

Panel Session: Consenting Regimes & Inconsistent Approaches

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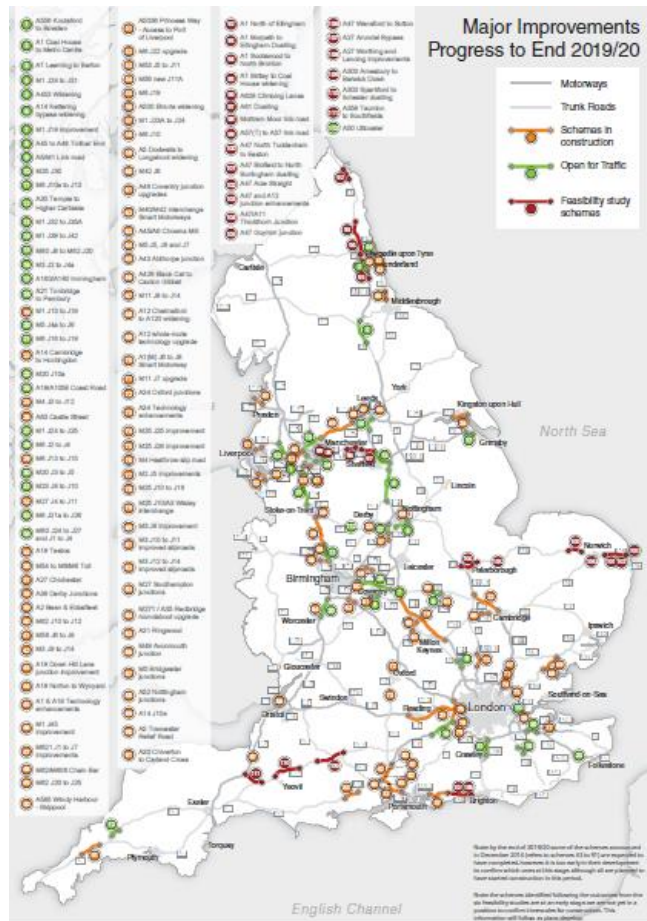
#CPA2018

Approaches to Engagement – Planning Act 2008 regime & Development Consent Orders

Anna Pickering

DCO & Statutory Processes Team
Leader, Highways England

Highways England DCO Pipeline



- DfT's Road Investment strategy published March 2015
- Highways England Delivery Plan 2015-2020 (see map)
- 112 schemes developing to construction during Road Period 1
- About 30 need DCOs
- Largest pipeline for any DCO promoter

Transparency of information

National Infrastructure Portal

<https://infrastructure.planninginspectorate.gov.uk/>

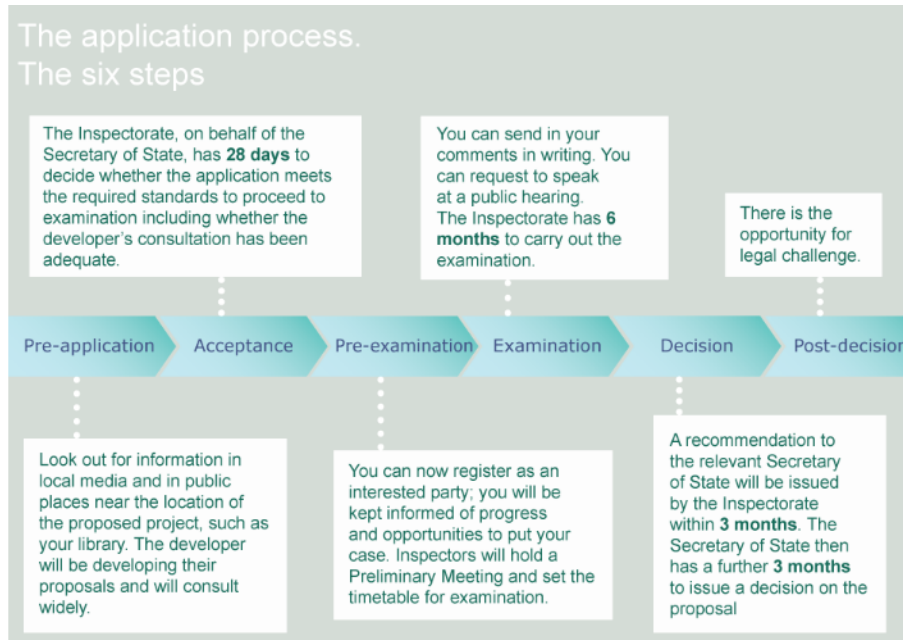
From here, access link to government guidance *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*

<https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land>



The screenshot shows the homepage of the National Infrastructure Planning website. At the top, there is a navigation bar with links for 'Home', 'Projects', 'Application process', 'Legislation and advice', and 'Help'. A search bar is also present. Below the navigation bar is a large image of a highway interchange. The main content area is divided into several sections: 'Welcome to National Infrastructure Planning' with a brief introduction and a link to 'More about the Planning Inspectorate's remit'; 'Content provided by:' with a link to 'The Planning Inspectorate'; 'How the application process works' with a diagram and a link to 'Find out about the process'; 'Projects' with a search bar and a list of 'Latest projects accepted for examination' including Wylfa Newydd Nuclear Power Station, Orkney Islands, Abercrombie Power, Northampton Gateway Rail Freight Interchange, Hornsea Project Three Offshore Wind Farm, Kemble Paper Mill (K4) CHP Plant, Tees CCGP, and Tilbury 2; 'Latest activity feed' with a list of recent updates and an RSS feed link; and 'View projects by region' with a map of the United Kingdom and links to various regions including Best Midlands, Eastern, London, North East, North West, South East, South West, Wales, West Midlands, and Yorkshire and the Humber.

Process – Planning Act 2008



- Post-application stages mostly defined by legislation
- Focus on pre-application stage & front-loading engagement – includes statutory pre-application consultation

Statutory pre-application consultation



- Planning Act 2008 Section 42(1)(d) & 44:
 - Category 1: owners, lessees, tenants (any period), occupiers
 - Category 2: those with an interest in the land or having power to sell and convey the land or release the land (e.g. mortgage providers)
 - Category 3: those who “*would or might be entitled*” to make a relevant claim due to implementing / implementation of the DCO (e.g. potential claimants under Land Compensation Act 1973 Part 1, Planning Act Section 152(3), Compulsory Purchase Act 1965 Section 10)
- Minimum 28 days from receiving “consultation documents”
- Statutory duty for applicants to:
 - Have regard to consultation responses (Section 49)
 - Evidence this in the Consultation Report that must be included in the DCO application submission containing the draft order (Sections 37(3)(c) and 37(7))

DCO Structure

STATUTORY INSTRUMENTS		
2017 No. 1202		
INFRASTRUCTURE PLANNING		
The M20 Junction 10a Development Consent Order 2017		
<i>Made - - - 1st December 2017</i>		
<i>Coming into force - - 22nd December 2017</i>		
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- Single order brings together various powers, e.g.:
 - Acquiring land and rights compulsorily, temporary possession
 - Changes to highways (classifications, stopping-up etc.)
- Size – various schedules
- Commonly schedule about modification of enactments relating to compulsory purchase

DCO application documents

- Secondary legislation to Planning Act 2008 sets out requirements for a DCO application's contents. Amongst the draft DCO and other items:
 - Land Plan(s) – always
 - Book of Reference listing all the land interests “where applicable”; the Planning Inspectorate will use this to keep parties updated post-application, and applicants may need to update it at short deadline
 - Statement of Reasons – if compulsory acquisition powers sought
 - Funding Statement – if compulsory acquisition powers sought
 - “Rights of Way and Access” / “Street” Plans - “where applicable”
 - covers private means of access, which also need to be listed in schedule to the DCO
 - Crown Land Plan(s) - “where applicable”

After the DCO application

- Applicant's post-application acceptance notification + publicity duties
- Registration – Representation - Interested Parties
- Compulsory Acquisition hearings
- Primarily written process
- Updates on negotiations
- Applicant's post-consent notices

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Overview of the nationally significant infrastructure planning process for members of the public and others

Advice Note 8: Overview of the nationally significant infrastructure planning process for members of the public and others

1. What is an NSIP?

1.1 An NSIP is a Nationally Significant Infrastructure Project. They are projects of certain types, over a certain size, which are considered by the Government to be so big and nationally important that permission to build them needs to be given at a national level, by the responsible Government minister (the 'Secretary of State').

1.2 Instead of applying to the local authority for Planning Permission, the developer must apply to the Planning Inspectorate for a different permission called a Development Consent Order (DCO).

Contents

What is an NSIP? (Page 1)
The Development Consent process

The NSIP process has clear stages, with clear timetables:

Pre-application (Page 2)
Acceptance (Page 3)
Pre-examination
Examination
Decision (Page 4)
Post-decision
Glossary of language (Page 5)
Handout (Pages 6 & 7)

Figure 1: Examples of NSIPs – from left to right: Swansea Bay Tidal Lagoon, Thames Tideway Tunnel, North Doncaster Rail Chord and the Hinkley Point C Power Station

The NSIP process

1.3 The process for applying for a Development Consent Order is set out in the Planning Act 2008.

1.4 It came into force in March 2010 and was introduced to streamline the decision-making process for NSIPs, making it fairer and faster for communities and developers alike.

6 Minute video

To watch a brief illustrated overview of the NSIP process visit:
<https://infrastructure.planninginspectorate.gov.uk/application-process/the-process/>

Overview of the nationally significant infrastructure planning process for members of the public and others
December 2016

Version 1

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CPOs and Engagement - **The Birmingham Perspective**

Doug Lee, Development Planning Manager, Birmingham City Council





Range of CPOs

- Planning
 - New Street Station
 - The Cube
- Highways
 - Masshouse
 - Stechford
- Housing
 - Empty Homes Programme
- Education
- Transportation & Works Act Orders
- HS2 Act



Categories of CPO from LA perspective

- LA scheme - no developer involvement
- LA initiated scheme for site assembly to promote regeneration
- Developer initiated scheme - LA may or may not have landholding interest



Typical LA initiated scheme for site assembly

- LA promotes land assembly, then procures developer for delivery
- May not be a specific scheme but to be developed in line with planning policy etc.
- Planning - may or may not be express consent
- Funding for CPO process and site assembly/compensation
- Delivery – procure a developer partner



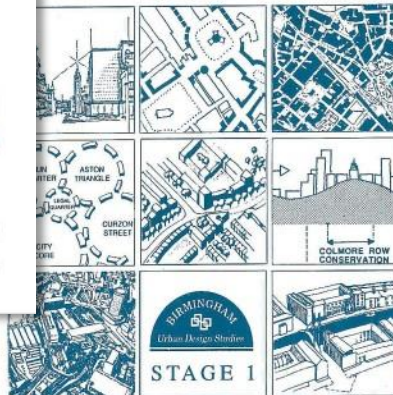
BIRMINGHAM PLAN 2031

BIRMINGHAM DEVELOPMENT PLAN Part of Birmingham's Local Plan

Planning for sustainable growth

Adopted January 2017

CITY OF BIRMINGHAM



CITY CENTRE DESIGN STRATEGY

TIBBALDS/COLBOURNE/KARSKI/WILLIAMS
APRIL 1990

Planning Policy

- National policy
- West Midlands Combined Authority
- Local planning policy
- Long standing City Centre Strategy
- Other policy and support



Public consultation

- Requirements of CPO Process
- LA decision making process
- Statement of Community Engagement
- Planning Application
- Record of consistent engagement throughout CPO process
- Resources



BIRMINGHAM 2022

XXII COMMONWEALTH GAMES CANDIDATE CITY



HEART OF THE UK, SOUL OF THE COMMONWEALTH



Athletes Village Games Time

- More than 7,000 bed-spaces
- Facilities to meet athlete and Commonwealth Games Association needs
- A 'city village' – at the heart of Birmingham and well connected
- Exceptional athlete experience



Delivering growth

- Not just about the Games
- Legacy of more than 1700 new homes across the Village site and more (c. 3000) in the wider area
- Growth supported by infrastructure:
 - Highways and public transport
 - Walking and cycling
 - Education
 - Local Centre enhancements
 - Sports, leisure and community facilities



Land acquisitions

- To deliver Athletes' Village and supporting growth and infrastructure
- 238 interests
- 42 residential properties
- Land required for the residential development for the Village now secured by negotiation
- Timeline to deliver highway, transport and temporary overlay sites is tight – CPO process running alongside negotiations



Engagement with affected parties

- Engagement with 'phase 1' (Athletes' Village Residential) started early 2017 – all acquisitions (save Pub) now achieved voluntarily, and demolition underway.
- Engagement with all other affected parties has been ongoing – especially with commercial occupiers on key sites, a number of which are progressing voluntarily.
- Letters sent to all affected parties ahead of Cabinet authority to make the Order.



Engagement with affected parties (continued)....

- Drop in sessions for all affected parties including:
 - Compensation
 - Timescales
 - Relocation
 - Rehousing
- Ongoing key contacts



The Poolway Shopping Centre

- East Birmingham
- Demolition of tower blocks
- Built form
- Quality of environment
- Public open space to rear
- Connectivity
- Homes England
- Birmingham Municipal Housing Trust







The Masterplan



Engagement

- Extensive public consultation on scheme
- Affected businesses & residents
- Local members
- Loss of part of public open space
- The unexpected



BIRMINGHAM
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CITY
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**PLAN
2031**