



Essex County Council



The role of Essex County Council in the Development Consent process for Nationally Significant Infrastructure Projects (NSIPs)

6 March 2023

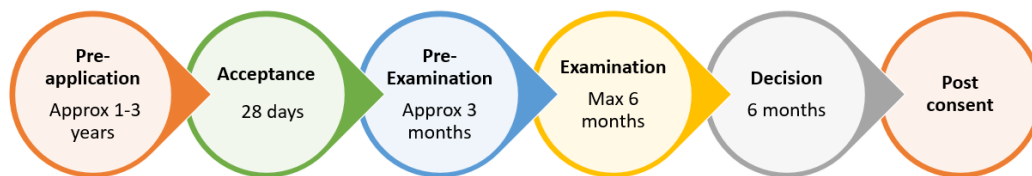
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1. The Development Consent process

- 1.1 An NSIP is development that because of its size and scale is considered by central government to be of national significance. NSIPs do not require planning permission from the local authority and the developer, often referred to as the “project promoter”, must instead make an application to the Planning Inspectorate (PINS) for a different type of permission called ‘Development Consent’. An application for Development Consent is examined in public by PINS and a recommendation made to a minister, known as the “Secretary of State” in central government, who will make the final decision.
- 1.2 National Policy Statements (NPSs) for different types of NSIPs provide the planning policy framework that will be used to decide an application for Development Consent. Development Consent is usually made in the form of new secondary legislation known as a Development Consent Order (DCO).
- 1.3 There are six key stages in the Development Consent process (“the process”) that are shown in Figure 1 and Essex County Council (ECC) can take part in all stages apart from the decision.

Figure 1: The six stages of the Development Consent process



- 1.4 Further information on the six key stages of the Development Consent process can be found in this short film by PINS:
[The process | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/the-process/)

2. ECC’s role in the Development Consent process

- 2.1 ECC is a ‘statutory consultee’ for all NSIPs located in or sharing a geographical boundary with Essex. ECC is also a statutory consultee as local highways authority, waste planning authority and lead local flood authority. This means that the project promoter and PINS have a duty to consult ECC at specific stages in the development content process. Moreover, the project promoter must

demonstrate that they have taken into consideration the comments of ECC before PINS will accept a Development Consent application for examination.

- 2.2 ECC's role as a consultee in the process is primarily to use its local knowledge and technical expertise to comment on the project promoter's approach to community consultation, improve the quality of the Development Consent application submitted and ensure that decisions taken in the national interest fully consider the impacts (both adverse and beneficial) to the local economy, environment and health and wellbeing of its communities.
- 2.3 This involves officers in liaison with the councillor who is the relevant Portfolio Holder and/or Leader of ECC:
- i. negotiating a 'Planning Performance Agreement' with the project promoter
 - ii. responding to pre-application consultation by the project promoter and PINS
 - iii. reviewing the draft DCO and discussing requirements (similar to planning conditions) and legal obligations with the project promoter
 - iv. providing an 'Adequacy of Consultation' response to PINS
 - v. attending the 'Preliminary Meeting' and agreeing the timetable for examination with PINS
 - vi. submitting a 'Statement of Common Ground' with the project promoter to PINS
 - vii. submitting a 'Local Impact Report' and 'Written Representation' to PINS
 - viii. attending and participating in the examination through written representation to questions and/or speaking at 'Hearings'.
- 2.4 Once a DCO is made, the relevant local planning authority (LPA) is likely to be responsible for discharging any planning requirements and legal obligations. This responsibility extends to compliance monitoring and enforcement, including change management. As the waste planning authority, ECC will be the relevant LPA for discharging any requirements and obligations related to waste. Unless otherwise specified in the DCO, ECC will be a statutory consultee for all other planning requirements and obligations that are decided on by other organisations.
- 2.5 ECC can also be the project promoter if an NSIP is related to its own development and as a landowner may have a wide range of land interests that are affected by 'Compulsory Acquisition'¹. In these instances, different service areas at ECC would be involved and kept separate to ensure that there was no conflict of interest.
- 2.6 Further information on the role of ECC in the Development Consent process can be found on ECC's website:
[Growth, development and Nationally Significant Infrastructure Projects - Essex County Council](#)

¹ An order granting Development Consent may include provision authorising the compulsory acquisition of land or rights over land.

- 2.7 Further information on the role of local authorities in the Development Consent process can be found in this short film by PINS:
[\(62\) Local authorities & nationally significant infrastructure projects - YouTube](#)

3. The role of ECC councillors in the Development Consent process

- 3.1 Individual councillors are not consultees in the Development Consent process but can make representation as an individual or on behalf of their constituents, as part of the project promoter's pre-application consultation and any subsequent consultation. They can also register with PINS as an 'Interested Party' to participate, either individually or collectively as part of a group, in the examination of an application for Development Consent.
- 3.2 Councillors have an important community engagement role in the process, acting as liaison between ECC and local communities. This helps to raise local issues that can be taken into consideration by ECC officers when responding to consultation on NSIPs. It can help local people understand ECC's policies, its approach to engagement and what it is trying to achieve from the process. Councillors can also provide support to local communities in understanding the application for Development Consent, its potential impacts (both adverse and beneficial) and how to get involved in the decision-making process.
- 3.3 ECC and the local community are statutory consultees in their own right. Whilst ECC should take into consideration the views of the local community, it does not necessarily have to adopt all of them.
- 3.4 Supporting the local community to engage early with project promoters at the pre-application stage provides the best opportunity to resolve or reduce the impacts caused by the construction and operation of the NSIP before an application is submitted. It is also an important opportunity to consider and maximise the local benefits that can be secured from an NSIP. Making substantial changes to an application for Development Consent becomes more difficult after it is submitted for examination. Responding to the project promoter's consultation at the pre-application stage is therefore the best time for councillors and local communities to influence the project.
- 3.5 Pre-application consultation is run by the project promoter and not ECC. This means that all comments from councillors and the local community should be made to the project promoter. Contact details for the project promoter and details relating to consultation can be found on the PINS website or will be published in the local newspaper.

- 3.6 All NSIPs are listed on PINS website:
[Welcome to Find a National Infrastructure Project](#)
- 3.7 Further information about how to get involved in the Development Consent process can be found in this short film by PINS:
<https://www.youtube.com/watch?v=BLWI2AbHXWo>
- 3.8 Further information on how to register to take part in the Examination of an application for Development Consent can be found on PINS website: [Advice Note 8.2: How to register to participate in an Examination | National Infrastructure Planning \(planninginspectorate.gov.uk\)](#)

4. The general role and conduct of councillors and officers in the Development Consent process

- 4.1 Councillors and officers have different but complementary roles in the Development Consent process. Both serve the people of Essex, but councillors are responsible to their constituents and officers are responsible for carrying out the work of ECC. Officers are employed by ECC, not by individual councillors.
- 4.2 The process works best for the people of Essex when those councillors and officers involved understand their roles and responsibilities, and the context and constraints in which they operate. A successful relationship between councillors and officers is based upon mutual trust, understanding and respect.
- 4.3 It is important to recognise that neither councillors nor officers are the decision maker for an NSIP. To have any meaningful influence in the decision-making process, ECC needs to make coherent and credible points of support or objection when it is consulted. Early engagement by a project promoter is essential to understand the impacts of an NSIP and to secure appropriate mitigation or compensation where impacts cannot be avoided. Engagement is also key to securing wider community benefits, such as training and skills development so that local people can benefit from the jobs created. ECC does not undermine any ‘in principle’ support or objection to an NSIP by engaging with the project promoter or PINS in the process, including the negotiation of mitigation, compensation or community benefits.
- 4.4 Officers will provide impartial and politically neutral advice to councillors that accords with NPSs and guidance. They will also undertake the work ECC needs to do when meeting its responsibilities to engage in the process.

- 4.5 Both councillors and officers are governed by ECC's constitution and relevant codes of conduct. These adopted codes for councillors and officers are consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Officers who are members of the Royal Town Planning Institute (RTPI) must also adhere to the RTPI Code of Professional Conduct.

This information is issued by:
Essex County Council

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