

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack

Welcome

- Andrew Cook, Executive Director of Growth, Highways and Infrastructure, Suffolk County Council

#NSIPEXCELLENCE2025



Housekeeping



Information Pack

- Presentations will be circulated round electronically following the event
- If you have not already done so, please sign up to the discussion groups during mid morning refreshments
- **Photos are being taken** – if you do not consent to your photo being taken, please let a member of the LGE team know (at the registration desk)
- **No planned fire alarm.** In case of a fire alarm – fire exits are clearly marked in all the rooms
- **Mobile phones** – please can we kindly ask you to turn your mobile phones to silent
- To download a copy of the electronic information pack, please use the QR code
- Updates will be shared from the day on social media, please do join in using #NSIPEXCELLENCE2025

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



cornerstone
barristers



SHARPE PRITCHARD



Information Pack

Setting the Scene

- Cllr Richard Rout, Cabinet Member for Devolution, Local Government Reform, and NSIPs, Suffolk County Council

#NSIPEXCELLENCE2025



NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack



Ministry of Housing,
Communities &
Local Government

Planning and Infrastructure Bill

Emily Davies – Senior Planner – Ministry for Housing,
Communities and Local Government

emily.davies@communities.gov.uk



Ministry of Housing,
Communities &
Local Government

Introduction

Overview of presentation



Setting the Scene

- How did we get here
- Journey to Reform



Planning and Infrastructure Bill

- Overview, aim and opportunities
- NSIP Measures



Local Authorities

- Work to date
- What's next?



Setting the Scene



2020

2021

2023

2024

2025

November 2020

National Infrastructure Strategy

Advocating better, faster, greener delivery of infrastructure



2020

2021

2023

2024

2025

July 2021

NSIP Operational Review

Minister of State for Housing launches government's review of the NSIP system



Setting the Scene

2020

2021

2023

2024

2025

February to Summer 2023

NSIP Action Plan, Consultation and Response

Set out government's five key reform areas for improving the system and sought feedback on the technical changes needed to implement reforms



Setting the Scene

2020

2021

2023

2024

2025

April to Summer 2024

Launch of Key Operational Reform and New Administration

Including new guidance, Fast Track consenting, amended legislation, new pre-application services then new infrastructure commitments in the Labour manifesto and government announcements



Setting the Scene

2020

2021

2023

2024

2025

March 2025

Planning and Infrastructure Bill

Introduction of the PIB, bringing changes to the NSIP system, publication of the Working Paper and Written Ministerial Statements



Reform Aims

The Pillars of Reform



Better and More Strategic

*Enhancing quality
and direction*



Faster

*Speed and
efficiency*



Greener

*Protecting the
environment*



Fairer

Ensuring equality



More Resilient

*Stronger for the
future*



Ministry of Housing,
Communities &
Local Government

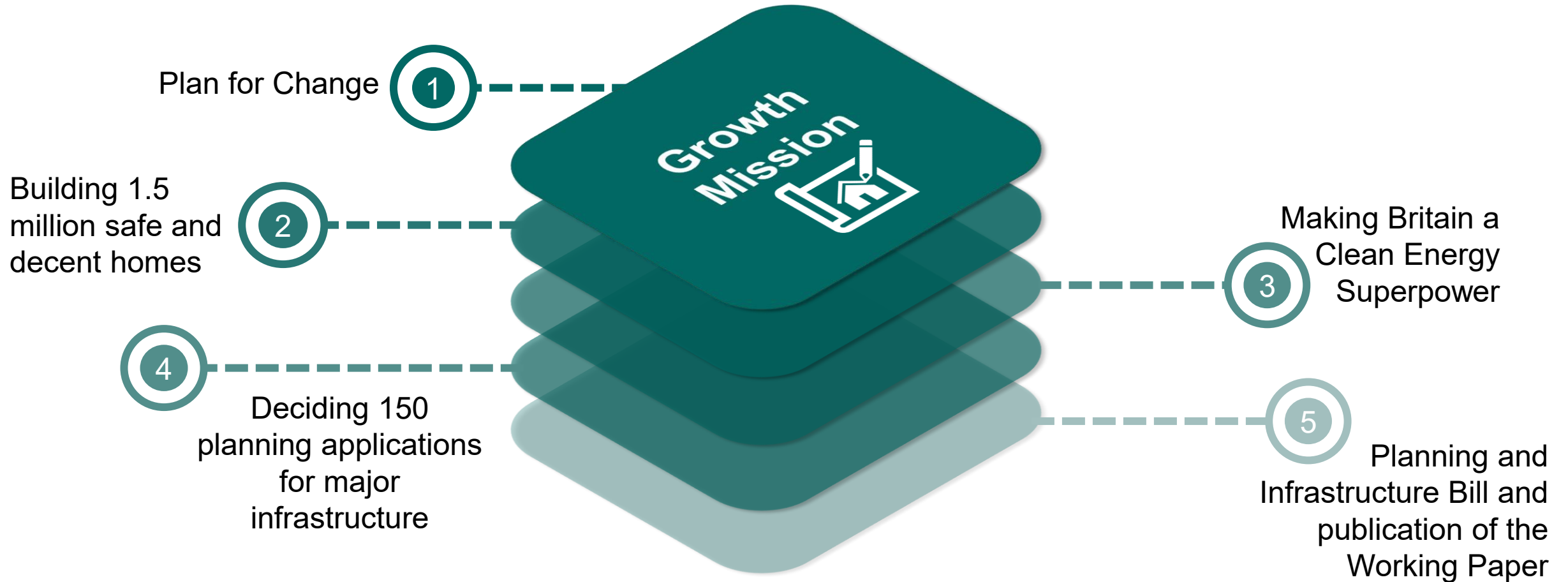


Planning and Infrastructure Bill



Plan For Change

Mission-Led Government





Ministry of Housing,
Communities &
Local Government

OFFICIAL

Planning and Infrastructure Bill



**Infrastructure
Reforms**



**Planning
System Change**



**Nature
Recovery**



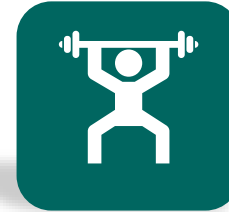
**Predictable
Energy
Consenting**



**Transport
Infrastructure**



**Unlocking Land
for Longer
Term
Investment**



**Strengthen
Development
Corporation
Powers**

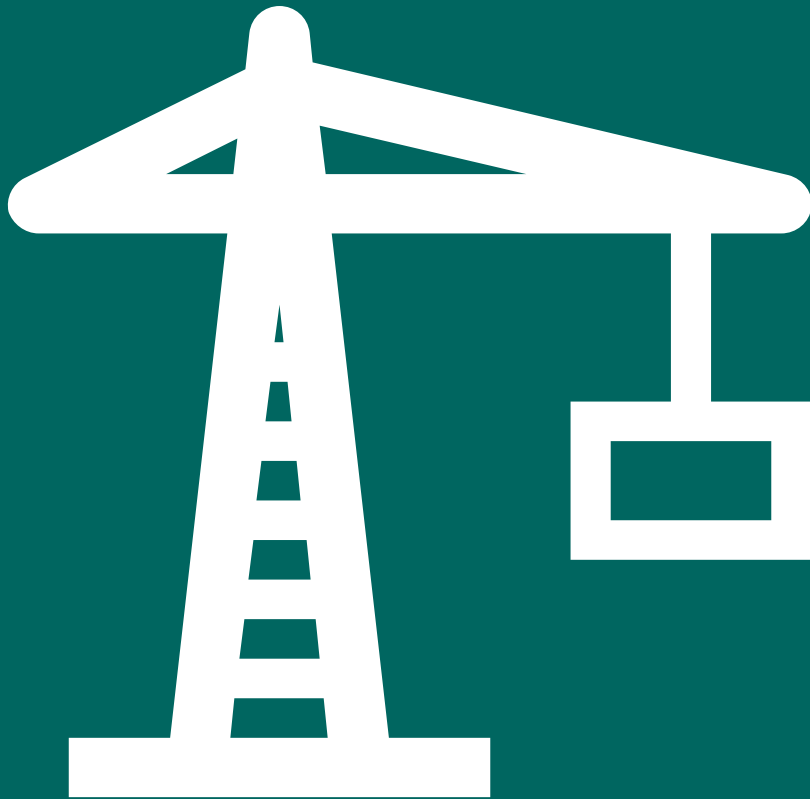


**Introduction of
Strategic
Planning**

OFFICIAL



Opportunities for NSIP



Learning from 15 years

Efficiency

Proportionality

Resilience & Flexibility

Target Driven

Certainty

Critical Infrastructure

Strengthen Policy

National Policy Statements

‘Streamlining planning for infrastructure projects, supporting **clean energy** and **economic growth**’

- Ensuring National Policy Statements are **fit for purpose**
- National Policy Statements to be kept up to date through **regular updates**.
- The **maximum** period of time between updates **being 5 years**.
- Before updating an NPS, the Secretary of State must undertake a **full review** of the NPS.

Streamlining Pre-application

- Removal of **statutory consultation** in pre-application to improve flexibility and proportionality
- **Increased** scope of **notifications** of proposed projects
- Updated and fit for purpose **acceptance tests** and criteria
- Changes and updates to **statutory guidance**
- Ability to **direct certain projects out** of NSIP regime to be consented elsewhere
- Streamlined **access to land** requirements

*‘Ensuring a **proportionate** consultation process with greater **flexibility**’*

Streamlining the Process

*‘Which result in **succinct** and **conclusive** recommendations to the Secretary of State’*

- ExA to consider whether the procedural decision will **contribute** towards **seeking resolution** on the matters contained in the IAPI and support **focused examinations**
- Removal of the **legislative distinction** between material and non-material changes post-consent and replace a **single change process**, instilling **proportionate approaches** to all changes.
- **Reducing permission attempts for Judicial Reviews** from 3 to 2 and from 3 to 1 for cases without merit

Environmental Changes

- Keeping the **environment at the forefront** of all changes
- Introduction of **Biodiversity Net Gain** for NSIPs in 2026
- Removal of the requirement to prepare and consult on **preliminary environmental information**
- Introduction of **Environmental Outcome Reports**, to replace current practices of SEA and EIA
- The **Nature Recovery Fund**

*‘To ensure new major infrastructure developments leave biodiversity in a **measurably better** state than **before** development took place.’*



Next Steps for PIB

What next for the PIB?





Local Authorities



Local Authorities

The importance of a local authority



Local authorities play a **key** and **vital** role in the DCO process.

- There had been no specific funding for local authorities to engage with NSIP projects, which can demand **extensive consideration** of **local issues**.
- The government established the Innovation and Capacity Fund, launched in June 2022.
- The funding has helped local authorities **innovate** in how they handle NSIPs, build **capacity** and **ownership**

Planning Advisory Service (PAS)

We have seen the PAS network grow significantly and their hard work enabled collaborative work and shared experience. Local Authorities are collectively tackling challenges they face with the NSIP process.

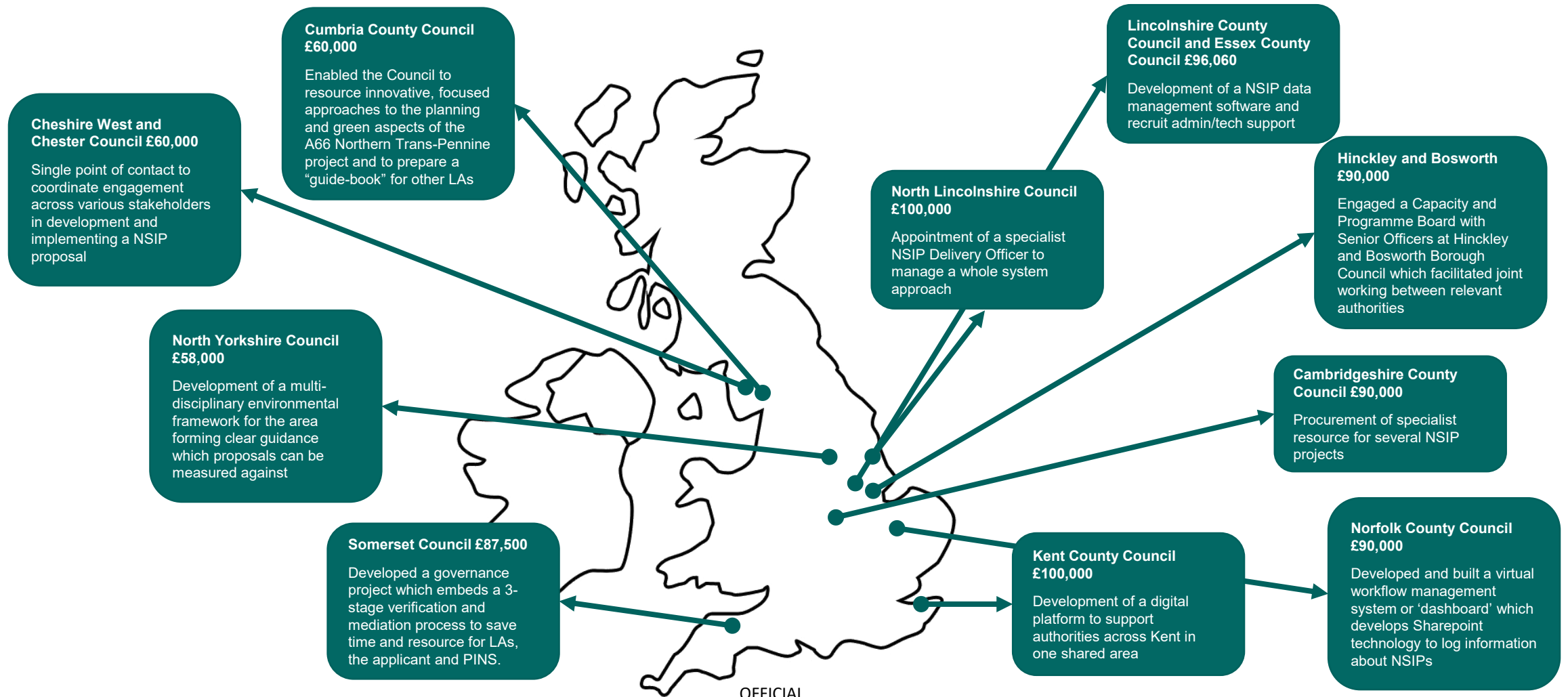
£3.9m

of government investment into local planning authorities to support engagement with NSIPs



Looking back: Innovation and Capacity Fund

‘Supporting local authorities to help drive better, faster and more resilient delivery of NSIP Projects’





Looking back: Innovation and Capacity Fund

Cumbria County Council £60,000

Enabled the Council to resource innovative, focused approaches to the planning and green aspects of the A66 Northern Trans-Pennine project and to prepare a “guide-book” for other LAs

Hinckley and Bosworth £90,000

Engaged a Capacity and Programme Board with Senior Officers at Hinckley and Bosworth Borough Council which facilitated joint working between relevant authorities

North Lincolnshire Council £100,000

Appointment of a specialist NSIP Delivery Officer to manage a whole system approach

Kent County Council £100,000

Development of a digital platform to support authorities across Kent in one shared area



Identifying Common Themes

Talking and Reflecting

- Sharing experiences
- Upskilling each other
- Reflecting on lessons learnt

Resource

- Improving skills within existing teams
- Enhancing capacity and capability to deal with the future

Embracing Technology

- Enhancing digital software
- Efficient storage of documents
- Easy to share data

Shared Working

- Facilitating joint working with Local Authorities
- Engaging and sharing knowledge on projects
- Sharing resource

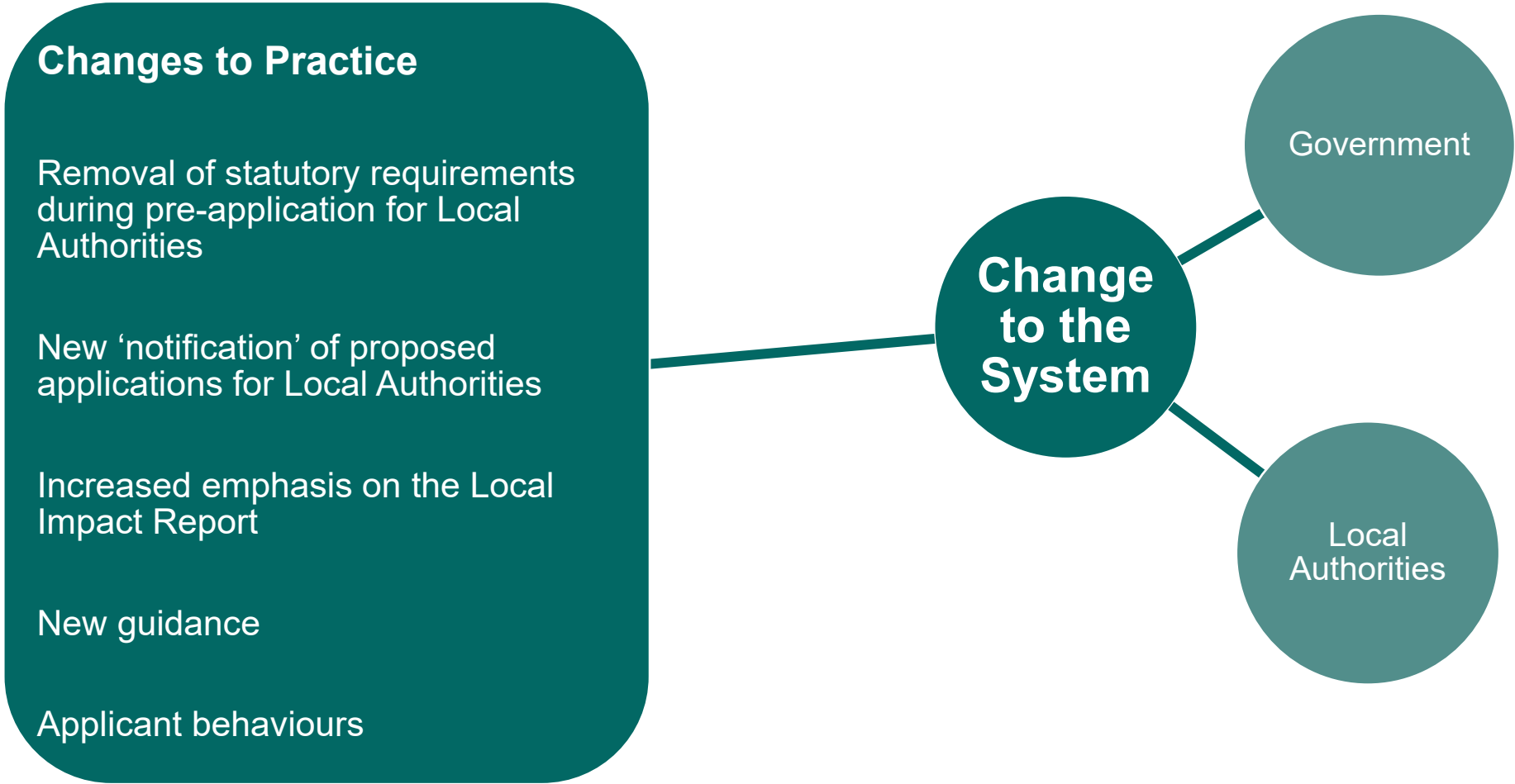


Looking Towards Change Together





Looking at Change





Looking at Change

Government's Role

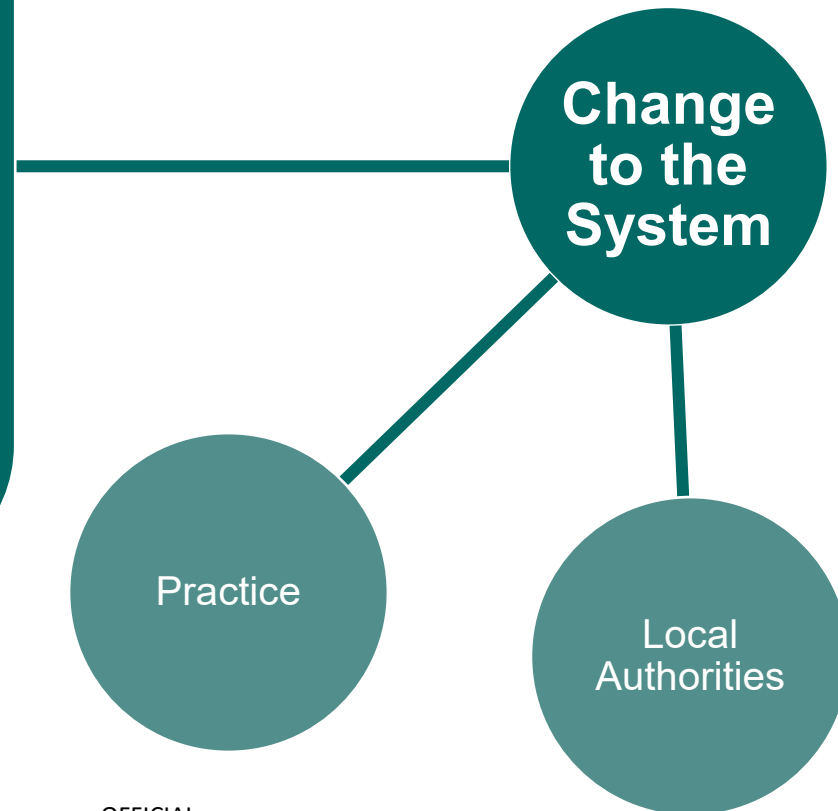
Implementation

Issuing guidance

Supporting key players

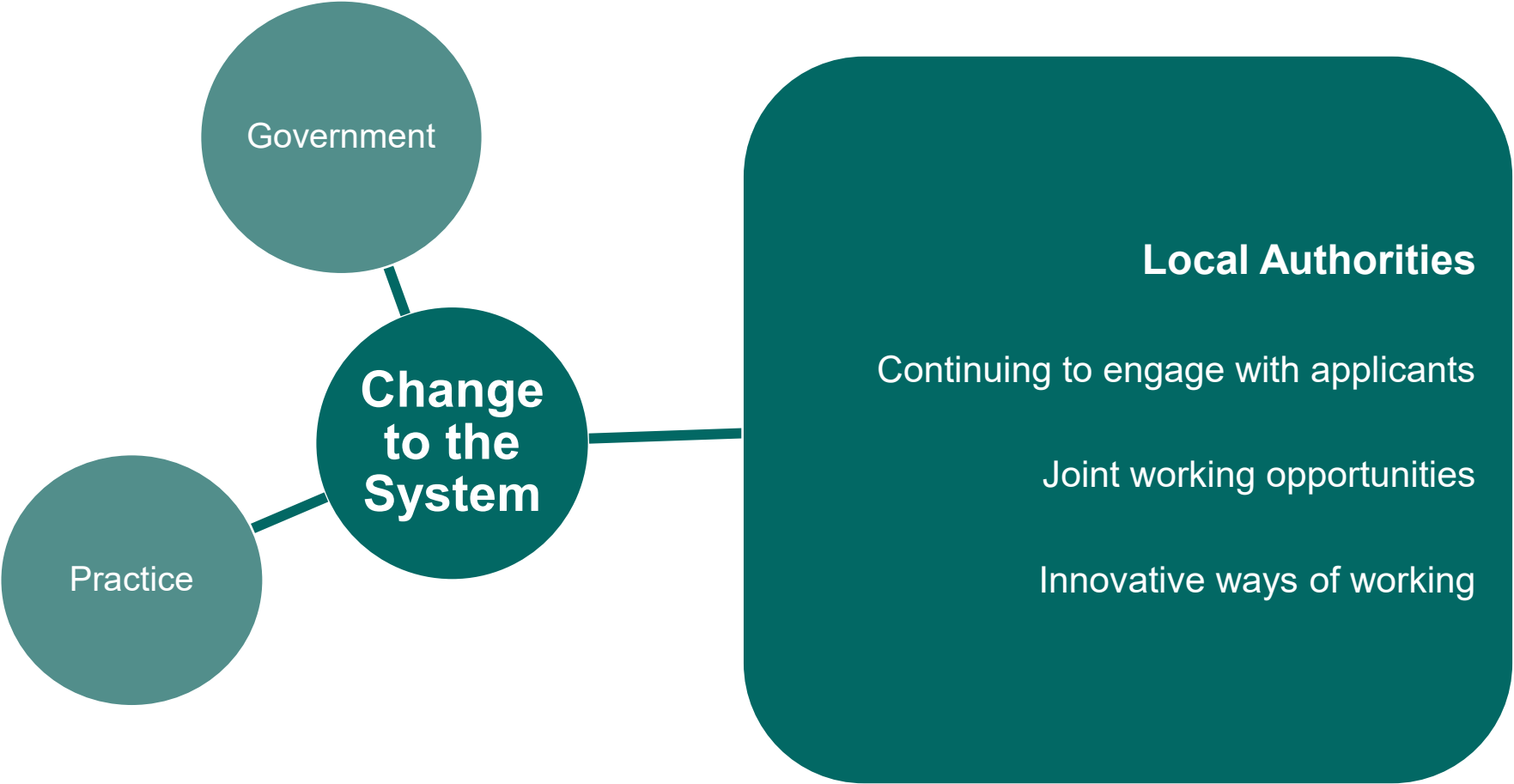
Improving resource through future funding

Monitoring progress





Looking at Change





emily.davies@communities.gov.uk

InfrastructurePlanning@communities.gov.uk

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack

SHARPE PRITCHARD

NSIPs and Consultation

Emyr Thomas
Partner & Parliamentary Agent

11 June 2025



Contents

- . The current position
- . What the pre-application Guidance says about consultation
- . Consultation: the problem
- . Consultation: criticism
- . The Planning & Infrastructure Bill (“**the Bill**”) as introduced
- . Ministerial Statement, 23 April 2025
- . Latest version of the Bill
- . A lawful consultation

The current position

Planning Act 2008 –

- S. 37 (Applications for orders granting development consent)
- S. 42 (Duty to consult)
- S. 43 (Local authorities for purposes of section 42(1)(b))
- S. 44 (Categories for purposes of section 42(1)(d))
- S. 45 (Timetable for consultation under section 42)
- S. 47 (Duty to consult local community)
- S. 49 (Duty to take account of responses to consultation and publicity)
- S. 50 (Guidance about pre-application procedure)

What the Guidance says about consultation

Planning Act 2008: Pre-application stage for Nationally Significant Infrastructure Projects –

“The pre-application stage should allow **the likely effects of a project to be fully consulted upon**, with the design of the project evolving up to the point of application submission”.

“The **front-loaded emphasis on consultation** in the NSIP consenting process is designed to ensure a good standard of preparation of applications enabling efficient acceptance and post-acceptance stages”.

“Applicants need to give consultation bodies **sufficient information about the characteristics of the proposed NSIP in order to enable them to respond in an effective and timely way** about the likely environmental effects and avoid unnecessary delay”.

“Effective pre-application consultation is **key to developing well-prepared applications that are understood by the public**”.

Consultation: the problem (1)

“The NSIP regime gained an early reputation for delivering robust, fair and timely decisions. To date the regime has consented over 130 projects (with 95% of projects being approved).

However, the [NSIP regime’s] performance has deteriorated in recent years. In 2021, it took on average 4.2 years for a project to secure development consent, compared to 2.6 years in 2012.

The documentation underpinning consents has been getting longer, and there is increased uncertainty that statutory timescales will be met, with increased litigation causing further delays and introducing additional risk and costs for developers”.

[Explanatory Notes to the Planning & Infrastructure Bill].

Consultation: the problem (2)

April 2023 – National Infrastructure Commission’s (“**NIC**”) review of the causes of delays in the NSIP regime published.

Reasons for delay included: “repetitive and disproportionate consultation “which ... has encouraged risk-adverse tendencies amongst developers during pre-application. This often results in gold-plating and disproportionately lengthy consultation – particularly for similar infrastructure projects – which delays projects coming forward and can confuse communities”.

Consultation: criticism (1)

Gatwick Airport Northern Runway Project

Joint Local Authorities' adequacy of consultation representation (“**AoCR**”) –

Applicant met technical requirements of ss. 42, 47 and 48.

Did not meet requirements of ss. 49 and 50.

Did not satisfy the fourth *Gunning* principle.

Questioned whether consultation was lawful and legitimate.

Consultation: criticism (2)

“In advance of the DCO submission, the Authorities have not seen the Environmental Statement, nor draft copies of some of the more critical documents including, for example, the Transport Assessment and other important draft strategy documents all of which will require considerable time for proper review and analysis. There has been piecemeal provision of further information on elements of the Project. Although the Applicant has sought to engage with the Authorities on the principles and strategic approaches, more detailed pre-application information would have enabled far more effective engagement with the Authorities ...

... Only following acceptance of the application will the Authorities be able to review the Project as a whole and make a considered and informed judgement. Unfortunately, the Applicant’s approach has meant that the Authorities have had to remain unsighted on significant issues”.

[Paragraphs 9.1 to 9.4 of the AoCR]

The Planning & Infrastructure Bill (as introduced)

The Bill (as introduced; 11 March 2025) –

- introduces a new duty for statutory consultees and local authorities to have regard to guidance issued by the Secretary of State in relation to how to engage with an NSIP project;
- revises requirements around the contents of consultation reports to reduce their length and make them more accessible; and
- removes the requirement to consult ‘Category 3’ persons during the pre-application stage, bringing the statutory consultation requirements in the NSIP regime closer in line with other regimes that deal with compulsory acquisition.

Ministerial Statement, 23 April 2025

(1)

“... the government will amend the Planning and Infrastructure Bill **to remove the statutory requirement to consult as part of the pre-application stage for NSIP applications,** ...”

“This change could reduce the typical time spent in pre-application by up to 12 months ... the change could result in a cost saving of over £1 billion across the pipeline of projects”.

“... And **we still expect high-quality early, meaningful and constructive engagement and consultation to take place with those affected as part of that process** ...”

“To support this change, **the government intend to publish statutory guidance setting out strong expectations that developers undertake consultation and engagement prior to submitting an application**”.

The Bill (as amended in Public Bill Committee) (1)

4 Applications for development consent: removal of certain pre-application requirements

20

Omit the following sections of the Planning Act 2008 —

- (a) section 42 (duty to consult);
- (b) section 43 (local authorities for purposes of section 42(1)(b));
- (c) section 44 (categories for purposes of section 42(1)(d));
- (d) section 45 (timetable for consultation under section 42);
- (e) section 47 (duty to consult local community);
- (f) section 49 (duty to take account of responses to consultation and publicity).

25

The Bill (as amended in Public Bill Committee) (2)

(7) For section 50 substitute –

“50 Guidance about pre-application steps

- (1) Applicants must have regard to any guidance issued by the Secretary of State to assist them in complying with section 48.
- (2) The Secretary of State must issue guidance to assist applicants, setting out what the Secretary of State considers to be best practice in terms of the steps they might take in relation to a proposed application in readiness for submitting an actual application.”

20

Ministerial Statement, 23 April 2025

(2)

“To support this change, the government intend to publish statutory guidance setting out strong expectations that developers undertake consultation and engagement prior to submitting an application.

We will work with stakeholders to design this guidance, launching a public consultation in the summer, so that it encourages best practice without recreating the flaws of the current system”.

When does a duty to consult arise?

- Express duty (e.g. legislation, statutory guidance)
- Legitimate expectation (e.g. a promise or past practice)
- Common law duty of fairness (e.g. withdrawal of right or benefit)

Public authorities may also conduct a voluntary consultation where no duty arises.

Gunning (Sedley) Principles of Consultation

(Taken from the case of *R. v Brent LBC Ex p. Gunning* 84 L.G.R. 168, [1985] 4 WLUK 200))

- Consultation must be undertaken at a time when proposals are still at a **formative stage**.
- **Sufficient reasons** for any proposal must be given to enable intelligent consideration and response.
- **Adequate time** must be given for consideration and response.
- The product of the consultation must be conscientiously **taken into account** when the decision is made.

Our Team



Alastair Lewis: Partner and
Parliamentary Agent-
alewis@sharpepritchard.co.uk



Andrew Swaffer- Legal Director
aswaffer@sharpepritchard.co.uk



Bernadette Hillman: Partner
bhillman@sharpepritchard.co.uk



Emily Knowles: Partner
eknowles@sharpepritchard.co.uk



Emyr Thomas: Partner and
Parliamentary Agent-
ethomas@sharpepritchard.co.uk



James Goldthorpe: Trainee Solicitor
jgoldthorpe@sharpepritchard.co.uk



Rachel Lee: Managing Associate
rlee@sharpepritchard.co.uk



Rebecca Stewart: Associate
rstewart@sharpepritchard.co.uk

Leading public law solicitors working in partnership with clients across the UK



Commercial



Construction



Corporate Law



Data, Privacy and
Information Law



Employment



Infrastructure



Litigation



Local
Government



Procurement



Public Law



Real Estate,
Planning and
Regeneration



Social
Housing



Subsidy
Control



Telecoms

 **sharpepritchard.co.uk**

This presentation is for general awareness only and does not constitute legal or professional advice. The law may have changed since this presentation was first published. If you would like further advice and assistance in relation to any issue raised in this presentation, please contact us by telephone or email enquiries@sharpepritchard.co.uk

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



cornerstone
barristers



SHARPE PRITCHARD



Information Pack

Panel Discussion: Planning and Infrastructure Bill

Chaired by Andrew Cook, Executive Director for Growth, Highways and Infrastructure, Suffolk County Council

Panellists:

- Chris Poulton, Team Leader: NSIP Pre-Application, Ministry of Housing, Communities and Local Government (MHCLG)
- Jamie Childs, Partner, Howes Percival LLP
- Cllr Richard Rout, Cabinet Member for Devolution, Local Government Reform, and NSIPs, Suffolk County Council
- Mark Williets, Assistant Director of Planning and Climate Change, North Kesteven District Council

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack

Feedback from Discussion Groups

- Led by facilitators

#NSIPEXCELLENCE2025



NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack



The Importance of Local Impact Reports

Michael Bedford KC
NSIP Centre of Excellence Conference

11th June 2025



The Local Impact Report



Statutory status:

- Under s.60(3) PA 2008 a LIR is *“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).”*
- S.104(2)(b) PA 2008 requires that in deciding an application for a DCO the Secretary of State *“must have regard to”* any LIR submitted on time.



The Local Impact Report



- However, the LIR does not displace any policies in the applicable National Policy Statements
- Neither the SoS nor the ExA are bound to accept the *“impacts”* in the LIR are *“likely”* or to accept the severity of those impacts.
- To be effective, the LIR needs to be robustly evidence-based, both as to the nature and characteristics of the receiving environment and as to the true effects of the NSIP proposal.

LIRs and Relevant Representations

- Relevant Representations are submitted during the **pre-examination** stage (post-acceptance)
- LIRs are submitted early in the **Examination** (usually at Deadline 1 shortly after the Preliminary Meeting)
- RRs are now (post-2024) required to set out:

*“the **principal submissions**, and where practicable, the **full particulars of the case** which the person proposes to make in respect of the application.”* (Reg.4(2)(b) IP(IP&MPP)R 2015



Avoid duplication and jumping the gun



- The RR should set out the principal submissions
- (including any objections to the principle of the NSIP, e.g. because of its location or scale)
- The LIR is the best vehicle for the detail, especially on mitigation or on any changes that the LA wishes to see made to the NSIP to make it acceptable (and be specific about how such changes can be achieved).

Guidance on LIR content

“The LIR is based on the local authority’s existing body of local knowledge and robust evidence of local issues, including an appraisal of the proposed development’s compliance with local policy and guidance.”

MHCLG advice (2024)



Guidance on LIR content

“...it is important that the LIR is not simply a restatement of the planning issues or the local authority’s separate representations about the application. The LIR has a wider purpose in bringing to the attention of the Examining Authority and the Secretary of State those matters both positive and negative affecting the local communities during construction, once operational and during decommissioning, should the proposed NSIP receive development consent.”

MHCLG advice (2024)



Guidance on LIR content

“The LIR should include a statement of positive, neutral and negative local impacts. However, it does not need to include a balancing exercise between positive and negative.”

“The Examining Authority will be assisted by the submission of a LIR that clearly sets out and evaluates the impacts in a structured manner.”

“There is no need to undertake an assessment of compliance with an NPS.”

PINS guidance (2024)



Guidance on LIR content

- PINS guidance (2024)
- Includes a checklist of topics to consider but
- *“This list is not exhaustive or prescriptive”*
- It includes:
 - Constraints
 - Impacts on sensitive receptors
 - Impacts on employment and local services
 - Any changes to the DCO
 - Acceptability of control documents

Why is the LIR important?



- Its contents must be taken into account by the decision maker (and so by the ExA)
- It can help frame the debate at the Examination
- It can inform the ExA's written questions
- It can inform agendas for the Issue Specific Hearings
- It is the best vehicle to set out the mitigation or other changes needed to make a project acceptable if it is to be authorised.



Thank you

Michael Bedford KC

MBedford@cornerstonebarristers.com

NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack

Engaging with the NSIP Promoter on Environmental Design to achieve Positive Outcomes

Peta Donkin

Director (Infrastructure and Energy)

LD&A DESIGN



Place

+ Need

Design

+ Principles

Outcomes

+ Security

Place

Design in response to place: to fit development into the community, environment and context where it occurs. It should be an improvement of that place, delivering positive outcomes and good change; environmentally, socially, economically.



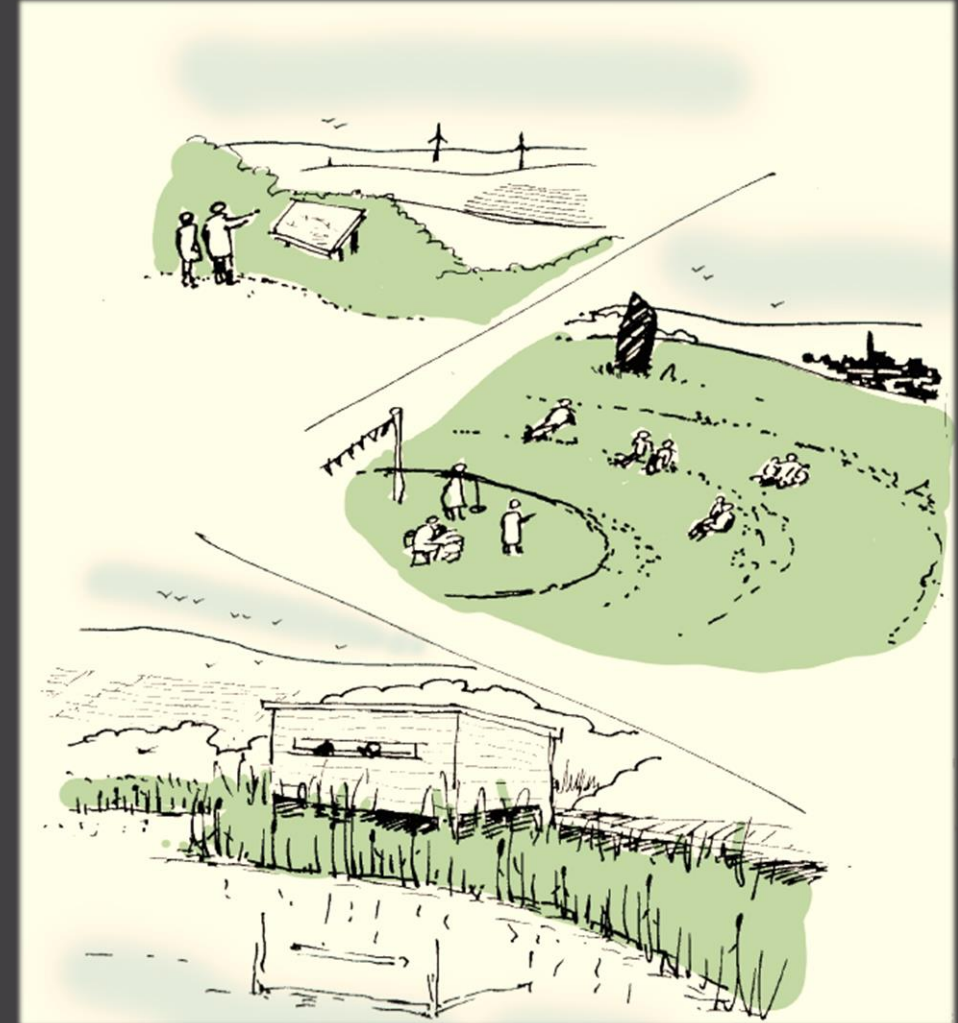
Place + Local Need

- Good Design: A process leading to a positive outcome
- Starting well – establish a framework
- Follow a process for the design to evolve, whilst encouraging local feedback
- Importance of logging design changes, appropriate responses, and control measures through Principles and Outcomes – right from the beginning
- Understanding sense of place, communities and culture, and local needs, skills and opportunities



Good Design – Local Need

- What truly benefits communities beyond the provision of an NSIP– in itself of Critical National Importance – what is the local need?
- Addressing specific challenges and priorities of a community = ensuring projects deliver meaningful outcomes (Jobs? Apprenticeships? Cycle route? Dog walking track?)
- Public engagement = crucial from the outset to understand local evidence and requirements
- Local Authorities, social enterprises, local communities, local skills, opportunities for collaboration and conversation



Design + Principles

- No more Stat Con, no more PEIR! What will govern good design and engagement? And positive outcomes?
- In the setting of NSIP/ DCO: *'final design further down the line...'*
- Collaboration / Co:Design / Engagement - with LPA and other promoters where possible
- Design Principles + levels of design commitment / detail (context driven) + Design Review
- Design outcome = commitments



Design + Principles

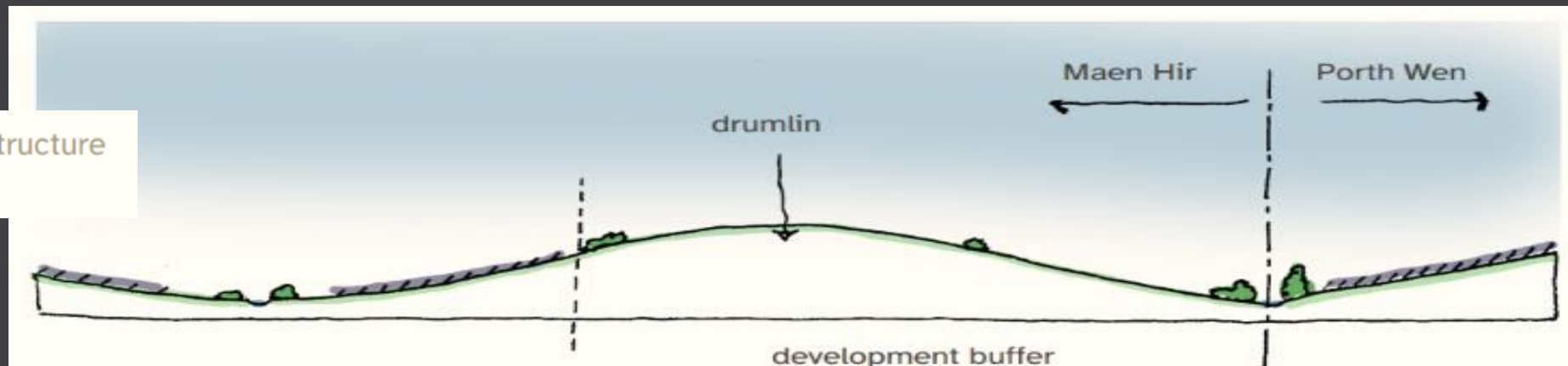
The use of Design Principles provides for the governance of design through the life of a project.

This gives confidence to communities, examining authorities, and decision makers (LPAs).

Applicants are able to seek approval on the basis that design principles will:

- provide the framework within which design is developed;
- and support the subsequent discharge of requirements for Development Consent Order projects.

N2 Consider nearby energy infrastructure when developing proposals



Design Process

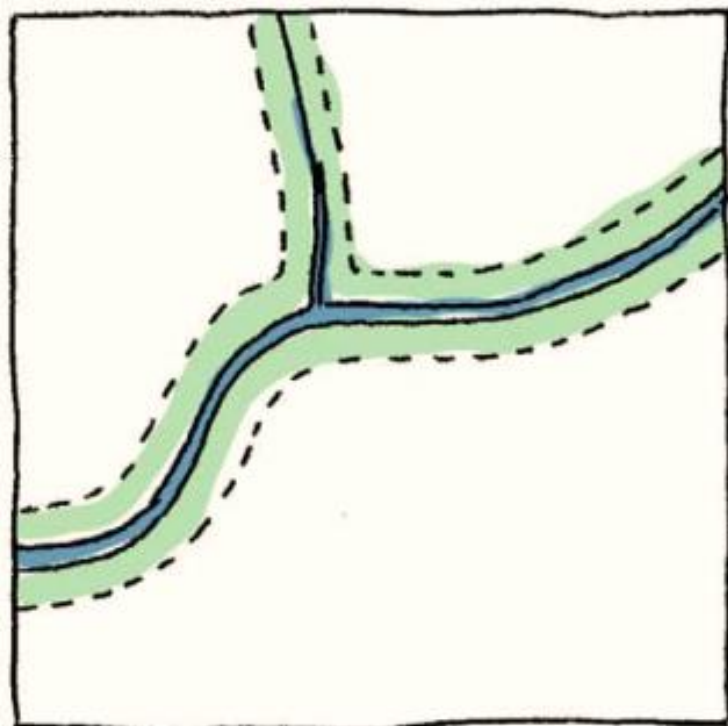
Design process: the use of a structured design process:

- facilitates effective local consultation (a key part of the 'front loaded consultation' Development Consent Order process)
- provides a framework for early consideration of environmental issues
- and drives project team collaboration.

LPA and stakeholder input through early engagement to help shape project development, drive beneficial outcomes, and facilitate a progressive Examination.

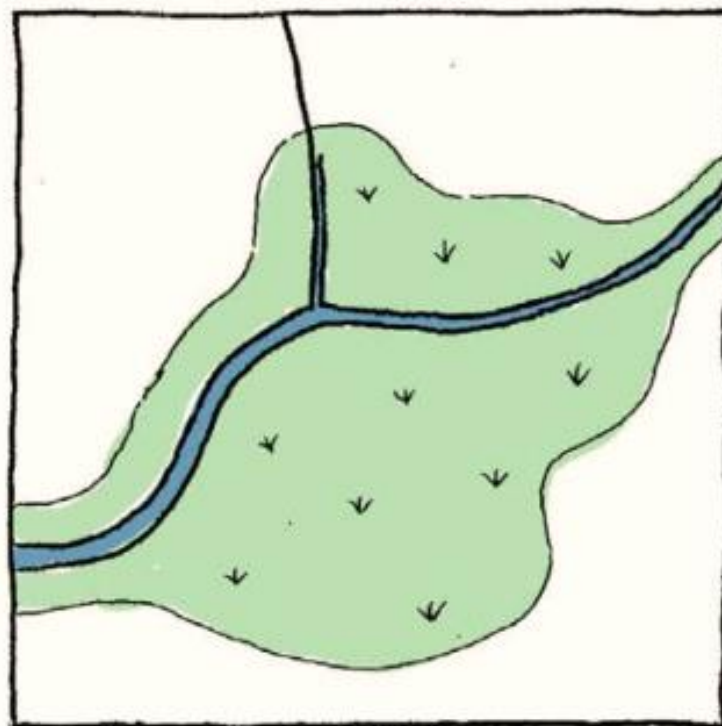


BUFFER WATER COURSES



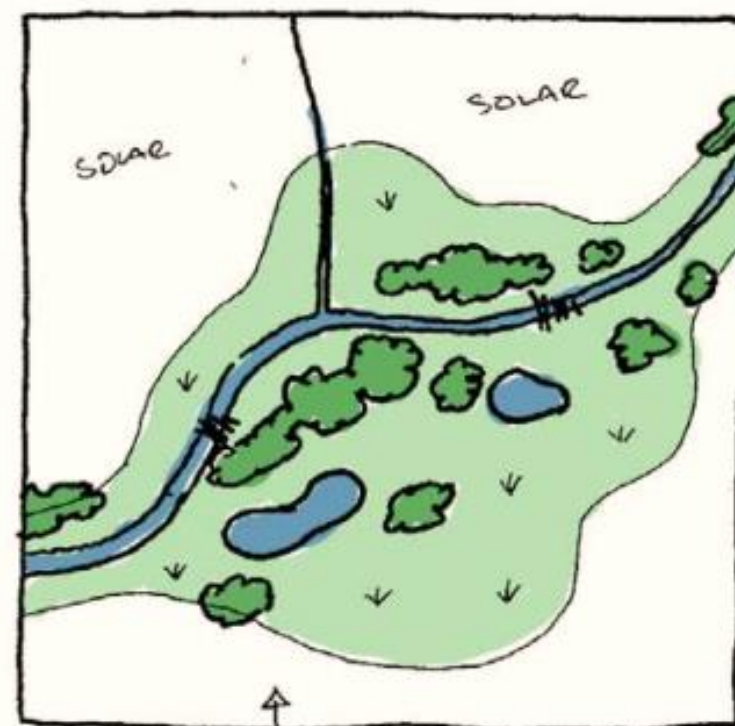
(15m MAIN RIVERS)

DIVERSIFY FLOOD
ZONE LAND.



(UNSUITABLE FOR SOLAR)
+ AGRICULTURE

CREATE NEW
HABITATS + CONNECTIONS



RETAINED ACC.

Outcomes + Security

It's the project (design) that is applied for –EIA process influences it, other documents support and provide an explanation of it and underpin delivery, secured within the DCO:

- ES
 - **Management Plans**
 - **Commitments Register**
 - **Works Plans**
 - **Design Principles, DAD**
-
- Design Principles - level of design fixity / detail sufficient to inform judgement on the project and inform the EIA – too little /too much
 - LPA will determine eventual design based on DCO requirements, Design Principles the content of the Order, and Commitments made

To the Future...

- PIB reforms – Statutory Consultation removal
- Guidance required re expected level of engagement / consultation – without being overly prescriptive and so ending up with the same process...
- Seeking positive and deliverable outcomes
- Effective removal of PEIR – a more proportionate approach, more collaborative design, and greater ownership of projects by local communities?
- What does good look like and who says what's good?

LDĀ DESIGN

Designing for good



NSIP Centre of Excellence Conference

11 June 2025, The Hold



Sponsored by:



SHARPE PRITCHARD



Information Pack

Thank you

Please can we kindly ask that you take a couple of minutes to complete the event feedback survey. Your feedback is very important to us and will help us to assess its value and plan for future events.



Feedback Survey

