



**Prosperous Communities  
Committee**

**Tuesday, 2 November 2021**

**Subject: Decision and delegation protocols Nationally significant  
infrastructure projects (NSIP)**

Report by:	Assistant Director of Planning and Regeneration
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Purpose / Summary:	West Lindsey District Council are now aware of three Nationally Significant Infrastructure Projects (NSIP) where we will undertake the role of 'host authority' within the Development Consent Order (DCO) process. This paper sets out what will be required of the Council and how decisions will be taken at each stage of the process.

**RECOMMENDATION(S):**

That Prosperous Communities Committee agree the decision and delegation protocols set out at Appendix 1 when acting in the role of "host authority" for a Nationally Significant Infrastructure Project.

And as such delegate the following responsibilities to the Assistant Director of Planning and Regeneration at this time: -

- Preparation and sign off of Planning Performance Agreement
- Preparation and sign off of S106 Agreement
- \* Statement of Community Consultation (SOCC) response
- \* Draft Preliminary Environmental Impact Report response (draft Environmental Statement)
- \* Environmental Statement (submission version) – ongoing dialogue
- \* Adequacy of Consultation Response (AoC)

## IMPLICATIONS

**Legal:** Legal advice could be required throughout this process, including within the examination. The Council will use its contract with Legal Services Lincolnshire to fulfil its needs. Should more specialist advice and guidance be required, this will be procured in line with contract and procedure rules.

**(N.B.) Where there are legal implications the report MUST be seen by the MO**

**Financial :** The resourcing of this process will be subject to a separate decision and therefore there are no financial implications arising specifically from this paper.

**(N.B.) All committee reports MUST have a Fin Ref**

**Staffing :** Dedicated resource will be required to manage and inform the process of dealing with a Nationally Significant Infrastructure Project and this will be the subject of a separate decision. Therefore, there are no staffing implications arising specifically from this paper.

**(N.B.) Where there are staffing implications the report MUST have a HR Ref**

### **Equality and Diversity including Human Rights :**

The developer must prepare a Statement of Community Consultation (SOCC) that sets out how the local community will be engaged in the proposals. This should explain how the project will seek the views of different groups. The council will ensure that the proposed consultation provides opportunity for any interested parties to meaningfully engage in the consultation process.

*NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).*

**Data Protection Implications :** None arising from this report.

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**Climate Related Risks and Opportunities:**

The three current proposals that require the Council to consider how it engages in the DCO process, subject to approval, would deliver significant amounts of renewable energy. The scale of the proposals, measured in mega watt production capacity is the determining factor in the proposals being considered by government through the DCO process (each are over 50MW).

We understand that the proposals are driven by the governments net zero carbon strategy, taking advantage of the unique opportunity afforded by the decommissioning of the coal fired power stations at Cottam and West Burton.

**Section 17 Crime and Disorder Considerations:** No implications arising from this report.

**Health Implications:** Any impact on the health of our communities will be part of the technical analysis contained within the Local Impact Report. This paper proposes that the Local Impact Report is considered and approved by Prosperous Communities Committee.

**Title and Location of any Background Papers used in the preparation of this report :**

The following website provides resources that will support this process:

<https://infrastructure.planninginspectorate.gov.uk>

**Risk Assessment :**

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

**Key Decision:**

A matter which affects two or more wards, or has significant financial implications

**Yes**

**No**

## **Executive Summary**

West Lindsey District Council have received early notification of three Nationally Significant Infrastructure Projects that will require local authority input in the role of host authority.

NSIPs are considered by the Planning Inspectorate for ultimate decision by the Secretary of State. This is known as a Development Consent Order process and sits outside of the realms of the Town and Country Planning Act.

The role of the local authority within the DCO process is set out within the Planning Act 2008.

This paper sets out the role that the local authority will undertake in the DCO process and proposes a route for decision making and officer delegation.

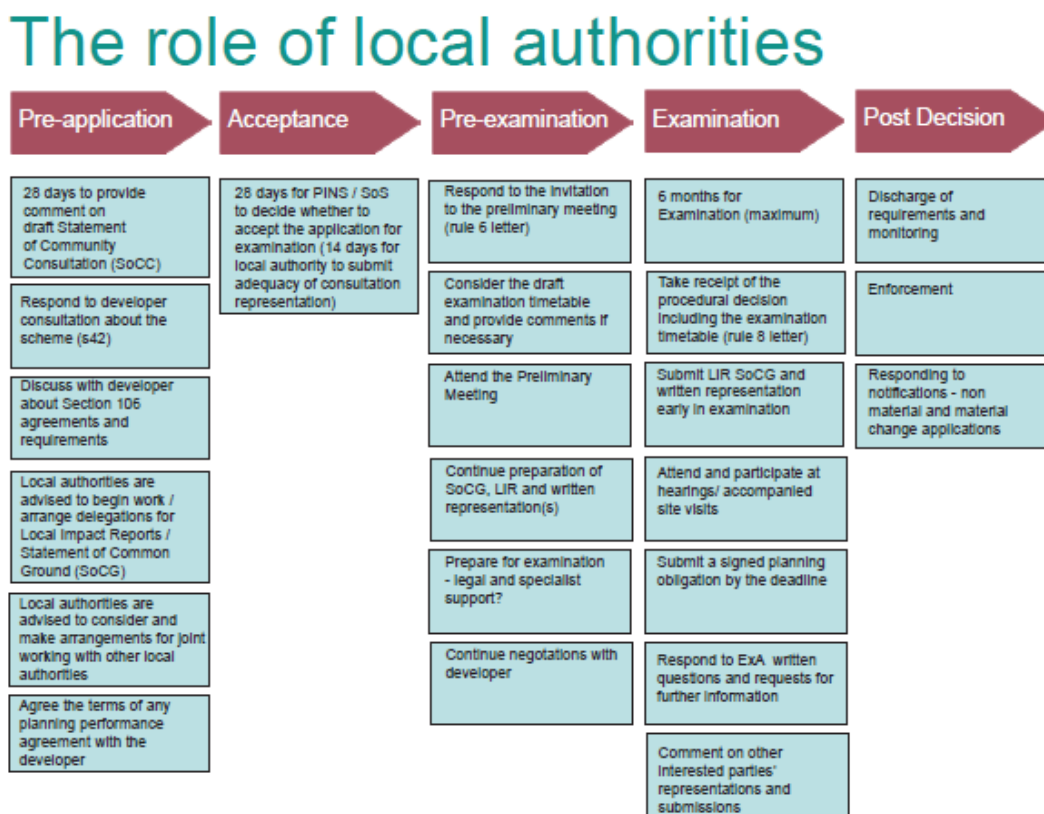
# 1 Introduction

- 1.1 The Council have recently been made aware of three Nationally Significant Infrastructure Projects where West Lindsey District Council will perform the role of host authority in the Development Consent Order process.
- 1.2 The Planning Act 2008 introduced the Development Consent Order process to streamline decision making process for nationally significant major infrastructure projects with the aim of making the process fair and faster for communities and applicants alike.
- 1.3 Instead of making an application for planning permission to the Local Planning Authority under the Town & Country Planning Act, the applicant instead applies for a Development Consent Order (DCO) directly to the Government. The application will be considered by the Government's Planning Inspectorate, who will make a recommendation to the relevant Secretary of State who then makes the final decision. So for a renewable energy scheme of over 50MW, this would be determined by the Secretary of State for Business, Energy and Industrial Strategy.
- 1.4 There are six stages of the National Infrastructure Planning process. These are:
  1. **Pre-application:** Before submitting an application, potential applicants have a statutory duty to carry out consultation on their proposals.
  2. **Acceptance:** When the applicant submits an application for development consent the Planning Inspectorate, on behalf of the Secretary of State, must decide whether or not the application meets the standard required to be accepted for examination.
  3. **Pre-examination:** This stage allows Interested Parties (including members of the public) to register and make a representation to the Planning Inspectorate on the proposals.
  4. **Examination:** The Planning Inspectorate has up to six months to carry out the examination. The Planning Inspectorate will consider all important and relevant matters with questions posed and answered through a hearing or series of hearings.
  5. **Recommendation and Decision:** Within 3 months of the examination closing, The Planning Inspectorate prepares a report on the application for consideration by the relevant Secretary of State who then decides whether to grant or refuse development consent.
  6. **Post Decision:** Once a decision has been issued by the Secretary of State there is a six week period where this can be challenged.
- 1.5 West Lindsey District Council is a host authority for the three current NSIP proposals for solar farm development. The role of host authority is set out in the Planning Act 2008. Participation is not obligatory but is strongly advised by the Planning Inspectorate. The local authority has the opportunity to provide an important local perspective at the pre-application stage, in addition to the views expressed directly to the

developer by local residents, groups and businesses. Local authorities will also become responsible for discharging many of the requirements (akin to planning conditions) if development consent is granted. Local authorities are also likely to have a role in monitoring and enforcing many of the DCO provisions and requirements.

## 2. The role of local authorities

The diagram below sets out the five (out of six) stages of the DCO process in which the local host authorities have a direct role.



2.1 As set out above, one of the early tasks at the pre application stage is for the local authority to consider and arrange the necessary delegations for certain elements of the process.

2.2 There are a number of key documents that the local authority have the opportunity to respond to.

- 2.3 We have considered published advice and taken guidance from colleagues across Central Lincolnshire that have worked on similar DCOs previously to assist in proposing a delegation and decision route for NSIPs in West Lindsey.
- 2.4 It is recognised that during the DCO process and specifically the examination, there will be numerous deadlines for local authorities and other interested parties to submit further representations. This will require a swift response and response times are set out in the Planning Act 2008.
- 2.5 The Planning Inspectorate and NSIP process operates to a strict timetable with submissions typically required to a set deadline. Planning Inspectorate guidance to local authorities suggests that there will not be time within the process to seek committee approval for all required responses and representations, therefore ensuring that adequate delegations are in place is essential. The guidance states *“There is unlikely to be time to seek committee approval for representations made by a local authority during the examination. In general terms a local authority must assume that it won’t be possible for the examination timetable to be structured around its committee cycle.”* However, we consider that it will be appropriate to seek member approval for the Local Impact Report (LIR) and the Written Representations (WR), which will both be submitted during the examination stage. Whilst there will not be formal committee decisions for each report / stage we will continue to provide detailed briefings and updates throughout the process to ensure members are fully engaged and able to consider the LIR from an informed position.
- 2.6 The LIR is defined as ‘a technical report giving details of the likely impact of the proposed development on the authorities area (or any part of that area)’. Local authorities can cover any topics they consider relevant to the impact of the proposed development including local planning considerations. The examiner and the Secretary of State must have regard to any LIR submitted by a relevant authority. The Planning Inspectorate Guidance sets out that ‘A written Representation is the most appropriate document for a local authority to set out its view on the application i.e whether or not it supports the application and it’s reasons’.
- 2.7 Appendix 1 sets out the full list of documents that the local authority must prepare / agree a response to, at what stage of the process these are required and the proposed decision route.
- 2.8 It is proposed that the LIR and WR’s are prepared by officers, with input from technical specialists, for approval by Prosperous Communities Committee. As set out within the Constitution, Prosperous Communities Committee is responsible for ‘the regeneration, housing and planning strategies which together form the council’s approach to place shaping’.
- 2.9 For clarity, the approval of the LIR/Wr’s is not considered to be within the remit of the Planning Committee because the DCO sits outside of the scope



of the Town and Country Planning legislation which is Planning Committees area of responsibility.

2.10 The Central Lincolnshire Joint Strategic Planning Committee will be a consultee in the process.

2.11 For the remaining documents it is considered that with support where required from specialist input that the decision route is delegated by Prosperous Communities Committee to the officer leading on the DCO process on behalf of the local authority with sign off required by the Planning Manager (Development Management).

2.12 As we are dealing with a number of DCOs, should there be a need to review the decision and delegation process this will be the subject of a further report to this committee.

### **3. Recommendation**

That Prosperous Communities Committee agree the decision and delegation protocols set out at Appendix 1 when acting in the role of host authority for a Nationally Significant Infrastructure Project.