

Planning Act 2008: Consultation on the Pre-Application Consultation and Application Procedures for Nationally Significant Infrastructure Projects

Response from Campaign for Better Transport

Key recommendations

- Network Rail should be added to the list of statutory consultees
- The guidance on consultation should make clear that:
 - Consultation should be for 12 weeks minimum
 - That those organising consultations should engage third sector organisations, including environmental groups
 - Consulting those in the vicinity of projects should include, for instance, those along flight paths
- CLG should consider integrating the separate regulations into one set of regulations

About Campaign for Better Transport

Campaign for Better Transport is the leading transport NGO. Our compelling arguments and ideas have won us the support of national decision-makers and local activists, enabling us to secure transport policies and programmes that improve people's lives and reduce environmental impact.

Our response

Statutory consultees

Consultation question 1: Do you agree with the list of statutory consultees?

The list of statutory consultees should include Network Rail, particularly as the Highways Agency is a listed statutory consultee. Network Rail are uniquely qualified to understand the impact of schemes on the rail network. We would expect that Network Rail's evidence would be a key part of the IPC's considerations on relevant schemes such as rail freight interchanges. Network Rail's involvement in port and power station applications is also crucial.

Guidance on pre-application consultation

Consultation question 11: Are the principles outlined in the guidance clear, if not please give your views as to how this can be improved?

Consultation question 12: Has everything been covered that needs to be covered, if not please explain what other information you think should be included?

Consultation question 13: Do you have any other views about this guidance?

The guidance refers to the Act setting 28 days as a minimum for consultation. The guidance should make clear that though this is an absolute legal minimum, consultations should follow the Government's own code of practice on consultation which recommends 12 weeks as a minimum with eight weeks in exceptional circumstances. There are a number of reasons why a shorter period is not adequate:

- It will take time for the consultation to reach those individuals, businesses and community groups affected, and will need to be cascaded through, for instance, community networks
- The consultations will inevitably be detailed and technical and a non-technical audience will need time to assess the implications and to respond

The guidance does go into consultation with the “local community” but is weak on engaging with other non-statutory stakeholders and tends to only see them as having “detailed technical input from technical bodies” (and later implies that these are basically the same organisations as those who are statutory consultees – paras 181-184). Consultation should engage with third sector groups, including environmental groups and organisations, and the guidance should make this clear and the benefits of doing so.

On local communities, the Act talks about those in the “vicinity” of projects (para 163) and does address to some extent that this will mean different things in different situations (eg rail and road will be different compared to power stations). Through informal discussions with the local authority, the promoter will decide what the boundary is for consultation but will need to act reasonably and to address how they have addressed consultation with those “directly affected” or those who “will not be directly affected” but might fear that they will be or have strong feelings (paras 164-166). However, guidance should be clearer that this should, for instance, mean consultation with those along a flight path who will be affected, rather than just those in the vicinity of the airport itself.

The IPC will have to evaluate whether consultation has been fair across all parties concerned. In situations where there is local opposition to infrastructure projects it can be difficult for the local authorities to take a view for a number of reasons, including resourcing issues.

The IPC will have to judge whether the promoters have made all reasonable attempts to engage with local authorities in the consultation process. There is a duty on promoters to consult and therefore there will need to be a duty on local authorities to assist in this process.

Other comments

Consultation question 22: Is there anything else on which you would like to comment?

The consultation includes three separate regulations on applications and procedures, environmental impact assessment and natural habitats. CLG should consider integrating these separate regulations into one set of regulations. This could allow environmental considerations to be prioritise and mainstreamed within the development process, while also helping avoid duplication and confusion.

Richard Hebditch
Campaign for Better Transport
June 2009