

POLICY STATEMENT BY THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

Extension of the nationally significant infrastructure planning regime to business and commercial projects

The Planning Act 2008 provides for a streamlined authorisation process for nationally significant infrastructure projects, including energy, transport, waste, water and waste water. Changes brought forward under the Growth and Infrastructure Act 2013 will provide developers of the most significant business and commercial projects in England with the option of having their projects considered through that process.

Extending the 2008 Act to a range of business and commercial projects will provide greater certainty for projects that are genuinely nationally significant and where the developer wishes to use this route to obtain development consent. The 2008 Act requires a final decision to be taken within one year from the start of the examination of an application. It also provides a ‘one stop shop’ approach to consents, which will be particularly beneficial to the largest and most complex projects, where multiple consents would otherwise be required.

The draft Regulations published today prescribe the types of business and commercial projects that are capable of using the regime. They are construction projects in a range of fields that are potentially nationally significant, including offices, research and development, manufacturing, distribution, sport and tourism, and mining projects. Any developer who wishes their project to be dealt with under the 2008 Act will need first to ask the Secretary of State for a direction. The Secretary of State must be satisfied that the project both falls within one of the prescribed types of project and is nationally significant.

In considering whether a project is of national significance, the Secretary of State will consider all relevant matters, including:

- whether a project is likely to have a significant economic impact, or is important for driving growth in the economy;
- whether a project has an impact across an area wider than a single local authority area;
- whether a project is of a substantial physical size – further details are set out below; or
- whether a project is important to the delivery of a nationally significant infrastructure project or other significant development.

The Secretary of State will reach a decision on any request on the basis of the information provided by developer. The Secretary of State will also consider any matter which the Secretary of State considers relevant to whether a direction should be made. This will include:

- whether a project is likely to require multiple consents or authorisations, and which, in consequence, would benefit from the single authorisation process offered by the nationally significant infrastructure regime;
- whether the project is related to a nationally significant infrastructure project being brought forward at the same time and therefore would benefit from the scheme being considered as a single application through the 2008 Act regime.

Each request will be considered on its own merits, but the Secretary of State would expect those developers who are thinking of asking for a direction to bear in mind the following.

Although size in itself will not be the determining factor in whether a project is nationally significant or not, the Secretary of State would not normally expect to receive requests for directions in relation to projects that are not of a substantial size. For example, the Secretary of State would not normally expect to receive requests for construction projects where the gross internal floorspace to be created by the project is less than 40,000m²; for leisure, tourism and sports facilities where the area to be developed is less than 100 hectares; or for sports stadia where the seating capacity is less than 40,000 seats.

For minerals projects, the Secretary of State would not normally expect to receive requests for projects unless they involve the extraction of a strategically important industrial mineral, or extraction of a mineral on a significant scale, for example where the surface or underground area was over 150 hectares.

Some specific types of development cannot be included in applications under the 2008 Act regime. Housing is excluded from this regime. The Government's view is that determining planning applications for housing is a primary responsibility of local planning authorities who should be responsible for ensuring an adequate supply of housing in their area. Similarly, projects involving the extraction of peat, coal, oil and gas are also excluded. Such projects should normally be dealt with by minerals planning authorities (or for offshore oil and gas by the Department of Energy and Climate Change).

In addition, the Secretary of State considers that local planning authorities should normally decide planning applications for retail projects. Some projects that fall within the prescribed types of project might include an element of retail. However, the Secretary of State would not expect to receive requests where a project is retail-led.

The Mayor of London has planning powers in London and under the new provisions in the 2008 Act, the Secretary of State cannot make a direction in relation to a project in London without agreement from the Mayor of London. That agreement should be obtained before a direction is requested. The Secretary of State would also not normally expect to receive requests for projects in Greater London that would not be considered as applications of potential strategic importance in London under the Town and Country Planning (Mayor of London) Order 2008.

The 2008 Act already enables more than one nationally significant project to be considered through a single application. For example, a single application for development consent could potentially encompass both a prescribed business or commercial project as well as a nationally significant infrastructure project in one of the existing infrastructure fields of energy, transport, waste, waste water and water. There is also significant flexibility to allow for a project to include a mix of uses. For example a nationally significant manufacturing project could include some related energy or transport infrastructure.

Developers of major business or commercial projects who wish to make use of the authorisation process under the Planning Act 2008 should make a request in writing to the Secretary of State for Communities and Local Government via npcu@communities.gsi.gov.uk (enquiry line - 0303 444 8050). To enable the Secretary of State to make a decision within the statutory deadline of 28 days, developers should provide the following with each request: details about the nature of the project including its size; the relevant local planning authority or authorities; confirmation that the project falls within the prescribed description; and reasons why the Secretary of State should consider the project of national significance. Applicants should have regard to the Regulations and ensure that their project meets the requirements set out within them.