

Operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process

A response from the Landscape Institute to the Department for Levelling Up, Housing and Communities consultation.

Question 1: Do you support the proposal for a new and chargeable pre-application service from the Planning Inspectorate?

Yes, in principle. Provided that the pre-application service embodies a proportionate approach related to scale, complexity, capacity and sensitivity and incorporates effective and inclusive consultation and engagement procedures.

Question 2a: Do you agree with the 3 levels of service offered?

Yes, in principle. We welcome the Government's commitment to make the consenting process for NSIPs better, faster, greener, fairer and more resilient. However, we would wish to see assurances of an effective and objective assessment of which level of pre-app service should be applied to a project.

There is a risk that some applicants may choose a simpler and lower cost service level resulting in inadequate pre-app scrutiny and greater burdens on the examination process, thus missing the key objectives of seeking greater certainty of outcomes and speeding up decision-making. We would therefore wish to see a mechanism for deciding on the appropriate level of pre-app service to be applied, rather than it being solely a matter for the applicant.

We would also seek assurances that pre-application services at all levels are adequately resourced both in terms of expertise (including specialist advice, which may well include landscape issues, where appropriate) and capacity. It would be helpful for references to this to be included in all National Policy Statements.

Above all, we believe that all NSIP applications deserve due care and attention in terms of scrutiny and consultation procedures.

Question 2b: If you are an applicant, which of the 3 tiers of service would you be most likely to use and for how many projects? Please explain your reasons for choosing this tier / these tiers.

The existing NSIPs process is a thorough one. Provision of the proposed 3 tier system will help to overcome some of the challenges which a 'one size fits all' system throws up. Applications across the 3 tiers should, regardless of their size, structure or location, be met with the same level of care, resource and scrutiny.

As noted above, the Landscape Institute would wish to see decisions on an appropriate pre-application service level for any project being guided by an assessment additional to but independent of the applicant, thus reducing the risk of decisions being unduly influenced by cost. We note that there is likely to be increased upfront cost implications for applicants, but this should be compensated by achieving a more streamlined examination process and greater certainty of outcome. We would be supportive of the need to raise application fees payable by applicants.

Question 3: Would having the flexibility to change subscriptions as a project progresses through pre-application be important to you?

Our proposal to incorporate an independent assessment of appropriate service level should reduce this risk, but if pre-application procedures indicate need for a different service level, that should be available for any project, rather than being related to a pre-agreed subscription level and timescale.

Question 4: To what extent do you agree that the overall proposals for merits and procedural advice will enable the policy objective to be met?

We agree that the proposals for the Planning Inspectorate (PINS) to provide merits and procedural advice seek to make the pre-application stage more effective. However, this will depend on an appropriate service level being applied and adequate resourcing being available from within PINS and any other interested or engaged parties. We note the importance of statutory consultees, local authorities and community engagement in the process and the limitations of PINS in respect of these bodies.

Question 5: Do you have any specific comments on the proposals in the Table above?

Start early and start well. We welcome the Government's ambition to 'frontload' NSIP applications and the associated information and guidance needs which the Planning Inspectorate will be required to provide.

However, the consultation document does not detail how this additional capacity will be resourced. We recognise the increased importance which will be required of the Inspectorate to maintain its independence, impartiality and neutrality during the application process, under these proposals.

This needs to be thought through and clearly communicated to all parties, thereby reducing the potential for any misconceptions later. We welcome the huge potential for greater clarity, collaboration and trust which such ‘frontloading’ could potentially help to deliver.

Bringing a greater level of information forward is only part of the solution. Assembling an expert and highly collaborative inter-disciplinary team drawing in all the professional skills and talents required from the outset is also crucial.

Question 6: Do you agree with the proposed changes to the consolidated list of statutory consultees outline above?

Yes, in principle.

Question 8: Do you support the proposed introduction of an early ‘adequacy of consultation’ milestone?

Yes. Provided that a proportionate approach does not result in reduced engagement – rather it should result in more and better engagement, with effective and well-informed responses. However, we would welcome guidance on what constitutes ‘adequacy of consultation’.

Question 9: Are there any additional factors that you think the early ‘adequacy of consultation’ milestone should consider?

Guidance on good practice for consultation mechanisms to achieve effective, well-informed and representative responses, including training programmes where appropriate (e.g. for some local authorities, interest groups, etc.).

We have some concerns that local planning authorities (LPAs) do not always fully understand their role, and can appear, on some occasions, as treating NSIP applications with the same regard and process as conventional planning applications. This can be manifest in a lack of engagement and the omission of vital information. LPAs are responsible for planning applications, initiating and organising consultations. However, many LPAs are not as familiar or used to undertaking the role of being a consultee.

In many ways, this is perhaps understandable given the sheer weight of pressure and shortage of expertise that many local authority planning departments find themselves under, at the present time. However, it can inadvertently create barriers and delays for NSIPs.

There are some regions and counties with infrastructure needs e.g. Suffolk and Shropshire, which have acquired experience in dealing with NSIP applications. In these areas, authorities may well have honed their resources and talent to deal with them. Where NSIPs emerge in areas which haven't previously had such experiences and which may face capacity and procedural challenges leading to less effective engagement and more uncertainty of outcome, additional support and training inputs would be beneficial for all parties.

The use of Planning Performance Agreements (PPAs) to provide a project management framework for the whole consultation and engagement process is useful and positive. We would therefore support greater encouragement and training for local planning authorities and AONB Conservation Boards or Partnerships in the use of PPAs.

Question 10: What are the main reasons for consulting with communities on multiple times during the lifetime of an NSIP application? Are there any other factors that play a part in multiple consultations seen to be required by developers?

Changes in project proposals may necessitate additional consultation. The effects of NSIPs on the landscape can be far-reaching and may well include environmental factors not limited to visual impacts. Invariably, NSIPs benefit regional and national capabilities but their impact is also local. It's important that those who are potentially impacted by an NSIP should be identified and consulted early and that, subsequently, they are given multiple opportunities to express their views as proposals progress or are modified.

We feel strongly that building an understanding, with local communities, of the important role which design plays, of what is being proposed and the benefits and potential opportunities, both direct and indirect, which will flow from those proposals, is critical to the success of NSIPs and to community engagement. Bringing forward quality information into the public domain at an early pre-application stage which comprehensively, concisely and precisely conveys the NSIP details is vital.

Early public consultation at the concept development and design proposal stages to feed in views and evidence from those communities, the local authorities, and other key stakeholders is essential.

Landscape architects, designers and planners have a unique part to play which today goes way beyond considerations of aesthetics, beauty and visual impact assessment. Functional aspects of good landscape design and planning can be pivotal to the success of NSIPs in addressing climate change and securing

Environmental Net Gain (ENG) through natural capital, biodiversity and nature-based solutions.

We would welcome guidance on what constitutes ‘adequacy of consultation’. Public exhibitions and displays setting out the proposals in a visual format have become standard practice.

Landscape professionals go one step further by staging design workshops and inviting a wide range of stakeholders e.g. statutory consultees, local authority technical officers, town/parish council leaders and, most importantly, members of the public from the local community to participate and interact with the proposals. They are able to employ a variety of techniques and media to explain projects, create understanding and facilitate meaningful responses.

We welcome the professionalism and involvement of communication consultancies in programming, recruiting and engaging local communities in NSIP public consultations.

Guidance which sets out examples of good practice here could be advantageous to professional practitioners and the public alike.

The publication ‘Guidelines for Landscape and Visual Impact Assessment’ (produced jointly by the Landscape Institute and the Institute of Environmental Management and Assessment (IEMA)) is widely used as a standard reference and incorporates advice on presentation of relevant data.

Both institutes would welcome the opportunity to discuss and work with the Government on the future revision of the Guidelines (GLVIA) in the light of the recent consultations and considerations on planning matters such as the National Planning Policy Framework (NPPF), Environmental Outcomes Reports (EOR) and these latest NSIPs proposals.

A well-structured project approach at the earlier stages, understanding context, genuinely understanding the community, are really important issues that are very much out there. Collaboration across the professions is key.

Question 11: Are there any other measures you think that government could take to ensure consultation requirements are proportionate to the scale and likely impact of a project?

We support a proportionate approach, but would wish to see a definition or criteria as to how this would be applied. What is meant by ‘likely impact’ needs to be defined to avoid any misunderstanding later.

A GLVIA (Guidelines for Landscape and Visual Impact Assessment) report should be enshrined within the pre-application phase unless, exceptionally, a project has no anticipated landscape or visual impact. GLVIAs are generally produced as essential NSIP documentation, and can provide accessible information that can assist and inform the consultation process.

A further consideration may be the transience and seasonality of some communities of interest. For example, many towns rely on seasonal tourism for a significant part of the year and major public events, such as festivals, may only take place on an annual basis. Consideration of the impacts these have on infrastructure projects and vice versa should be taken into account.

In terms of encouraging engagement and inclusivity from consultation procedures, the Landscape Institute has recently collaborated with the Royal Institute of British Architects (RIBA) and the Association of Collaborative Design (ACD) on an overlay to the RIBA Plan of Works in respect of public engagement. This is due for publication later in the Autumn. The overlay could provide a useful input to future Government guidance on public consultation. We would welcome the opportunity to discuss how this might be achieved and supported by the Government, in collaboration with our colleagues from RIBA and ACD.

Question 12: To what extent do you agree with the proposal to remove the prohibition on an Inspector who has given section 51 advice during the pre-application stage from then being appointed to examine the application, either as part of a panel or a single person?

Please provide your reasons

We consider that the prohibition should be retained subject to there being adequate resourcing, including specialist advice, within the Planning Inspectorate (PINS). We understand that there are potential benefits in allowing an Inspector who is familiar with a Project from giving Section 51 advice to be part of the Examination panel. However, on balance, there may be some conflict or overlap of interest and lack of objectivity or, equally importantly, perceptions of these, if an Inspector involved at Section 51 stage, then proceeds to examination.

Question 13: To what extent do you agree that it would lead to an improvement in the process if more detail was required to be submitted at the relevant representation stage? Please provide your reasons

It would need to be the 'right' detail rather than simply 'more' detail. We are supportive of the need to present comprehensive, detailed material in a timely manner, particularly from statutory consultees. We also note and welcome the caveat regarding 'sufficient reasons for not being able to do so'. We would not

wish to see either statutory consultees or other stakeholders being unreasonably penalised or disadvantaged as a result of this new requirement and we are mindful that this will require additional resourcing. The underlying objective should be to ensure that, as far as possible, appropriate and relevant detail / evidence is made available to assist, inform and expedite the assessment and examination procedures.

We have referred elsewhere to the value of a Guidelines for Landscape and Visual Impact Assessment (GLVIA) study being produced at an early stage to inform all interested parties and would reiterate in this context.

Question 15: To what extent do you agree that moving to digital handling of examination materials by default will improve the ability for all parties to be more efficient and responsive to examination deadlines?

We strongly agree with the move towards digital handling of examination materials, from paper-based to screen-based, analogue to digital. This is a given. Digital assets and accessibility, with special arrangements in place for those with special needs or requiring support, should assist all interested parties and provide opportunities for broader engagement and enhanced interpretation and analysis. Greater use and application of technology should also enable greater agility, efficiency and transparency thereby giving the potential to reduce timescales within the process. Once again, clear guidance and (as necessary) standards for digital assets are required.

Question 16: To what extent do you agree that the submission of 'planning data' will provide a valuable addition as a means of submitting information to the Planning Inspectorate? Please provide your reasons

Agreed. Allowing digital planning data to be submitted will enable faster, wider and better analysis and assessment by all parties equipped to handle the digital data, subject to agreement on standards.

Question 17: Are there any other areas in the application process which you consider would benefit from becoming 'digitalised'?

The importance of good design and the presentation of this at an early stage should not be underestimated. Well-designed new infrastructure projects can – indeed, should - result in positive and multiple benefits beyond their operational objectives, and this can mitigate concerns relating to negative impacts. The use of CAD, including animations and viewpoint simulations, and GIS enable more comprehensive and potentially accessible means for analysis and assessment of projects and their potential effects.

Question 18: To what extent do you agree that projects wishing to proceed through the fast track route to consent should be required to use the enhanced pre-application service, which is designed to support applicants to meet the fast track quality standard? Please provide your reasons

We welcome the prospect of 'fast tracking' applications but see it as vital that this should be mandated as linked to the proposed, upper tier 'gold' pre-app service, with the applicant paying a premium for the privilege.

Question 19: To what extent do you consider the proposed fast track quality standard will be effective in identifying applications that are capable of being assessed in a shorter timescale? Please provide your reasons

We neither agree or disagree. We support the procedures set out in the consultation document, but have some reservations regarding the uncertainties that may apply to or arise on any specific project, notwithstanding best intentions. A greater level of detail and clear guidance will be needed in order to assess such a 'standard' together with sight of the guidance and information accompanying it.

Question 20: On each criteria within the fast track quality standard, please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes. Please also include any additional criteria that you would propose including within the fast-track quality standard?

In answer to question 20:

Quality standard specific criteria?	To what extent?	Reasons?
1. Principal areas of disagreement	Strongly Agree	The applicant must have the right to comment.
Procedure		
2a Fast track programme document	Agree	Clarity and certainty over speed. Speed should not overcome evidence. Certainty is paramount. Focus on what matters.
2b(i) include fast track intention in consultation material	Agree	
2b(ii) formal agreement to use enhanced pre-application	Agree	

2b(iii) publicise fast track programme	Agree	
2b(iv) provide evidence at submission of 2a – 2c	Agree	
3. Regard to advice	Agree	This needs to be proportionate.

Question 21: To what extent do you agree that the proposals for setting the fast track examination timetable strike the right balance between certainty and flexibility to handle a change in circumstance? Please provide your reasons

We agree and would support an overall 12-month timescale for the whole of the consenting process, provided that all issues can be fully addressed during the pre-app process.

Question 23: In addition, what topics should new guidance cover that would help to inform decisions on whether a proposed change should be considered as material or non-material?

From the Landscape Institute's perspective, any changes that potentially affect the content and findings of a Landscape and Visual Impact Assessment (LVIA) report.

Question 24: To what extent do you support the proposal to introduce a statutory timeframe for non-material change applications? What do you consider is a reasonable timeframe for determining non-material applications?

We agreed in principle, subject to the caveats, procedures and safeguards set out in the consultation and to appropriate data submission and resourcing by all parties. The introduction of a statutory timeframe will aid certainty in project planning. We consider that a reasonable timeframe for determination, post consultation, would be 8-10 weeks.

Question 25: Taking account of the description of the services in section 2.2.1 to what extent do you believe a cost-recoverable pre-application service will represent value for money in supporting applicants to deliver higher quality applications with minimal residual issues at submission? Please provide your reasons

We neither agree or disagree on the grounds we do not feel we have sufficient information to enable us to answer the question.

Question 29: To what extent do you agree that the proposed review and update of existing fees and introduction of additional fee points will support the Planning Inspectorate to better resource their statutory work on consenting? Please provide your reasons. If do not agree, are there any other ways to support the Planning Inspectorate to better resource their statutory work?

We agree that fees should be increased. We feel income generated from increased fees should be ring-fenced and reinvested in recruiting and training appropriate expertise and associated resources not only within the Planning Inspectorate but also key stakeholders such as statutory consultees, many of which are under resourced at this time.

Given the lack of understanding or awareness from some local authorities, Planning Performance Agreements (PPAs) can provide resource to local authorities including the provision of staff training delivered by the Planning Inspectorate (PINS) for those local authorities taking on their first NSIPs. This may be particularly important with regard to landscape matters.

Question 31: Do you agree with the principles we expect to base performance monitoring arrangement on? Please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes:

In answer to question 31:

Principle?	To what extent?	Reasons?
Be outcome and not output focussed to ensure better planning outcomes	Strongly agree	
Consider quality of customer service provision	Strongly agree	
Cover the provision of statutory and non-statutory advice provided by the specific prescribed bodies (outlined in section 7.2.2) through pre-application, pre-examination, Examination and Decision	Strongly agree	

Monitoring should be tailored to the context of each organisation	Agree	
Reporting should be timely, transparent, simple to understand, easily accessible and evolved over time	Strongly agree	

Question 33: To what extent do you support the proposal to enable specific statutory consultees to charge for the planning services they provide to applicants across the Development Consent Order application process?
Please provide your reasons

We strongly support the principle of statutory consultees charging for their services on Development Consent Order (DCO) applications.

Question 34: To what extent do you agree with the key principles of the proposed charging system? Please select from the options listed in the table below and give reasons in the 'comment' text box.

In answer to question 34:

Principle?	To what extent?	Reasons?
Initially limit the ability to charge to the organisations listed in table 7.1	Disagree	National bodies with a statutory remit to provide expert advice and regulatory functions should be adequately and financially resourced to deal with NSIPs and should not have to charge fees to recover costs. In the absence of such funding, cost recovery is a sticking plaster substitute that may be necessary.
Recover costs for non-statutory and statutory services provided throughout Pre-application, Pre-examination,	Agree, subject to earlier comment above	

Examination and Post-Decision		
Setting charging schemes	Agree, subject to earlier comment above	

Question 36: Do you support the proposal to set out principles for Planning Performance Agreements in guidance?

Yes. The Landscape Institute strongly supports the promotion of and guidance by Government on Planning Performance Agreements (PPAs) by local planning authorities, including AONB Boards and Partnerships, enabling them to build expertise and apply appropriate resources on NSIPs at all stages. Training for planning and local authorities lacking experience in dealing with NSIPs needs to be adequately guided, funded and resourced.

Question 37: Do you have any further views on what the proposed principles should include?

Cost recovery for effective consultation engagement and support (additional to applicant allocations).

Question 39: Do you face any challenges in recruiting the following professions? Please complete the table below and give reasons.

In answer to question 39:

Standard Occupation Classification (SOC) 2020	Recruitment challenges? Yes/No?	Reasons?
SOC2451	Architects, architectural consultants, chartered architects, landscape architects.	Yes. Our SOC is listed in the Government's Skilled Worker eligible occupations list. We have recently published research (*) highlighting the scale of the recruitment and workforce challenge within landscape. New entrants are vital if we are to continue to deliver high quality design, nature-based solutions and climate actions for NSIPs. We need more Landscape architects and more planners, in particular. We continue to make sure that our courses meet the needs of the sector. We would

		welcome collaboration with Government and others committed to the develop of centres of landscape design and planning excellence. Recent workforce research (*) published by the Landscape Institute https://www.landscapeinstitute.org/news/li-skills-and-workforce-research-2022-published/
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Question 40: Are there any other specific sectors (as identified above) that currently face challenges in recruiting? If so, please stat which ones and give reasons why.

In answer to question 40:

Standard Occupation Classification (SOC) 2020	Recruitment challenges? Yes/No?	Reasons?
SOC 2452	Chartered architectural technologists, planning officers and consultants	See answer to Question 29

Question 43: Do you support a move towards a format for guidance that has a similar format to the national planning practice guidance? Please provide your reasons

The Landscape Institute supports a dynamic approach to the format of NSIP and NPS guidance, similar to that applied to National Planning Policy Guidance (NPPG) updates, subject to effective mechanisms to ensure widespread awareness by all interested parties of any proposed updates or modifications.

About the Landscape Institute: Registered as a Charity in England and Wales (1073396) and Scotland (SC047057), the Landscape Institute works to protect, conserve and enhance the natural and built environment for public benefit.

We would welcome the opportunity to assist the Government to develop the detail needed to deliver these reforms. <https://www.landscapeinstitute.org> | policy@landscapeinstitute.org |