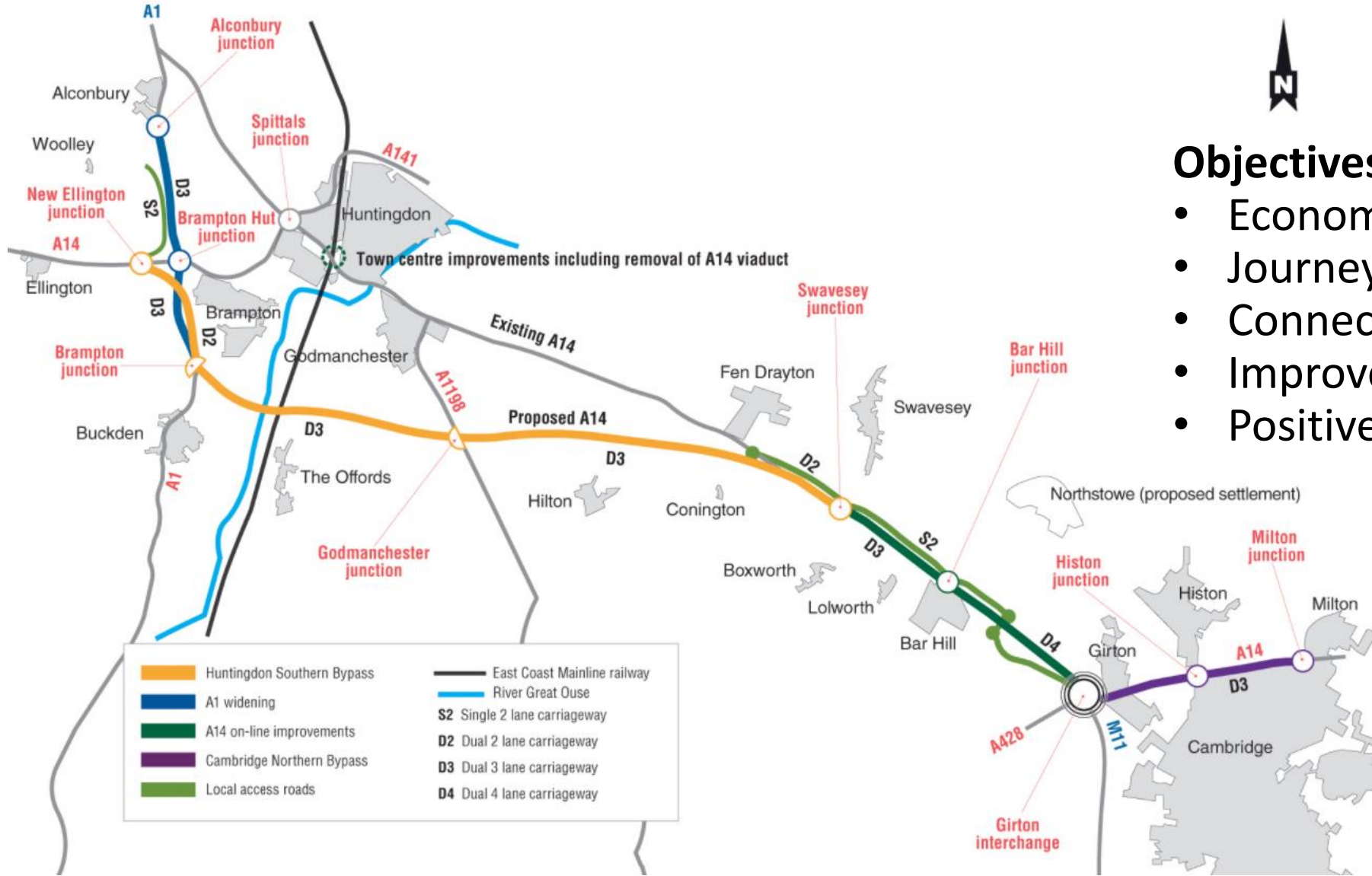
## 2016

- May** Development Consent Order approved
- July** Launch of Community Fund
- November** Start of construction
- December** Work begins on River Great Ouse viaduct

## 2019

- January** River Great Ouse viaduct complete
- Preparation work begins in Huntingdon
- First planting takes place
- Earliest evidence of beer making in the UK uncovered
- March** First section of local access road (A1307) and A1 open
- Last bridge beams installed on a new bridge (New Barns Lane bridge)
- May** Construction work begins in Huntingdon
- Rare roman coin revealed
- June** First bridge opens at new Bar Hill junction
- Demolition of the old Bar Hill bridge
- September** Bridge deck installed on Swavesey cyclist and pedestrian bridge
- October** Great Ouse Challenge charity event
- December** Huntingdon southern bypass opens a year early
- Work to remove Huntingdon viaduct begins





## Objectives:

- Economic Growth (£2.5bn)
- Journey Time (20min peak saving)
- Connect Communities
- Improve Environment
- Positive Legacy

# Success!



- **Delivered:** Ahead of schedule
- **Relationships:** Good on site relationships, early high level comms
- **Considerate construction:** Local materials (80%), haul roads, pre-fab bridges.
- **Carbon:** 100% renewable energy for construction compounds, hybrid generators, solar lights, hydrogen vehicles
- **Community involvement:** Social media/website, newsletter, visitor centre
- **Safety:** Reduce incidents (3000) over 60 years, tech messaging/CCTV, emergency refuge areas, variable speed limits and red x signs
- **Community Fund:** 450k supported 55 local initiatives –leisure, skills, safety, flooding
- **Strategy before design:** e.g. Street Lighting, use of GIS tools to track asset requirements



# KEY THEMES

# Resourcing

- Difficulties in **securing a PPA / undertaking for costs**
- Huge draw on LA **technical resources**
- Internal and External – need for **flexibility**
- **Statutory elements** especially challenging (legal rep)
- Early agreement key – Promoter pays
- NSIP Process – streamlining / duplication?

# Communication

- **Strong early comms:** gain support and understanding of communities
- **Early involvement:** complexity and range of issues and detail to work through
- Make it easier for technical leads to contribute and **shape**
- Involvement of **Local Authority partners**
- Structured Comms – need for listening and not broadcasting
- Red Amber Green of key issues (consistent issues log and action tracker)

# Governance

- Governance and structure in place to manage issues? **Clear governance structure needed from the outset**, with appropriate escalation routes for issues that cannot be resolved lower down the project hierarchy.
- There were a number of issues that emerged at discussions regarding A14 de-trunking that were not resolved at issue specific meetings and difficult to unblock.
- Clear points of escalation, and functional groups – structured discussion.
- Still discussing signage strategy. Formal escalation process and framework lacked
- Develop a framework for moving forward: **What is coming next in terms of detailed design. Structure and programme.**

# Frontloading

- No **collaborative process map** at an early stage for the production and approval of design.
- Pressure on A14 IDT to get construction underway quickly
- **Speed of design development / construction overtook the approval process**, works started before CCC had had the opportunity to approve the detailed design where it impacted CCC network and was due to be adopted by CCC in future.
- Deviations from standard were sometimes built into designs and constructed **without proper consultation with CCC**
- Programme didn't allow for proper review
- Complexity of making design changes in the context of DCO approval.
- This also meant that the planning, consultation and detailed preparation for Public Rights of Way was not effective which placed significant burden on CCC PRow colleagues to either challenge or accept assets that didn't meet CCC requirements and also needed significant amount of legal event work to formalise the legal position
- **Develop relationship earlier and agree clear process map**
- **Embedded County resource within design team**



# Legal

- ***'It's not in the agreement'***: Understandings or commitments given pre-consent (in meetings or Statement of Common Ground) but not captured in the legal agreement / DCO were not carried through.
- Need for **clearly defined standards that will be acceptable to CCC to enable the handover of de-trunked infrastructure and new/amended local roads**. This was not clearly defined in the A14 legal agreement and remains an issue to be resolved.
- **Legal agreement to be signed and in place at an earlier stage** in order to aid understanding of the requirements/responsibilities of each party
- Late development of certification and handover process caused delays and problems in putting in place appropriate legal asset management records.
- There are continuing delays in receiving as-built drawings and asset data – still awaiting much of this information despite some roads being handed over in 2019. This affects CCC's ongoing maintenance liability.
- **Learning for A428 – clear commitment and framework moving forward on legal agreement. LA should be referenced in DCO – Monitor and Manage**

# PROW

- DCO is the legal event on ROW – says what footpaths will be created / diverted
- What was built was not in the DCO
- Measures on the ground had an ill defined legal status –this is not trivial
- Caused significant work to put that right to get the relevant orders in place
- More attention early on (skills on DCO teams)
- 80 individual legal events are required to put that right
- **Lessons learned – close working moving forward - Lot in the DCO and legal agreement to remove**

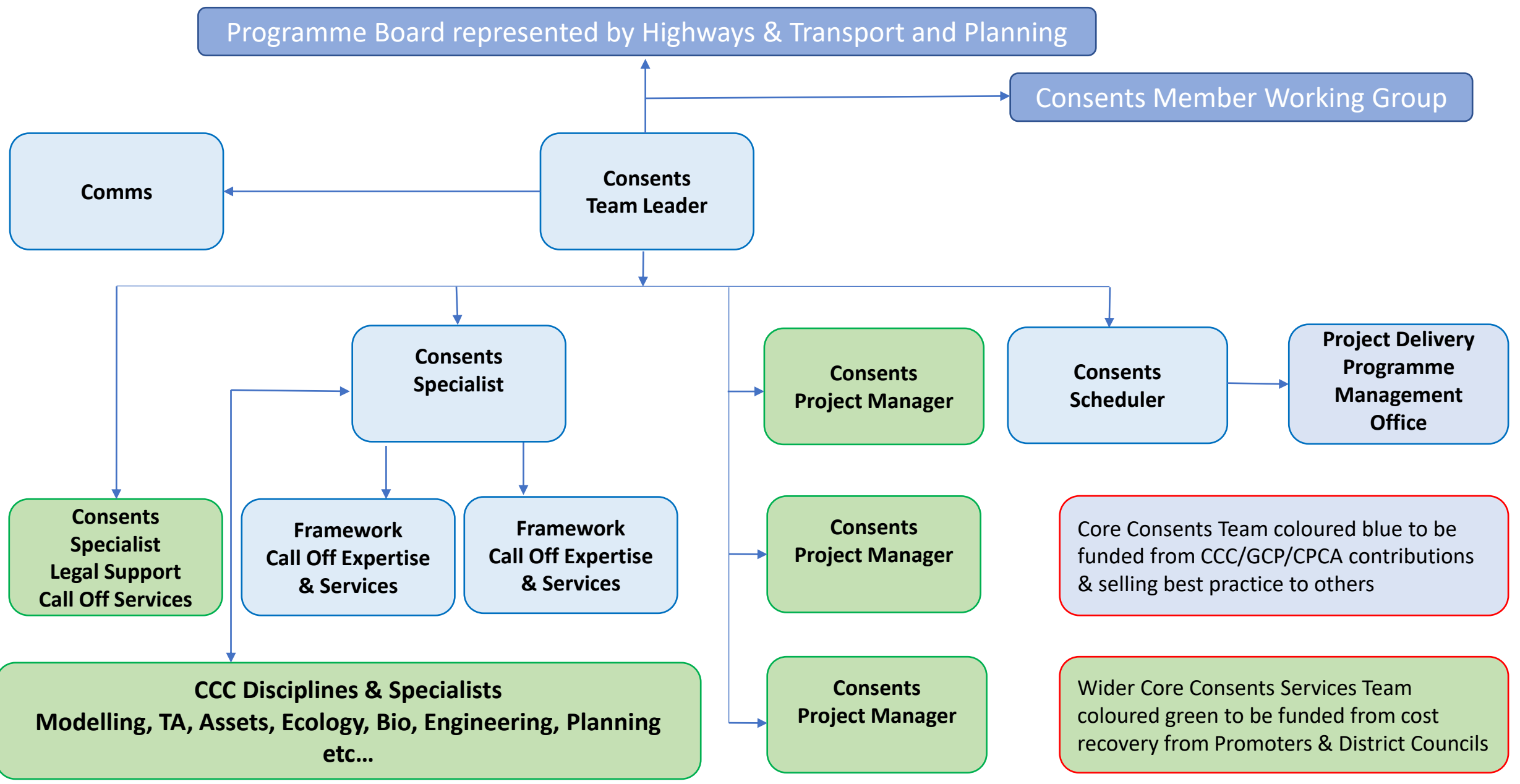
# CCC Consents Team

- Dedicated team to manage consents programme (16+ schemes)
- Clear and consistent approach
- Early communication by theme of requirements, red-lines, process
- Share best practice and ensure lessons are learned
- Templates for PPA / Legal Agreements / Key documentation
- Document Control
- Manage risk and issues logs
- PMs draw from technical expertise (internal and external)

# Conclusion

- Lessons shaped A428 exam, approach, process
- Learnings ongoing process
- A428 capturing lessons learned.
- Reviewing A14 lessons learned. Documentation
- Develop / agree clear maps for future majors
- Energy and innovation within teams





Programme Board represented by Highways & Transport and Planning

Consents Member Working Group

Comms

Consents Team Leader

Consents Specialist

Consents Project Manager

Consents Scheduler

Project Delivery Programme Management Office

Consents Specialist  
Legal Support  
Call Off Services

Framework Call Off Expertise & Services

Framework Call Off Expertise & Services

Consents Project Manager

Core Consents Team coloured blue to be funded from CCC/GCP/CPCA contributions & selling best practice to others

CCC Disciplines & Specialists  
Modelling, TA, Assets, Ecology, Bio, Engineering, Planning etc...

Consents Project Manager

Wider Core Consents Services Team coloured green to be funded from cost recovery from Promoters & District Councils



Thank you



# Overview of the Development Consent Order (DCO) process and Tips for Local Authorities

Kath Dunne  
October 2022

# Overview

- Principles of the Planning Act 2008
- 6 Stages of the process
  - Pre-application
  - Acceptance
  - Pre-examination
  - Examination
  - Recommendation
  - Decision
- Summary of LA involvement
- Top tips
- Advice and Guidance



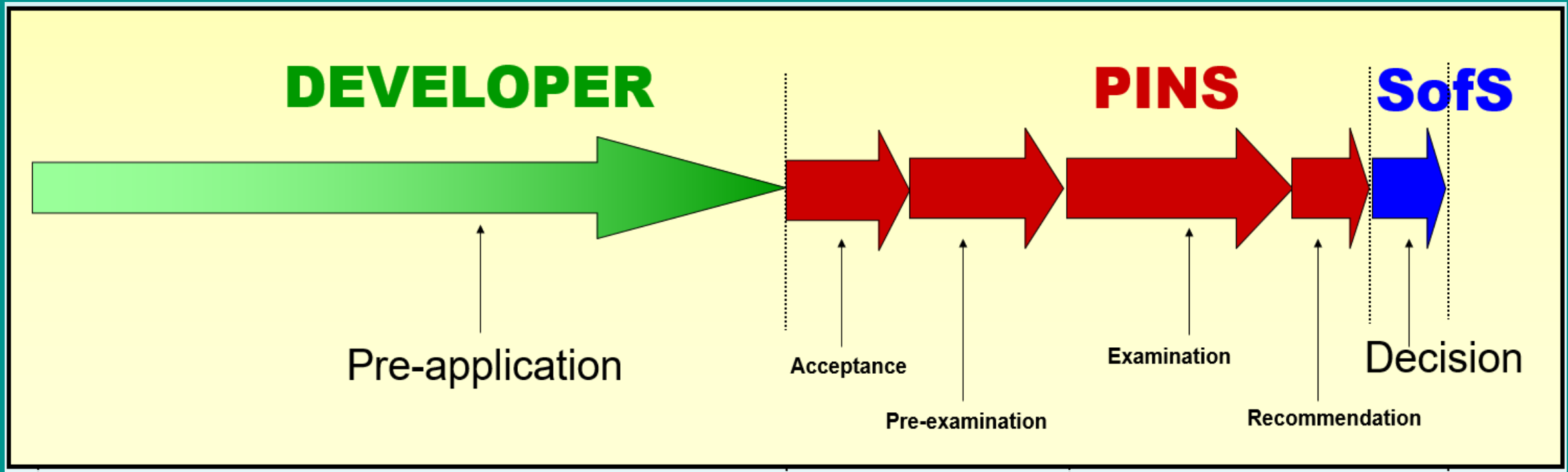
# Principles



- Single consents regime
- Statutory timescales
- National Policy Statements
- Frontloaded
- Written process
- Inquisitorial



# 6 Stage Process

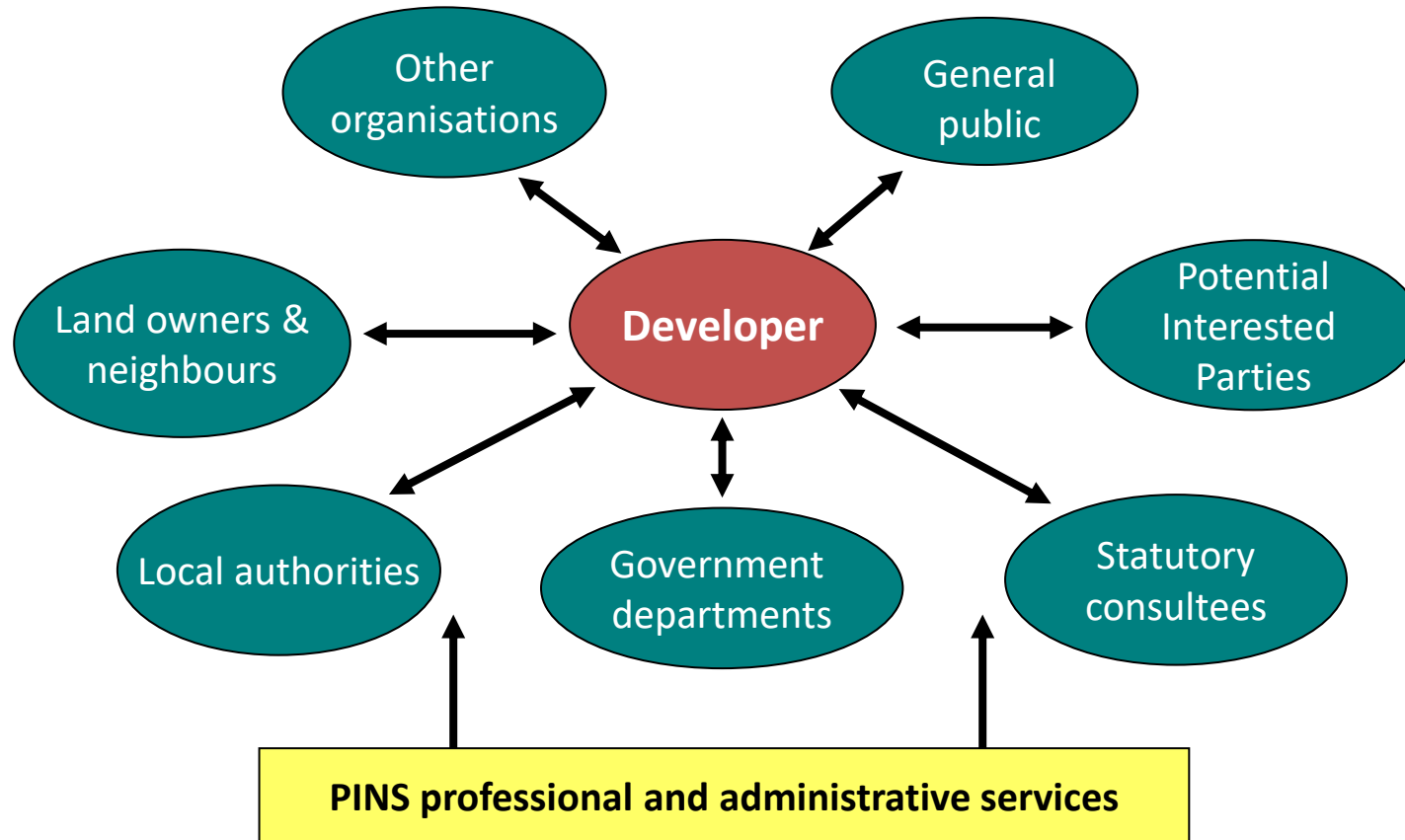


- Acceptance: maximum of 28 days
- Examination: maximum of 6 months
- Recommendation: maximum of 3 months
- Decision: maximum of 3 months
- 6 week period for claim of Judicial Review





# Pre-application engagement



# Pre-application stage for Local Authorities (LAs)

- Early and ongoing dialogue
- Delegations (consider content of comments and deadlines)
- Statement of Community Consultation
- Responding to Applicant's consultation
- EIA scoping
- Statements of Common Ground (SOCG) **and** **uncommon ground** (Principal Areas of Disagreement Summary Statements?)
- Agree methodologies ie modelling data
- Participation in thematic working groups
- Prepare Local Impact Report (LIR) -facts based
- Combine resources with other LAs
- Prepare Adequacy of Consultation comments
- Planning Performance Agreement
- Detailed review of draft Development Consent Order – consider post consent
- Land interests



# Acceptance stage

- 28 days to decide
- Full application
- Principal tests:
  - NSIP?
  - Consultation Report
  - Adequacy of Consultation from LAs
  - Full suite of documents
  - Ensure all plans are correct
  - Satisfactory standard

LAs continue to prepare Local Impact Report and Statement of Common Ground




# Pre-examination

- Application accepted
  - Examining Authority appointed
  - Relevant Representations
  - Initial Assessment of Principal Issues
  - Preliminary meeting
- Local authorities:
    - Relevant Representation (different to LIR)
    - Preliminary meeting – participation
    - LIR - preparation
    - SoCG/uncommon ground
    - Draft exam timetable - comments?
    - Ongoing negotiations with developer
    - Potential for draft ExA written questions



# Examination Stage

- 
- Six months
  - Certainty
  - Inquisitorial
  - Relevant and important
  - NPS(s)
  - Local policy context
  - Compulsory acquisition

## Local authorities:

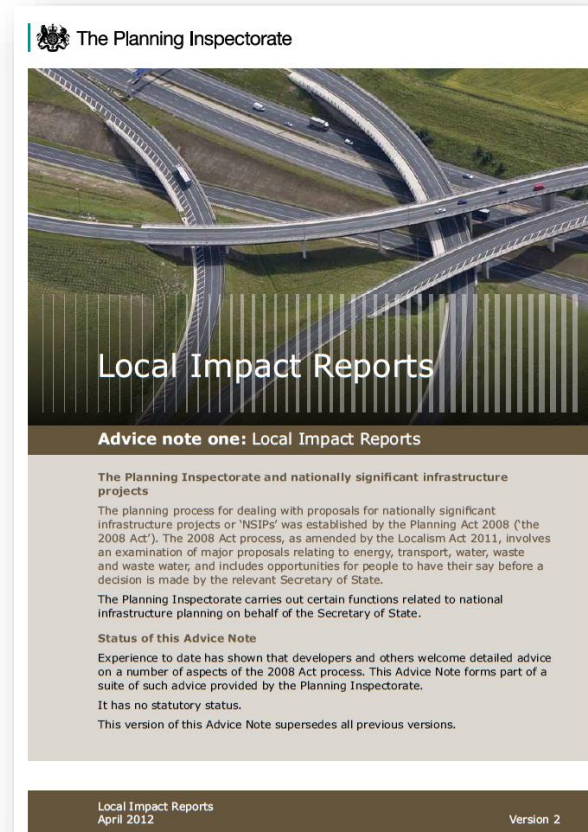
- One person coordinate responses and bring in experts when required, to ensure consistency
- Focus on main issues – uncommon ground
- Early deadline for LIR, SoCG, ExA written questions and written representations
- Participate at hearings
- Consider the role of the LAs post consent (discharge of requirements, appeals, non-determination etc)
- Continued engagement with Applicant and others outside of examination



# Local Impact Reports

- ExA and Secretary of State must have regard
- Positive, negative and neutral impacts on local area
- Joint LIR
- The separate written representation can be used to give the LAs view on whether DCO should be granted
- Prepare early
- [Advice note one](#)

*“...a report in writing giving details of the likely impact of the proposed development on the authority’s area (or any part of that area)”.*  
(Section 60 PA2008)





# Recommendation stage

- ExA has three months
- Recommendation report taking account of:
  - National Policy Statement(s)
  - Marine Policy Documents
  - Local Impact Reports
  - Important and relevant matters
  - International obligations
- Recommended DCO included





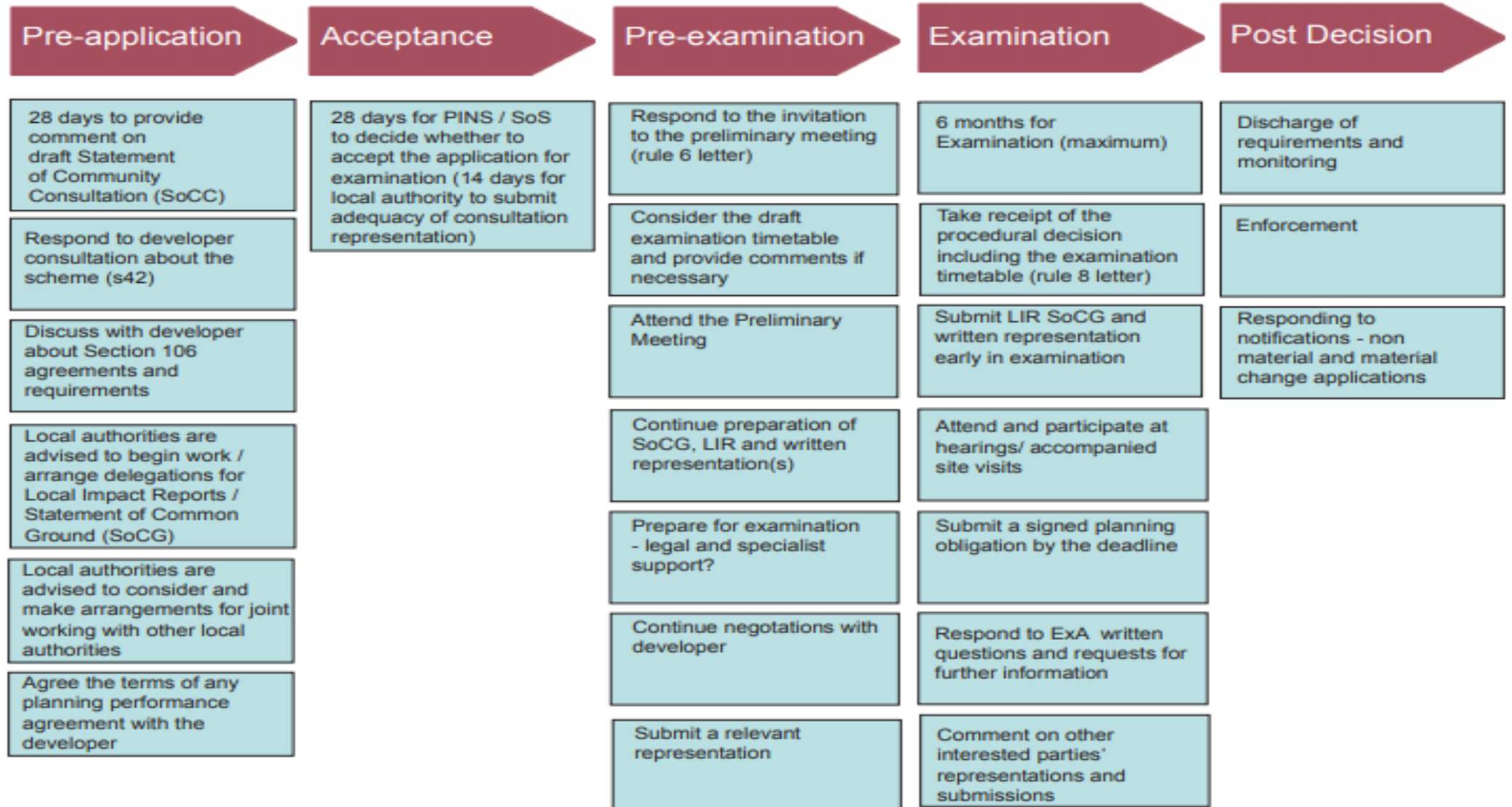
# Decision Stage

- Relevant SoS has three months
- Decision taking account of:
  - National Policy Statement(s)
  - Marine Policy Documents
  - Local Impact Reports
  - Important and relevant matters
  - International obligations
- Judicial review



# Summary

## The role of local authorities



# Top tips for LAs

- Delegations
- Agree methodologies (for example which transport model is being used)
- Early preparation of documents (LIR, SOCG etc) be clear on the uncommon ground (Principal Areas of Disagreement Summary Statements)
- Consider detail of the draft DCO and Requirements early – implications for post consent
- Ongoing engagement with Applicant and others in parallel to the examination
- One person coordinate responses and bring in experts when required to ensure consistency



# Legislation, guidance and advice

The screenshot shows the 'National Infrastructure Planning' website. At the top right, there are links for 'Cymraeg', 'FAQs', 'Contact', and 'Sitemap', along with the phone number 'Enquiries: 0303 444 5000'. The main navigation bar includes 'Home', 'Projects', 'Application process', 'Legislation and advice', and 'Help'. A search bar is located on the right side of the navigation bar. The 'Legislation and advice' menu is open, showing options for 'Legislation', 'Guidance', 'Advice notes', 'National Policy Statements', 'Consents Service Unit', and 'Register of advice'. Below the navigation bar, there is a banner image of wind turbines. The main content area features a 'Welcome to National Infrastructure Planning' section with a brief description of the site's purpose and a search box for project names.

- Planning Act 2008 and Regs/ Rules
- DCLG Guidance
- PINS [Advice notes](#), some examples:
  - Advice Note [One](#): Local Impact Reports,
  - Advice Note [Two](#): The role of local authorities in the development consent process

[Videos](#) on the process including 'Local authorities & Nationally Significant Infrastructure Projects

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/>



The Planning  
Inspectorate



# The Planning Inspectorate



@PINSgov



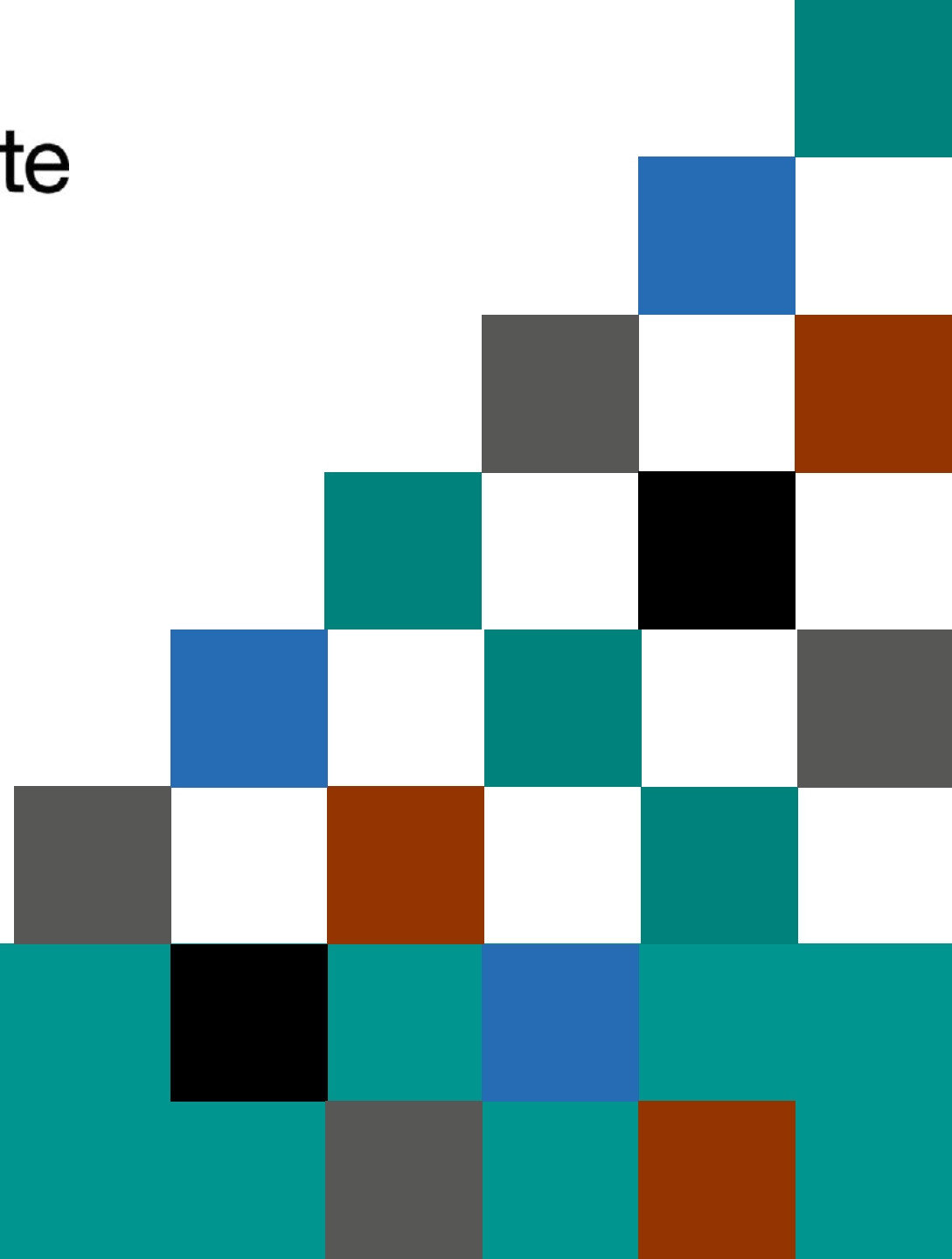
The Planning Inspectorate



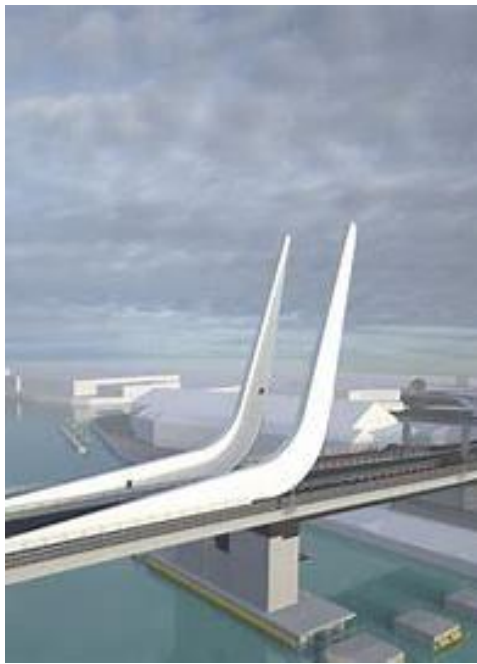
The Planning Inspectorate



[planninginspectorate.gov.uk](http://planninginspectorate.gov.uk)







# Being Ready for the NSIP Examination: Local Authority Good Practice

Michael Moll, Programme Director for NSIPs







## Building on Suffolk's NSIP experience

- Current NSIPs in Suffolk:**
- 1 x Sizewell C nuclear power station – the big one!
  - 1 x solar farm
  - 6 x offshore wind farms
  - 2 x National Grid onshore upgrades (together c 80km in Suffolk)
  - 3 x sub-sea interconnectors landing points in Suffolk
  - Up to 3 x highway schemes (including SCC's Gull Wing)



# What to consider throughout the NSIP process

- ✓ Robust programme approach – strong planning
- ✓ Political mandate– clear delegations.
- ✓ From the start, be clear about your key issues/concerns and how they could be resolved.
- ✓ Nurture relationships with key partner organisations, incl. close collaboration with other affected LAs.
- ✓ Create opportunities for officer meetings across technical areas, as sometimes cross-impacts not recognised otherwise.

Resourcing –  
don't under-  
estimate

## **A fair Planning Performance Agreement (PPA) is essential**

- **A PPA based on cost recovery recognising wide remit of LA**  
(communities, planning/technical and wider opportunities) ...
- **... during all stages including examination...**
- **... will help moving the project through the process.**

*Note – LAs do not have a statutory duty to engage in the NSIP process.*

Estimated total number of FTEs  
at height of NSIPs in 2023/24

**More than 40 FTE  
across Suffolk  
County Council**

Resourcing –  
don't under-  
estimate

**Also:**

- **Plan ahead** internal resourcing
- **Backfill** for particularly effected areas
- **Build in resilience** – this is a very intense period
- **In-house staff preferred**
- Aim for **continuity of officers** dealing with each NSIP



# Pre-app – what happens?

Early engagement pre consultations

Pre app consultations

EIA Screening Opinion

Continued engagement with developer  
to influence changes to the scheme

# Pre-app checklist

- Sort out **PPA**
- Set out issues that need to be addressed
- **Try to resolve issues and instigate changes now**
- Develop early good understanding of modelling approaches
- Positive and professional relationship with developer
- Take key councillors with you on the journey
- Commission legal advice (solicitor, KC)
- How do you want to engage with local community?
- Document management approach and templates
- Audit trail of raising key issues with developer



# Acceptance and Pre- Examination – What happens

Applicant submits DCO documents

Adequacy of consultation

Relevant Representations

Preliminary Meeting

# Acceptance and Pre- Examination

- Low bar of Adequacy of Consultation – but opportunity to raise any shortcomings
- **Establish political position and democratic mandate**, with clarity of delegation, for examination – recommended as part of Relevant Representation
- **Succinct list of issues** to be resolved, and council objectives
- **Credible and coherent stance**
- Agree with developer how to engage during examination
- **Plan resources** – ensure you have coverage throughout
- Becoming ready to respond to tight examination deadlines
- Agree how legal advisors will be used during examination
- Spell out to communities limitations of Councils role

# Examination – what happens

6 months examination

Intense, limited advance notices, tight deadline, high volumes of documents to consider

# Examination

- Maintain political buy-in (aligned with delegation)
- **Credible and coherent stance (continued!)**
- Make your case to best effect to ExA – e.g. how could any issues be resolved within existing DCO, credible alternatives; stick to your messages
- Local Impact Report – significant piece of work so start early (pre-examination) – jointly with other LAs?
- Ensure appropriate legal representation – KC extremely useful
- Staff resourcing – consider wider service impacts
- Continue positive engagement with applicant

# Finally - some topic specific points

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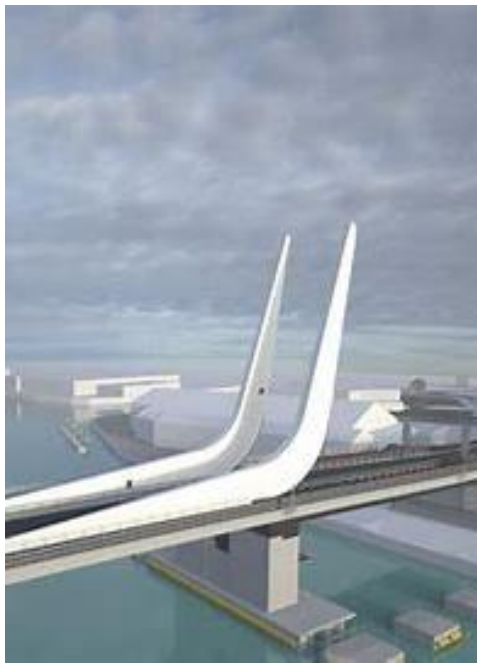
**Natural environment** – focus on following mitigation hierarchy, seek early implementation of mitigation/compensation, ensure that there is a focus on wider natural environment impacts beyond HRA

---

**Skills and economic development** – put your focus on local benefits and legacy; don't assume that's automatically the applicant's aim. Consider what is within and outside planning considerations.

---

**Surface water drainage / Flood and Water:** Often somewhat overlooked by developers!



Thank you  
Contact us at [nsips@suffolk.gov.uk](mailto:nsips@suffolk.gov.uk)





*SHARPE PRITCHARD*

# How councils can influence the final versions of DCO documents

Emyr Thomas

Partner



# Contents

- Development Consent Order
- Section 106 Agreement

# The Development Consent Order

- Ask to see a draft order and explanatory memorandum as early in the process as possible, ideally pre-application.
- This should coincide with preparation of Environmental Statement.
- Discharging authorities will want to see draft requirements early.
- LAs will want to ensure that the construction and operation of the project is sufficiently controlled and mitigated.

# Content of DCO (1)

DCO should include –

- a full description of each element of the project (usually itemised in Sch. 1),
- a full description of each element of any “associated development” i.e. development which is subordinate to project but necessary for it to operate effectively. (DCLG guidance on this),
- each element of the project and any associated development as separate numbered works, and x-referenced to the same on a works plan,
- terms and phrases which are clearly defined (see article 2), and used consistently throughout,
- an accurate definition of the land over which powers are required [this must be consistent with the land and works plans].

# Content of DCO (2)

DCO should include powers to implement the project satisfactorily e.g. to –

- compulsorily acquire land, or
- stop-up streets, or
- extinguish private rights of way, or
- carry out protective works to buildings.

Consider the provision and related document(s) e.g. –

# Content of DCO (3)

“The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in column (2) of Schedule 9 (Streets subject to street works) as is within the Order limits [shown on the works plans] for the relevant site specified in column (1) of Schedule 9 and [do lots of things]”.  
[Art.14(1) Sizewell C DCO].



# Content of DCO (4)

## Requirements

Specify the matters for which detailed approval needs to be obtained before the development can be lawfully begun e.g.

*No part of any terrestrial works, may be carried out until a site-specific written scheme of investigation for each phase of archaeological investigation relating to that part has, following consultation with Historic England, been submitted to and approved by Suffolk County Council. Site-specific written schemes of investigation must be in accordance with the **Overarching Archaeological Written Scheme of Investigation**. [R3(1) Sizewell C DCO].*

Need to be satisfied with R3(1) itself and the Overarching Archaeological Written Scheme of Investigation.

# Content of DCO (5)

Documents referred to in Requirements may contain vital components in any mitigation package e.g. –

- Code of Construction Practice,
- Environmental Management Plans.

Are these satisfactory?

Technical input essential.

# Explanatory Memorandum (1)

“A thorough justification should be provided in the Explanatory Memorandum for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power”. [Advice note 15].

The EM should explain –

- why DCO provisions meet the specific needs of the project,
- why required, in the context of powers contained in the Planning Act 2008,
- the source of the provision (e.g. Model Provisions / previous DCO / TWAO etc.),
- why any provision diverges from precedent.

# Once the application is made

**Relevant Representation:** flag up any concerns with dDCO in RR (high-level, possible to elaborate in later submissions e.g. Written Representation). Help to set agenda.

**ExA Questions:** respond to any on dDCO [and consider responding to other responses].

**Issue Specific Hearing(s) on dDCO:** participate and submit post-hearing note(s).

**Maintain** discussions with Applicant, encourage them to do same.

# Miscellaneous points

Explore common ground with other local authorities / statutory consultees (e.g. SCC on Sizewell worked with District Council)

Make ExA's life as easy as possible –

- If you want the DCO to be amended, provide amended version of the provision (track changed) and Explanatory Memorandum
- Likewise, provide preferred text if seeking amendment to one of the control documents

Negotiations can carry on till the last minute and beyond (i.e. after the Examination, e.g. Sizewell C: drainage requirement)

# DCO: takeaways

- Engage early and persist throughout.
- A close analysis of DCO provisions is essential.
- Technical input on control documents is essential.
- Draft amendments to the provisions you want to change.



# Section 106 Agreements – general (1)

Technically, a “development consent obligation”.

NB – several National Policy Statements refer to use of ~ e.g.

- Overarching NPS for Energy (EN-1) encourages the use of ~ “where appropriate” to provide nature conservation enhancement, mitigation and/or compensation around a development site [paras 5.3.15 and 5.3.17].

The usual tests apply [e.g. para. 56 NPPF].

# Section 106 Agreements – general (2)

- Engage early.
- Establish what the LA wants.
- Examination timetable likely to require drafts to be submitted at different stages.
- Other interested parties will then have an opportunity to comment on the doc. [Respond?]
- Deadline for completed s.106 agreement likely to be set in examination timetable.
- ExA will only take into account completed agreement submitted before the deadline for the close of examination.
- Be careful: applicants can submit a Unilateral Undertaking to the ExA if they cannot agree a s106 agreement with another party. (See Thames Tideway Tunnel DCO).

# Section 106 Agreements – general (3)

- Sizewell C introduced a “deed of obligation”.
- Similar to s.106 agreement but made under other powers.
- ExA Report says s.106 was not considered appropriate because “the applicant owned very little land, certainly not the main platform, and the promises to be given were wider than the tests of s.106 allowed”.
- Ten versions of the DoO on ExA Library. Version 1: 31 pages. Completed version: 729 pages.

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