

TITLE: Delegation Process for Nationally Significant Infrastructure Projects

Committee: Planning Committee

Date: 5th November 2025

Author: Major Projects Planning Officer

Report No: AA83

Contact Officer: Holly Durrant, Major Projects Planning Officer
holly.durrant@eastcambs.gov.uk
01353 616360
Room No 011 The Grange Ely

Proposal: To agree delegated authority for Nationally Significant Infrastructure Project (NSIP) related responses and discharge of requirements for Development Consent Orders (DCO).

1.0 RECOMMENDATION

1 The Planning Committee is recommended to:

- (a) Delegate authority to the Strategic Planning and Development Management Manager and Director of Operations to submit Nationally Significant Infrastructure Project (NSIP) related responses and represent the Council at examination as part of the NSIP process on behalf of East Cambridgeshire District Council and its regulatory functions, in consultation with the Chair and Vice Chair of the Planning Committee, and the leaders of all political groups, on occasions where there is not enough time for a report to be delivered to Planning Committee; and
- (b) Delegate authority to the Strategic Planning and Development Management Manager and Director of Operations to determine Development Consent Order (DCO) 'requirements' as part of the DCO process on behalf of East Cambridgeshire District Council and its regulatory functions, in consultation with the Chair and Vice Chair of the Planning Committee, and the leaders of all political groups, on occasions where there is not enough time for a report to be delivered to Planning Committee; and
- (c) Note that where delegated powers are used, draft responses will be sent to Local Members and the Members of the Planning Committee ahead of submission; and
- (d) Note Appendix 1 setting out details of the Kingsway Solar Farm NSIP; and
- (e) Delegate authority to the Director Legal and Monitoring Officer to make the necessary changes to the Council's Constitution.

2.0 EXECUTIVE SUMMARY

- 2.1 In accordance with the national objective of boosting the delivery of infrastructure projects, the East Cambridgeshire District is seeing an increase in the number and scale of Nationally Significant Infrastructure Projects (NSIPs) both within and bordering its administrative boundaries.
- 2.2 Very recently in the Summer of 2024, the Sunnica Energy Farm DCO (solar farm) was allowed by the Secretary of State for Energy Security and Net Zero. The council is also a 'host authority' to the Kingsway Solar Farm DCO proposed to the south of Six Mile Bottom (currently at pre-application stage – See **Appendix 1** for more information on the project). There are also several energy, water and transport-related NSIPs within wider Cambridgeshire and Norfolk, such as East-West Rail and the Fens Reservoir, which have the capacity to affect the district and its communities.
- 2.3 NSIPs are determined at the national level. The applicant/promoter will apply to the relevant Secretary of State for a Development Consent Order (DCO) (such as the Secretary of State for Energy Security and Net Zero for energy-related NSIPs). East Cambridgeshire District Council is not therefore a determining body and acts solely in the capacity of a statutory consultee alongside the other two host authorities.
- 2.4 This report includes the timescales the district council will be expected to meet in responding to consultations on NSIPs as issued by the promoter and Secretary of State (via the Planning Inspectorate), as well as post-consent deadlines for allowed DCOs, and any associated risks.
- 2.5 Currently officers have had to rely on emergency powers within the constitution to respond to key NSIP deadlines to ensure the council has been represented in the process. However, when facing increasing numbers of NSIPs, it is necessary to formalise this process to ensure it remains open and transparent and all stakeholders are appropriately engaged.
- 2.6 The Committee is therefore recommended to delegate powers to officers where there is not enough time to take consultation responses or DCO-related decisions to Planning Committee for endorsement. This is to ensure deadlines can be met, deemed consent of DCO 'requirements' is avoided, and the council's submissions given their full weight in the NSIP process.

3.0 BACKGROUND

The Nationally Significant Infrastructure Project (NSIP) Process

- 3.1 The Secretary of State is the decision-making body for DCO applications, with the Planning Inspectorate (PINS) serving as the 'Examining Authority' (ExA) and performing planning functions on behalf of the Secretary of State. The Examining Authority will assess the DCO proposals and make a final recommendation to the Secretary of State, who then makes the final decision on the DCO outcome. The Secretary of State can depart from the recommendation of the ExA, as was the case with the Sunnica NSIP granted in the summer of 2024.

- 3.2 East Cambridgeshire District Council does not have authority to determine the outcome of NSIPs and acts in the role of a statutory consultee as defined by Section 42 of The Planning Act 2008 alongside any fellow host authorities. The host authorities are expected to submit timely consultation responses throughout the NSIP process to inform the decision-making process providing local and specialist knowledge.
- 3.3 The grant or consent of a DCO (which is a new piece of legislation in its own right) can include both development permission and the Compulsory Acquisition Orders required to deliver the development. Consent under the process may also be subject to conditions (also known as 'requirements'), and the discharge and enforcement of these rest with the host authorities including the council.

Stages of the NSIP Process

- 3.4 The NSIP process comprises six stages:
1. Pre-application
 2. Acceptance (following submission of the application to the Inspectorate)
 3. Pre-examination
 4. Examination
 5. Recommendation and Decision
 6. Post decision (discharge of 'requirements' – similar to conditions)

Timeframes for Response / Determination

- 3.5 The following milestones are where the council will be expected to provide input, with the timeframe for response also indicated:

Pre-application and Acceptance Stages

- scoping response (28 days)
- statement of community consultation response (28 days)
- principal areas of disagreement summary statement
- non-statutory and statutory consultation response (deadline for response provided by the applicant)
- adequacy of consultation representation (14 days)

Pre-Examination and Examination Stages

- relevant representation (minimum 30 days)
- local impact report (early in the examination stage)
- written representation (early in the examination stage)
- responses to the Examining Authority's written questions and requests for information (timeframe variable – usually a matter of weeks)
- comments on the applicant/promoter's draft DCO
- statement of common ground (to be agreed, where possible, by the close of examination – a maximum of 6 months, or 4 months for fast-track consent applications)
- DCO obligation (if appropriate)

3.6 The above deadlines are set predominantly by the Inspectorate with limited exceptions. These being the non-statutory and statutory consultation deadlines, and comments on the statement of community consultation, which are set by the applicant/promoter ahead of their formal submission to the Inspectorate.

3.7 During the examination stage, following submission of the application, the Inspectorate advises that:

“During the pre-examination and examination stages any submissions received after a deadline may not be considered by the Examining Authority. There is unlikely to be time to seek committee approval for submissions during the examination stage.

It is important therefore that local authorities consider the level of approval required for these activities. They should arrange agreed powers at Cabinet as early as possible during the pre-application stage to enable officers to respond quickly and effectively.”

3.8 It is relevant that by virtue of being a host authority, East Cambridgeshire District Council automatically benefits from ‘interested party’ status. This means that the council will be invited to partake in the examination of the DCO even if representations are not forthcoming. Nevertheless, in order to shape the discussions and key matters to be considered during the examination, the Inspectorate encourages all local authorities to make representations to provide the Examining Authority with early views on the DCO application.

3.9 With regard to ‘requirements’, the nature of these vary between DCOs. For the Sunnica DCO this included matters such as rights of way, battery fire safety and ecological and planting schemes. The host authority responsible for determining each ‘requirement’ can also vary, and in currently two-tier authorities the responsibility for dealing with a requirement will sit with the local authority most appropriately equipped to deal with it. For example, matters relating to flood risk, highways and fire safety will be dealt with by the County Council in their capacity as the Flood, Fire and Highways Authority.

3.10 It is crucial to note that for many such ‘requirements’, the failure of the local authority to determine the application in time often results in a deemed discharge (approval). Often, the timeframe for determining these requirements is severely limited (for example 56 days for Sunnica) despite the levels of technical information required to be considered being vast.

3.11 Many DCOs therefore limit consultation on requirements to only those consultees absolutely necessary in order to ensure timely decisions are made.

4.0 MAIN ISSUES

The Role of the Local Authority in the NSIP Process

4.1 The council will inform the NSIP process and the impact of Kingsway Solar Farm Ltd’s proposals by providing local and specialist knowledge. The above timetable of milestones are the key stages at which the council will input into this process.

- 4.2 Guidance issued by the Inspectorate identifies the following important functions of the local authority in the NSIP process:
- providing the applicant with a local perspective on the proposed project
 - if consent is granted, they may need to monitor and enforce some parts of the Development Consent Order (DCO)
 - if consent is granted they may be the authority to discharge certain requirements (like conditions attached to a planning permission), or they may act as a consultee for a requirement.
- 4.3 More information as to the role of the local authority in the NSIP process is provided at Appendix 2.
- 4.4 As a district council, officers will collaborate with its internal specialists on matters within its remit, such as environmental health, ecology, noise, heritage and planning. Officers will also work with specialists from the other host authorities including the County Council (in its capacity as the Minerals and Waste Authority, Lead Local Flood Authority and Local Highways Authority) with regard to flood and water, highways, public health, minerals and waste, and archaeology. Advised by these specialists, Officers will prepare/collate technical responses to inform the council's submission to the inspectorate and the applicant/promoter.
- 4.5 It is important to note that proactive engagement with the applicant/promoter is encouraged by the Inspectorate in the early stages of the process to help shape the project before it is submitted for formal examination. This is because making fundamental changes to a project at examination stage is not as easily secured.
- 4.6 It is also important to note that early engagement does not prejudice the local authority's future submissions or position on the proposals, but rather ensures that should the DCO be allowed, opportunities to secure the best scheme possible have been fully explored.
- 4.7 The guidance issued by the Inspectorate states:
- "The applicant should engage local authorities in the early stages of preparing their application and programme document. The local authority should participate in the applicant's engagement activities, such as taking part in topic based working groups or technical briefings. The applicant should be aware however that this is not a statutory requirement for the local authority. The local authority should engage with the applicant even if they disagree with the project in principle. Early engagement with the applicant will not undermine any objections or submissions they may make during the next stages of the NSIP process."*
- 4.8 The Inspectorate expects that this engagement will continue into the pre-examination period as well as during examination. Both the council and applicant/promoter parties should continue their negotiations on any outstanding issues, disagreements, or points of clarification. This includes in relation to any negotiations on compulsory acquisition in the applicant's proposals which may affect any local authority land holdings or interests. It is important that as many

issues as possible are resolved in advance of examination to ensure a focused and expedient process for all participants.

- 4.9 It is therefore fundamental that the council ensures it meets all deadlines set by the applicant/promoter and Inspectorate in a timely manner, to ensure these representations are included in the Examining Authority's overall assessment. As set out at Paragraph 3.10 of this report, the Inspectorate advises host authorities to establish delegated authority as soon as is reasonably practicable to ensure these timely responses and submissions.
- 4.10 Whilst local authorities should consider the views and concerns of the local community, the Inspectorate makes clear that *"A local authority and the local community are consultees in their own right. Whilst local authorities should have regard to what the community is saying, it is not intended that they necessarily adopt all of those views put to them. In this context, local authorities in particular must conduct themselves in line with the National Policy Statements and the relevant guidance."*¹
- 4.11 This report is therefore being presented to the Planning Committee prior to the submission of the Kingsway Solar Farm application to the Inspectorate to enable officers to submit responses within the deadlines set and appropriately represent the council for this project and future projects.

5.0 CONCLUSION AND RECOMMENDATIONS

- 5.1 It is critical that officers respond in a timely and comprehensive manner to all deadlines as part of the NSIP process, whether set by the applicant/promoter or the Inspectorate. These deadlines will increase in both quantum and level of detail expected post-submission of the application to the Inspectorate, and it is within the Inspectorate's power to disregard any late responses.
- 5.2 For the Sunnica NSIP (allowed) and for the Kingsway NSIP (pre-application stage) thus far, officers have been utilising emergency powers within the constitution to respond to key deadlines to ensure the council has been represented in the process. Nevertheless, when facing the very likely possibility of increasing numbers of NSIPs, it is necessary to formalise this process to ensure it remains open and transparent, and all stakeholders are appropriately represented. There has currently not been any discharge of requirement applications for NSIPs in the district.
- 5.3 The requirement that all responses or discharge or requirement applications be signed off by a committee however risks key response deadlines being missed or deemed approval being granted, as well as severely limiting the time officers can dedicate to preparing these responses and decisions. This means responses and decisions may not be as comprehensive or well-informed.
- 5.4 To mitigate this risk officers are seeking delegated authority to respond to deadlines during the NSIP process (including the pre-application stage) and determine discharge of requirement applications. This delegated authority is sought where

¹ [The role of local authorities in the development consent process](#)

time does not permit responses or decisions to be drafted and presented to a planning committee ahead of formal submission / determination for endorsement.

5.5 There are a very limited number of NSIP deadlines that would likely be able to be presented to a committee for endorsement as follows:

- **Non-statutory consultation and statutory consultation** – non-statutory consultation is optional, and the timeframes provided by the applicant for a response is therefore variable, usually a limited number of weeks. The minimum period for mandatory statutory consultation is 28 days. Statutory consultation is a very detailed consultation on the NSIP proposals, often the first time the local authority will have seen the scheme in any great detail. By targeting a planning committee to endorse any response to this consultation would provide a very limited window for officers to review an extensive catalogue of technical documents, consult its specialists and prepare a response. If the applicant provides a longer timeframe for consultation, which is within their gift, there is a greater but still limited window for presentation at a committee.
- **Local Impact Report (LIR)** – the LIR is an extensive and detailed document, setting out the council's views on the impacts of the proposed development informed by local and specialist knowledge. The LIR should be prepared over several months and submitted near the start of examination. It is therefore likely that a draft of this report could be present to a committee for endorsement.

5.6 It is considered unlikely that any discharge of requirement applications would be able to be presented to Planning Committee given the risk of deemed consent.

5.7 It is therefore proposed that the following delegation arrangement is followed:

- (a) Delegate authority to the Strategic Planning and Development Management Manager and Director of Operations to submit Nationally Significant Infrastructure Project (NSIP) related responses and represent the Council at examination as part of the NSIP process on behalf of East Cambridgeshire District Council and its regulatory functions, in consultation with the Chair and Vice Chair of the Planning Committee, and the leaders of all political groups on occasions where there is not enough time for a report to be delivered to Planning Committee; and
- (b) Delegate authority to the Strategic Planning and Development Management Manager and Director of Operations to determine Development Consent Order (DCO) 'requirements' as part of the DCO process on behalf of East Cambridgeshire District Council and its regulatory functions, in consultation with the Chair and Vice Chair of the Planning Committee, and the leaders of all political groups on occasions where there is not enough time for a report to be delivered to Planning Committee; and
- (c) Note that where delegated powers are used, draft responses will be sent to Local Members and the Members of the Planning Committee ahead of submission; and

(d) Note Appendix 1 setting out details of the Kingsway Solar Farm NSIP; and

(e) Delegate authority to the Director Legal and Monitoring Officer to make the necessary changes to the Council's Constitution.

5.8 Notwithstanding the above, to ensure open and transparent communication is maintained throughout the process, the following is proposed:

- For currently pending NSIPs, key documents and updates on the project will be provided to members of the Planning Committee, Local Members, Director of Operations and the leaders of all political groups by email at the earliest opportunity. This includes highlighting key submission dates, documents and deadlines. Any comments on the documents/deadlines should be made promptly, especially where deadlines are short.
- For currently pending NSIPs, responses will be taken to Planning Committee for endorsement wherever possible, and any final responses prepared by officers which are sent to the Inspectorate or the applicant/promoter to meet statutory deadlines will be circulated to members of the Planning Committee and local members.
- For currently pending NSIPs, where necessary and time permits, officers will host member briefings or topic-specific meetings to provide guidance on the NSIP process and the council's technical response(s) to NSIPs.
- For discharge of requirements, circulation to members of the Planning Committee, Local Members, Director of Operations and the leaders of all political groups of any decisions issued by the council for their information.

5.9 If these recommendations are approved, officers will be able to respond quickly and effectively during the lifetime of the NSIP process.

5.10 It is critical that officers have delegated powers to enable them to submit timely responses where there is insufficient time to present a response or decision to Planning Committee, to ensure the council and its communities are appropriately represented throughout the NSIP process and to avoid deemed consent of any requirements the council may be responsible for determining.

6.0 APPENDICES

6.1 Appendix 1 – Kingsway Solar Farm NSIP Proposals

6.2 Appendix 2 – The role of local authorities in the NSIP process