



Consultation on Examination Procedures for Nationally Significant Infrastructure Projects

A response by the English National Park Authorities Association October 2009

Introduction

1. The English National Park Authorities Association (ENPAA) exists to provide a collective voice for the nine English National Park Authorities. It is governed by the Chairs of the nine Authorities, and our response represents the collective view of the Authorities. It has been prepared by officers, working within the policies established by the National Park Authorities (NPAs). Individual NPAs may submit separate comments, which will draw on the specific issues for their particular region.

2. As planning authorities with statutory National Park purposes we followed the passage of the Planning Bill carefully, and take a keen interest in its subsequent implementation. We welcome the consultation on Guidance and Regulations and wish to raise respond on three specific areas raised by the consultation.

Question 2: Assessors for the Examining Authority

3. The consultation paper asks what assessors would be acceptable to assist the examining authority to consider relevant issues. We welcome the use of assessors and believe a wide range of expertise will potentially be required. This includes, for example for:

- landscape;
- biodiversity; and
- the historic environment.

4. The Government relies on the expertise of statutory agencies like Natural England, English Heritage and the Environment Agency within England, and we believe they are well placed to provide that assessor role for the IPC.

Question 6: List of Statutory Parties

5. The consultation paper provides a copy of the draft Infrastructure Planning (Interested Parties) Regulations and asks if there are any other bodies that should be listed. We understand that those organisations listed will have an automatic right to make representations about an application to the examining authority. The consultation paper goes on to explain that these "interested parties" shall be given important entitlements before, during and after the examination process. We are concerned that National Park Authorities are not listed in the Schedule of these Regulations and wish to see them included.

6. The omission of NPAs and the Broads Authority from this list mirrors the CLG Consultation on pre-application consultation and application procedures for NSIPs

where we also expressed similar concerns. We understand from the Summary of Responses that CLG has recently published, that it will not be listing local authorities since they are statutory consultees under Section 43 of the *Planning Act*. This definition in the Act includes National Park Authorities and the Broads Authority. It remains the case, however, that there is potential for considerable confusion. We would urge the inclusion of Statutory Consultees in this Regulation or reference to be made in the Regulation to those Statutory Consultees set out in Section 43, and for this to be reinforced in Guidance.

7. A practical way of addressing this would also be to list those bodies in Section 43(3) of the *Planning Act 2008* in paragraph 28 of the Guidance for the Examination of applications for development consent for NSIP (Annex 4 of the consultation paper).

Question 11: have regard duties

8. We welcome reference in the consultation document to the duty to have regard to National Park purposes. We recognise the reasoning behind not listing these existing duties in a Statutory Instrument. It does, however, rely on a good understanding of the range of duties – and what precisely they mean.

9. We believe it would be helpful to applicants, and to the IPC if the range of existing duties could be spelt out with links to existing Guidance. The aim would be to ensure these duties are complied with, to assist applicants in their own planning, and to avoid delays caused by a lack of awareness of existing duties.

10. Although the consultation paper refers to the Section 11A (2) duty to have regard to National Park purposes, it does not spell out what this means in practice for promoters of NSIPs. Although this will differ depending upon each case, ENPAA would be happy to work with the IPC and CLG on some general principles.

11. We believe the Infrastructure Planning (Decisions) Regulations 2010 should include a new reference to the *European Landscape Convention* (Council of Europe: European Landscape Convention, Florence, 20.X.2000) which the Government signed in February 2006.

12. And for development that might affect (and not just be within) a National Park, the Regulation should include the following in line with established policy:

“Major developments (including those of national significance) should not take place in National Parks, or their setting, except in exceptional circumstances and only after the most rigorous examination. Major development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should include an assessment of:

- (i) the need for the development, including in terms of any national considerations, the impact of permitting it, or refusing it;
- (ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- (iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Major development that is allowed to proceed should be of high environmental standards.”