

National Strategic Infrastructure Project (NSIP)

Development Consent Order Examination Planning and Response Quick Guide

Organising and responding to NSIP Projects as Parish and Town Councils can be an onerous and daunting task. Detailed guidance is available at Suffolk Association of Local Councils in the form of "[Getting to Grips with NSIPs](#)". This SALC Guide was created based on work that was done by Suffolk County Council but adjusted with the help of a number of Parish and Town Councillors who had been heavily involved with both the Scottish Power Wind Farm projects and the Sizewell C project.

Do go and look at it and use it to understand the progress of the whole NSIP process. It does not go into the Issue Specific Hearings in any great detail as they will be different for every NSIP although there are likely to be recurring themes such as transport, ecological impacts, noise, pollution etc. There will also be sessions on compulsory purchase, the s106/s111 agreements to discuss compensation and mitigation, and the actual DCO document itself.

Whilst it may not be appropriate for you to attend the compulsory purchase sessions, the sessions on the DCO document itself should have a representative attend. The DCO itself is written by the developer and reviewed by the Examining Authority (ExA) and statutory consultees. It is, though, worth attending these sessions as the developer's intentions and their method for delivering the project will become apparent in the writing and review of this document.

It is also worth talking in advance with both ESC and SCC about the content of the s106/s111 agreements as it is where the developer provides funds for their activities in regulating the DCO delivery and potentially can be the place where any additional costs you see the Parish or Town Council incurring could potentially be claimed. It is also where mitigations and funds to run alongside the biodiversity net gain requirements are specified. If you have thoughts about this, it would be good to get both ESC and SCC to a separate meeting about this as they will be the main negotiators with the developer to put these agreements in place. If they are not aware of your potential costs, they will assume you have none.

It is important to remember that the NSIP DCO process is not a public inquiry. It is an examination mainly by written representations, with some face to face, online or hybrid/blended hearings.

The document below will reference specific sections and pages within the document for additional information or emphasis of points, but it is not comprehensive and you should look at the [SALC Guide](#) as well.

Background

Planning Act 2008 introduced the Development Consent Order (DCO) regime for Nationally Strategic Infrastructure Projects (NSIP) such as Airports, Highways, Desalinations plants, and energy generators. Whether a Wind Farm project becomes an NSIP is based on output (over 50MW onshore, or over 100MW offshore).

Ahead of the DCO commencement is a series of non-statutory and statutory consultations led by the Developer. These are 'front loaded' with the aim of resolving as much as possible so that the application is as best as it can be. In practise this is not always possible due to a lack of detailed information especially on design and environmental mitigation.

The Development Consent Order examination process is the final public step after the non-statutory and statutory consultations on developer plans for the NSIP development – [see pages 8 and 13-15 of the SALC Guide](#). It is vital that Parish and Town Councils engage in the pre-application consultation process, develop their understanding and acceptance or disagreements, with the proposals being made by the developer at the consultation stage, and ensure that those positions are made clear in writing to the developer during that process.

When it comes to the DCO examination process with the Planning Inspectorate (PINS) and its Examining Authority (ExA), if you have not scrutinised and responded to the developer during the consultation process, your submissions will carry less weight than if you can reference those positions from consultation responses.

It is important throughout an NSIP process from consultation through to the various stages of examination that any written responses you make are also copied to East Suffolk District Council and Suffolk County Council planning departments (they will often have a specific email address they want you to use) and your local District and County Councillors.

All consultation responses will be provided to the ExA in the DCO submission along with an indication of how the developer has responded to those consultation responses by adjusting its proposal. This does not mean that all issues raised in those consultation responses will have been responded to or whether those responses are adequate in the view of the various consultees.

Statutory Consultees and others

The host Parish or Town Council where the development will occur, along with all Parish or Town Councils that border the host council, are statutory consultees and will have been invited by the developer to participate directly in discussions about the project.

Often developers will also engage with other parish and town councils who are not statutory consultees but may be affected by increases in traffic movements or other effects. However, this is not mandatory, and it will be up to those councils to engage with the developer directly or rely on their written consultation responses and participation in the examination.

Joint Working

There is nothing to stop councils collaborating and submitting joint responses for any part or whole of the areas being examined by the ExA. Submitting joint reports does not mean you are committed during the examination to having one spokesperson. Where there may be different nuances of impact or opinion of the collaborating parties, any registered individual from the parties can express those differences or nuances at an examination session. Joint agreement and working between councils will be seen by the ExA as a positive reinforcement of whatever joint position is being taken.

The [SALC Guide](#) covers this in a more formal sense on pages 11 and 12, but collaboration can be less formal if both councils are in agreement regarding their approach.

Adequacy of Consultation and Statement of Community Consultation

All developers will write a Statement of Community Consultation (SoCC) which defines how they propose to consult with the local communities prior to submitting their DCO proposal to PINS. This will be available on their project website. Where there are multiple consultations prior to DCO submission, there may be some adjustments to the SoCC for each consultation. It is useful to ensure that you examine these as statutory consultees will be asked by PINS, following the developer submitting their DCO application, as to the adequacy of the consultation (AoC) and will have an opportunity to state their view of whether the developer met the goals of the SoCC or not. **For further details see section 2.2 of the [SALC Guide](#) on p23.**

Overall Examination and Decision Timetable

This process and timetable essentially starts when a developer submits their Development Consent Order Application. Some parts of the process have statutory timelines, others are not fixed but are presented here as guidelines.

Event	Examination stage	Statutory or Guideline	Period/Comment
Applicant DCO Submission	PINS Acceptance/Rejection	Statutory	28 days
Application publicised and posted on PINS website	Pre-examination starts	Guideline	Up to 3 months
Interested Party Registration (from date of acceptance)		Statutory	28 days and Relevant Representation must be submitted at registration
Preliminary Meeting	Last day of pre-examination	Statutory	
Following day	Examination	Statutory	6 months
Open Floor Hearing		Statutory	Typically early in the examination but there may be others later
Accompanied Site Inspection			This is typically early in the examination
ExA Questions			Limited time to respond, set by ExA
Issue Specific Hearings		Statutory	Determined during the Preliminary Meeting from Relevant Representations
ExA Questions			Limited time to respond, set by ExA
Examining Authority Recommendation	Report Stage	Statutory	3 months
Secretary of State Consideration	Decision Stage	Statutory	3 months
SoS Questions			Limited time to respond, set by SoS

DCO Acceptance, Pre-Examination and Interested Parties

Once PINS have received the AoC responses and accepted the DCO application, the documents will appear on the PINS NSIP website. The members of the ExA will have been selected and you will be able to register as Interested Parties (IP) for the examination. **You have 28 days to do so.**

When you register as an IP, it is important that **you also submit your Relevant Representation (RR) at that time.**

Statutory Consultees will be invited to register as IPs but others will have to ensure they register in order that they will be kept up to date with the examination as it progresses and to be able to contribute and speak at the various stages of the PINS examination.

Make sure that more than one councillor registers to be an IP to ensure you have coverage for illness or that those councillors with special interest or expertise/knowledge of a particular aspect of the DCO are included in your team. Being registered as an IP does not mean you have to attend all of the meetings. However, in our experience it is generally useful to attend as many of the examination sessions as you can as often items will be raised either by another IP or by the developer on which you might wish to provide an opinion, challenge or support. (You can also register as an organisation via your Clerk's address, and then decide who speaks on any specific matter).

If you are not there, your opinions will not be heard.

Pre-examination issues are covered in [section 3 of the SALC Guide starting p25](#).

The ExA can also appoint Assessors (specialist experts) and/or Legal advisors to assist them. In some cases, there may be only one Inspector, if a team this is normally a maximum of 5 individuals, who are verified to ensure no conflict of interest.

It is important to remember that the NSIP DCO process is not a public inquiry, it is an examination mainly by written representations, with some face to face, online or hybrid/blended hearings.

Relevant Representation

The RR should be succinct and well structured with clear section and paragraph numbering so you can refer to these when you expand your concerns and points later in the examination. While this is not the time for long or emotive diatribes, ensure you do not miss out any of your concerns or areas you wish to have the ExA assess during the examination. Adding new areas for examination in later will be very difficult.

The ExA uses the submitted RRs alongside the DCO application to set out the proposed examination timetable and hearings.

Once RRs have been submitted, you are able to review these documents. There is nothing to prevent you from responding to them in writing to the ExA if you think they raise issues that you feel require a response or challenge. This principle applies throughout the examination to any document submitted to the ExA by any party.

Local Impact Report

It is very important to engage with District and County council to inform the Local Impact Report that they submit. You may wish to write your own local impact report as you are much more likely to understand impacts than either ESC or SCC. During the non-statutory and statutory consultation stages you may wish to start identifying issues of local impact.

The report should give details of the likely impact of a project on the local authority's area. [Sections 104\(2\)\(b\) and 105\(2\)\(a\) of the Planning Act](#) explains that the Examining Authority and the Secretary of State must have regard to any LIR submitted when deciding the application. Therefore, local authorities should not underestimate the importance of the report.

The report should cover any topic the local authority considers is relevant to the impact of the project on their area and the local communities affected. See [content of the local impact report](#).

The purpose of the LIR is to make the Examining Authority aware of the potential impacts of the project based on local knowledge. It is a technical, evidence-based assessment of all the impacts. The LIR is therefore not the document where the local authority should set out its objections or support for the application. These should be done in the relevant representation.

The deadline for these will be early in the process, so write it at the same time as your RR. **Further details are in section 4.4 of the [SALC Guide on p32](#).**

Draft Timetable

The ExA will publish a draft timetable for the examination. It can be challenged if you have good reason. (For example: ESC and SCC had some changes made in the Sizewell C examination to account for holiday periods.)

Preliminary Meeting

This meeting is about the structure and timetable of the examination, not about the issues and contents. Make sure you or someone from your council attends this meeting. This meeting often occurs on the morning of the first day of the DCO with the Examining Authority expecting to start the timetable that afternoon. If you have specific comments on the timetable these should also be made in your RR. (There may not be a gap between the preliminary meeting and the examination start.)

Once the preliminary meeting is concluded, the 6-month examination starts and, unless the ExA asks the Secretary of State (SoS) for an extension and the extension is agreed, then the examination must conclude in 6 months.

Accompanied Site Inspection

Early in the process there will be a site inspection where the developer takes the ExA around all the major development sites.

Make sure someone or several people, if they have specific knowledge, from the council go to it. Ensure the attendance level is appropriate.

The developer will show the development in its most positive light. You can offer your own comments and discuss downsides and impacts that the developer will avoid talking about altogether. To ensure a particular issue is addressed or

cumulative impacts, you should also include any request for site visits in your RR, or as early as possible in the process, to allow these to be included in the timetable.

Deadlines

Throughout the examination, after every examination session or following publication of questions from the ExA, there will be a deadline for responses to be submitted. These are always tight and it is likely that they will not allow for discussion at your next Town or Parish Council meeting. Empower your representatives to create and submit these outside of your regular council meeting approval sessions, or use email review and approvals, but ensure that in extremis the submissions can be made on time and approved at a subsequent meeting.

Open Floor and Issue Specific Hearings

Everyone who speaks at any hearing introduces themselves before speaking and will be expected to submit a Written Representation (WR) of what they said. If presenting some technical information, the ExA may ask you to provide that in detail.

All hearings are recorded and a computer-based transcript is made available shortly after the hearing is finished. The transcript will recognise (reasonably well) your name and affiliation, and timing information will also appear at each contribution. If the session is also online through Teams, the video recording will also be there. These are very useful as they will help you refer back to what other IPs, SCC, ESC, EA, NE or the developer has said that might assist in compiling your WR.

Typically, there is one Open Floor Hearing at the beginning of an examination. It is an opportunity for anyone who is an Interested Party to give an overview of their position regarding the DCO application, rather than linked to a particular issue (which is covered by Issue Specific Hearings (ISHs)).

Issue Specific Hearings are where the details of the application are examined. The ExA will not take kindly to contributions that drift away from the subject area at hand, so keep your contributions tightly focused. You should identify any topics for examination by ISH in your RR, as this assists ExA to play the timetable.

If you find someone has already covered a point you had planned to discuss, and you agree with their contribution, say so and don't go through it again but expand on any point you think wasn't fully covered and move on to anything that hasn't already been raised.

If you have supplementary information that supports your contribution that is too long to discuss fully in the examination, let the ExA know that you will be providing it with your WR. If you had already raised an issue with the developer during the consultation phases and consider the issue has not been dealt with adequately, let the ExA know.

In any WR that refers to DCO documentation already in the DCO library, **be sure to use the Examination Library references** and use page/section/paragraph numbers to help the ExA. Use hyperlinks in your WR to take the ExA directly to examination documents.

Do not hyperlink to supporting documents that are external to the examination library. Always provide a copy so it can be included in the library.

In general, provide all your WRs and other documents as PDF (preferable) or Word documents, although occasionally spreadsheets and PowerPoint files have been submitted.

Documents and Questions from the ExA

Read all documents from the ExA as they appear and ensure that you look at all the appendices. The document library will be updated frequently with responses from the Developer, IPs and questions from the ExA. You will not be automatically notified, so it is vital to review this regularly.

This can be quite resource intensive; you may wish to work with another Parish or Town council with similar impacts and share this task.

The ExA will ask questions specifically of the developer, statutory authorities and potentially anyone who has contributed at a hearing. Ensure you answer any questions that are specifically to you but do not be afraid of responding to any question in the ExA's questions documents where you feel you have a position or contribution to make.

Statements of Common Ground (SoCG)

Early on in the examination, the developer will want to develop statements of common ground with the various statutory authorities and town and parish councils who are affected by the project. This is generally initiated by the developer. They will want to itemise all of the areas of discussion/difference that have been raised between you in the consultation phases and which may arise during the examination.

SoCGs are also a place where you can make plain your differences of opinion on a subject where the common ground is in fact agreement on your differing views of a particular issue.

The ExA may ask for differences to be itemised in a Principal Areas of Disagreement Summary Statements (PADSS) rather than the SoCG document. This is in the purview of the ExA but either way you should ensure that you're areas of disagreement/difference are documented in one or the other.

If there are issues you think the developer has not covered in their submission to you, add those issues in yourself and the developer will have to respond.

These documents will be setup and initial versions submitted early during the examination. These will develop during the examination with a final deadline for an agreed version which is signed by both parties.

If you haven't been asked to participate on a SoCG but you feel you need to have such a document created to document your issues and the developer's responses, then request it from the developer. If you receive no joy, raise it with the ExA. More details can be found in the [SALC Guide, section 4.6 p33](#).