

Guidance on associated development
Applications to the Infrastructure Planning Commission

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Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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Introduction

1. The Planning Act 2008 (the Act) received Royal Assent on 26 November 2008. Part of the Act creates a new system of development consent for nationally significant infrastructure projects (NSIPs). The new system covers nationally significant energy, transport, water, waste water, and waste infrastructure projects. The number of applications and permits required for such projects will be reduced under the provisions of the Act.
2. A major role in the new system is to be played by an independent body called the Infrastructure Planning Commission (IPC). The IPC will be responsible for examining applications for development consent for NSIPs. The IPC will also be responsible for deciding any such application when a relevant national policy statement is in force. National policy statements will set the framework for decisions by the IPC.
3. If the IPC decides to grant development consent for an NSIP it may, under the provisions of section 115 of the Act also decide to grant consent for development that is associated with that NSIP.
4. The Act defines associated development as development which is associated with a NSIP as defined in Part 3 (Nationally Significant Infrastructure Projects) of the Act and which is granted consent under the Act. The construction or extension of one or more dwellings is specially excluded from the definition of associated development. Sub-sections (2) and (3) of 115 of the Act set out other requirements which must be satisfied in order for development to be associated development.
5. Associated development can include development in England and in waters adjacent to England. It includes development in the field of energy in a Renewable Energy Zone, but not in any part of a Renewable Energy Zone in relation to which the Scottish ministers have functions. Associated development does not include housing, or development in Scotland, or in waters adjacent to Scotland. It does not include development in Wales, except for surface works, boreholes or pipes associated with underground gas storage by a gas transporter in natural porous strata.
6. The Act provides that it is for the IPC to decide whether development is associated development, but in doing so it must have regard to the provisions of section 115 of the Planning Act and to any guidance issued by the Secretary of State. That guidance is contained within this document. This guidance is written for the IPC but it will also be useful for potential applicants and others.

Background

7. The white paper *Planning for a Sustainable Future* set out the Government's proposals for improving the way in which applications for development consent for NSIPs were considered. The provisions for associated development were introduced to ensure that NSIPs are as far as possible treated holistically. The reforms that will be introduced when the Act is fully implemented will enable the IPC to grant a single consent where previously many different and overlapping consents may have been required. Prior to this a single project could require multiple permissions under several different regimes, particularly projects involving linked developments – for instance, where a port expansion required improved road or rail links it required applications under several different regimes. A number of stakeholders told the Eddington Study in 2006 that the need to make multiple applications significantly increased the costs of applications and acted as a real barrier to bringing forward proposals. It could also mean that it was harder to visualise the total impacts of the proposals and therefore it was more difficult for stakeholders to participate in the debate about them.
8. The Act provides for a new streamlined procedure for an NSIP by rationalising the different development consent regimes, by providing for promoters to apply for associated development as part of their main project, and as far as possible by creating a single application process for all of the development authorisations needed for NSIPs.¹
9. However, it should be noted that in some cases, development which could be considered as associated development would otherwise be consented by the relevant local planning authority. *Strong and prosperous communities*, the Local Government white paper published in October 2006, set out the Government's commitment to giving local government and their partners more freedom and powers to meet the needs of their citizens and communities and to enable citizens and communities themselves to play their part. Planning is a core function of local authorities and is central to their role as place shapers. Associated development should only be included in an application for an NSIP where there is a clear case for so doing.

¹ There is also a provision at s120(3) of the Act that will enable the IPC to give development consent for matters ancillary to the development for which consent is granted. Ancillary matters are listed at schedule 5 of the Act which is reproduced at Annex B of this document for reference.

Associated development – principles

10. It is for the decision maker to decide on a case by case basis whether or not development should be treated as associated development. Where the decision maker is the IPC, it must have regard to the following principles when deciding whether development can be treated as associated development:

Associated development should not be an aim in itself but should be subordinate to and **necessary for the development and effective operation to its design capacity of the NSIP** that is the subject of the application.

We would expect associated development in most cases to be of a type normally brought forward with that sort of primary development. For clarification it could include:

- measures necessary to mitigate the impacts of the primary development
- innovative development ideas where the resulting development would fulfil the principles outlined in this guidance and
- in relation to transport infrastructure, retail/business space where this is not disproportionate to the retail/business space normally found in similar types of infrastructure of a comparable capacity

Development should not be treated as associated development if it is actually an integral part of the NSIP.²

Single application

11. It is for applicants to decide whether to include something that could be considered as associated development in an application for development consent to the IPC or whether to apply for consent for it via other routes. However, where an applicant does wish to apply for consent for something as associated development to an NSIP, it should be included in the application for the main development. The IPC can only consider associated development in conjunction with the main application and has no power to consider a separate application unless this is an NSIP in its own right.
12. A single application can cover more than one NSIP. As far as possible we would wish to encourage applicants to make a single application where NSIPs are clearly linked.

² Development should not be treated as associated if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the cost of construction of the core infrastructure. This does not mean that the applicant cannot cross-subsidise, but if part of the development is only necessary as a means of cross-subsidising the main development then this part of the development will not be treated as associated development.

13. The IPC should not treat as associated development a development that is an NSIP in its own right.

EU Environmental Rules

14. The IPC will be a “competent authority” for the purposes of the Environmental Impact Assessment (EIA) directive (85/337/EC) and the Habitats directive (92/43/EEC). The IPC will therefore be responsible for ensuring that the provisions of these EU environmental directives are met.
15. Where an applicant submits an application for an NSIP which would fall within the scope of relevant EU environmental rules, the IPC is required to consider the application in line with its obligations under these directives. Where the application includes associated development, this will need to be included in the IPC’s consideration under these directives. The IPC will need to consider the impacts of any associated development in conjunction with the rest of the application to ensure that it identifies the total impact of the proposal.
16. If an applicant intends to include associated development in an application to the IPC the IPC should ensure that the applicant includes this associated development in any request to the IPC for “screening” and “scoping” opinions under the EIA directive.
17. Where a proposed application may require “appropriate assessment” under the Habitats directive, the IPC, as the competent authority, must ensure that they consider whether any associated development requires an “appropriate assessment”.

Examples of associated development

18. Annex A provides examples of the type of development, both in general terms and in NSIP specific terms, that may qualify as associated development. This list is illustrative. It is not an exhaustive list, nor is it prescriptive. Some associated development may be away from the site of the NSIP. All associated development, including that which is in the annexes, must comply with the principles set out in paragraph 10 above and with the requirements of the Act.
19. In particular technological and other forms of progress will mean that some types of associated development could not have been foreseen when this guidance was written.
20. In exercising its discretion on what may be considered as associated development the IPC must take account of this guidance document.

Annex A

Associated development – general aspects

Access arrangements

- formation of new or improved vehicular or pedestrian access (to stations, work sites etc.), whether temporary or permanent
- stopping up, diversion or alteration of roads and footpaths, and bridleways and construction of new or altered roads and footpaths (potentially including diversion of coastal paths)
- diversion/realignment of watercourses
- construction of new rail, road or foot bridges, viaducts or tunnels, and works to reconstruct, alter or replace existing ones
- railway and associated works (including freight sidings, passing loops, level crossings, gauge clearance); railway lines for moving aggregates during construction, jetties for unloading raw materials arriving from sea
- highway and rail route/junction improvements (which may provide some benefit to third-party network users as well as users of the NSIP)
- other highway-related works, eg to facilitate demand management measures or to provide lorry parking or service facilities
- parking spaces for workers and users of the NSIP

Connections to national networks

- electricity networks
- water/waste water
- fuel and pipe-line network
- telecommunications networks
- grid connections -electricity, water, telecommunications, gas

Other infrastructure

- maintenance sites
- accommodation for staff who must be on site to enable the operation or maintenance of the NSIP (but note that s115 of the Act provides that this cannot include the construction or extension of dwellings).
- emergency response facilities
- security measures
- fuel depots
- creation of associated working sites
- site offices
- flood defences

Development undertaken for the purpose of mitigating impacts

- landscaping and fencing works
- replacement land, open space or common land
- flood defences and flood mitigation measures
- measures to prevent coastal erosion
- mitigation measures to prevent or address environmental nuisance
- creation of compensatory habitats
- nature conservation and habitat creation
- creation of dedicated noise barriers

Associated development specific to individual categories of NSIP

Generating stations

- offsite fuel storage
- substations
- overhead/underground lines
- waste storage – ash processing plants for coal-fired and biomass stations
- waste heat – plant and pipework to supply waste heat to the boundary of the site

Offshore renewable energy installations

- onshore works including:
- substations
- overhead/underground lines
- jointing pits

Underground gas storage facilities

- surface works such as pumping/compressor stations
- boreholes and pipelines to storage facilities

Electric lines

- substations
- distribution lines
- control buildings
- sealing end compounds
- diversion of other overhead lines

Gas transporter pipe-lines

- surface works – above ground installations such as pumping stations

Oil pipelines

- pumping equipment
- oil processing plants to manage and control oil in the pipeline
- storage tanks
- road handling facilities

Cross-country pipelines

- surface works

Highways

- replacement roadside facilities where this becomes necessary due to the elimination of an existing facility by highway improvement
- infrastructure associated with cycle/pedestrian access
- off-site landscaping, habitat creation and other environmental works
- off-site drainage works
- alteration/diversion/stopping up of local roads, accesses and other rights of way
- alterations to canals, railways and watercourses and
- off-site diversion of statutory undertakers equipment

Airports

- freight distribution centre, including freight forwarding and temporary storage facilities
- provision of piers and airside operational buildings
- relocation of helipad within the airport perimeter
- additional fuel storage tank and associated infrastructure
- accommodation for freight forwarding, storage and industrial use
- materials recovery building and energy from waste centre

Harbours

- works for the accommodation or convenience of vessels (including dolphins and pontoons)
- lights on tidal works during construction
- construction of a viewing platform or other such public amenity
- relocation of apparatus of statutory undertakers (mains, sewers, drains, pipes, cables, pylons etc.)
- supplementary harbour works for the benefit of third parties/to assist the Environment Agency
- creation or enhancement of a logistics or distribution centre
- development of nearby port-related process facilities
- off-site facilities for vehicle safety or security controls
- off-site coast protection works required because of expected changes in wave energy propagation consequent on the main development
- provision of compensatory facilities for commercial or leisure fishing
- development associated with the use or disposal on land of dredged arisings

Railways

- construction of new railway stations, and improvements, alterations and extensions to existing stations (new footbridges, platform extensions, ticket halls etc.)
- construction/alteration of maintenance depots and marshalling yards;
- relocation of apparatus of statutory undertakers (mains, sewers, drains, pipes, cables, pylons etc.)
- provision of pressure relief or ventilation shafts and access thereto
- associated improvements/alterations to curtilage of railway station, e.g. enhanced parking facilities, revised layout for bus and taxi facilities

Rail freight interchanges

- warehousing

Dams/reservoirs

- water transfer system, e.g. pumping station, water transfer tunnels, pipelines
- access arrangements – road, rail, paths
- recreational amenities where the reservoir is required to serve as a public amenity

Water treatment plants

- water transfer system, e.g. pumping station, water transfer tunnels, pipelines
- landscaping
- waste water transfer systems
- storage facilities (such as for sludge, grit, etc.)
- sludge handling, including incineration
- power generation/distribution plant

Hazardous waste facilities

- storage (both of incoming waste and for any outgoing residues that need to be moved to another facility)
- vehicle parking for HGVs transporting hazardous waste to the site
- pipelines

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Annex B

Ancillary Matters

SCHEDULE 5 Provision relating to, or to matters ancillary to, development

Part 1 The matters

1. The acquisition of land, compulsorily or by agreement.
2. The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement.
3. The abrogation or modification of agreements relating to land.
4. Carrying out specified excavation, mining, quarrying or boring operations in a specified area.
5. The operation of a generating station.
6. Keeping electric lines installed above ground.
7. The use of underground gas storage facilities.
8. The sale, exchange or appropriation of Green Belt land.
9. Freeing land from any restriction imposed on it by or under the Green Belt (London and Home Counties) Act 1938 (c. xciii), or by a covenant or other agreement entered into for the purposes of that Act.
10. The protection of the property or interests of any person.
11. The imposition or exclusion of obligations or liability in respect of acts or omissions.
12. Carrying out surveys or taking soil samples.
13. Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.
14. The removal, disposal or re-siting of apparatus.

15. Carrying out civil engineering or other works.
16. The diversion of navigable or non-navigable watercourses.
17. The stopping up or diversion of highways.
18. Charging tolls, fares and other charges.
19. The designation of a highway as a trunk road or special road.
20. The specification of the classes of traffic authorised to use a highway.
21. The appropriation of a highway for which the person proposing to construct or improve a highway is the highway authority.
22. The transfer to the person proposing to construct or improve a highway of a highway for which that person is not the highway authority.
23. The specification of the highway authority for a highway.
24. The operation and maintenance of a transport system.
25. Entering into an agreement for the provision of police services.
26. The discharge of water into inland waters or underground strata.
27. Deeming consent under section 34 of the Coast Protection Act 1949 (c. 74) to have been given by the Secretary of State for operations specified in the order and subject to such conditions as may be specified in the order.
28. Deeming any such conditions to have been imposed by the Secretary of State under that section.
29. Deeming a licence under Part 2 of the Food and Environment Protection Act 1985 (c. 48) to have been issued by a specified licensing authority for operations specified in the order and subject to such provisions as may be specified in the order.
30. Deeming any such provisions to have been included in the licence by the specified licensing authority by virtue of that Act.
31. The creation of a harbour authority.
32. Changing the powers and duties of a harbour authority.
33. The transfer of property, rights, liabilities or functions.

34. The transfer, leasing, suspension, discontinuance and revival of undertakings.
35. The payment of contributions.
36. The payment of compensation.
37. The submission of disputes to arbitration.
38. The alteration of borrowing limits.

Part 2 Interpretation

39. (1) This paragraph applies for the purposes of this Schedule.
- (2) "Transport system" means any of the following:
 - (a) a railway,
 - (b) a tramway,
 - (c) a trolley vehicle system,
 - (d) a system using a mode of guided transport prescribed by order under section 2 of the Transport and Works Act 1992 (c. 42).
- (3) "Maintenance", in relation to a transport system, includes the inspection, repair, adjustment, alteration, removal, reconstruction or replacement of the system.
- (4) The following terms have the meanings given by section 67(1) (interpretation) of the Transport and Works Act 1992 (c. 42):
 - "guided transport",
 - "tramway",
 - "trolley vehicle system".

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