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Respondent's Details	
Name	Charles Wagner
Organisation	English Heritage
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Improving the pre-application phase and ensuring consultation requirements are proportionate	
<i>Do you agree with the explanation of the current issues that need to be addressed?</i>	
<p>Response: Yes, especially points in the 3rd and 6th bullets on quantities of information produced and preliminary environmental information in the Environmental Statement (ES).</p> <p>Our experience with NSIP projects has shown that at times applicants provide too much information at the expense of its quality. For example a townscape and visual impact analysis covered wide areas in the same broad-brush way, reducing the proper consideration of spatially smaller but more significant locations.</p> <p>The scoping of the ES statement needs to be undertaken in a more qualitative way which includes feedback to all parties. If the ES is large, the limited timeframe given to review it means that important matters could be overlooked. Consideration of the ES in advance of the application submission can ensure that all the issues are included at the start of the examination. Otherwise the first opportunity to understand all the issues and thus any cumulative impacts would be when reviewing the submitted application.</p>	
<i>Do you agree with the possible ideas which have been put forward and are there other ideas you would like to be considered?</i>	
<p>Response: We support many of the ideas put forward. We have concerns over the suggestion that Statutory Consultees should only be contacted when the application affects their interests. We would want to know who would decide when consultation with the relevant agency was necessary and whether that decision-maker would have the necessary expertise. We suggest it would be preferable to alert Statutory Consultees to every application and give them a limited period to decide on their level of further involvement.</p> <p>As a Statutory Consultee would find it helpful to be involved in the engagement protocol, once we had seen pre-application details of the development proposal and determined that we might have issues relating to the historic environment.</p> <p>We agree with the need to provide more advice on drafting Development Consent Orders. There was the Infrastructure Planning (Model Provisions)(England and Wales) Order 2009 which set out provisions for a DCO, but this lapsed with the Localism Act changes to the 2008 Act. It would be worthwhile reviewing the advice in this as a template document.</p> <p>We would like to stress the benefits of early consultation which allow issues of potential conflict to be ironed sorted out be negotiation ahead of submission of the application and have first hand experience of this positive early consultation</p>	

process.

Do you agree that there are areas of the regime which could be streamlined and do you have any suggestions on how this could be achieved?

Response: We do not agree with the removal of prescription setting out precise details of the size and scale of maps and plans required for the application. This level of information provides the basis for understanding the application and assessing impact to know if there are issues we believe which need to be dealt with and the level of engagement with the matter thereby leading to clarity and certainty.

The streamlining of requirements so as to only consult specific bodies when really necessary causes us concern. We would need to be assured that there will not be uncertainty as a result as to who needs to be consulted and when.

Additionally missing out relevant consultees could lead to challenges and slowing down the process. We would suggest that early engagement with the statutory consultees and ability for those consultees to opt out of later engagement and consultation as the application does not relate to their remit would be a more practical way forward. Linked to this could be a time period within which the statutory consultee must confirm their involvement in the matter.

What steps do you think could be taken to further streamline the pre-application stage and reduce the amount of time this stage takes?

Response: We think that the changes need to be around making the present pre-application stage work better. Pre-application, as the consultation document states, was designed to remove a lot of the conflict from the examination phase, and to truncate too much might reduce the ability for Inspectors to reach agreement for Statements of Common Ground with the applicant and those making representations.

We would like to suggest that PINS consider having an interim health check on applications with the applicant submitting a 'State of the Issue Report' to PINS up to a year in advance of submission. This could highlight what the main issues are coming out of the pre-application consultations. In response PINS could issue a 'Direction of Travel' report in response giving an indication of expectations for resolution or highlighting queries at the route of disagreement. This might unlock deadlocked positions at an earlier stage. This observation is made in the light of experience with NSIP schemes where the differences between parties resolve far more quickly after the issue of first written questions in an examination.

Would you support the proposal to make examples of documents available on the National Infrastructure website? If so, are there any types in particular?

Response: Yes. Having examples of good documentation would be useful. We would highlight the Thames Tideway Tunnel as an example. We could provide a précis of what happened with the Thames Tideway Tunnel as an example of what went right in terms of engagement, but also the use of "technical notes" to keep everyone informed of what was outstanding in terms of information to be provided and agreement reached. Prior to technical notes the parties used 'trackers' literally to keep track of the many and varied elements of issues that arose out of this complex application.

Thames Water deserves praise for their very early and consistent and

<i>constructive engagement with other parties. This began at the second phase of their site allocation process and enable English Heritage and other statutory consultees assist in the site selection process.</i>
<i>Is this an area which the review should focus upon and are there any changes you would prioritise over others?</i>
Response: Yes
Improving pre-examination and examination phase
<i>Would you support the suggestion that relevant representations should be published as soon as they are received by the Planning Inspectorate?</i>
Response: We think it would be more important for the Planning Inspectorate to set out guidelines for the thresholds for what is an ‘acceptable’ application.
<i>Are there any other issues relating to the examinations process other than those already identified in this section which you think need to be addressed?</i>
Response: We agree that it would appear to make sense to have one set of representations, but it depends on the timescale for production of the document. Publication should be as soon as possible AFTER the deadline for submission has passed. There also needs to be clarity on the experience of the Inspectors to deal with topics - i.e. heritage, archaeology, marine.
Consideration should also be given to asking for outline Statements of Common Ground from the parties as a preliminary phase of the examination, and providing a steer on how that needs to be developed for all parties to work on before the examination gets underway.
<i>Your views on the issues that have been raised and the ideas that have been put forward as possible changes for the examination process and other suggestions for improvement?</i>
Response: Agreeing statements of common ground in advance welcomed, but there needs to be an appreciation of the timing of the submission. If agreement is reached before the application is submitted, then the applicant cannot then change the application and expect the Statement of Common Ground not to need reviewing. So there needs to be flexibility in the system to accommodate this.
<i>Are there ways in which the information requirements which are placed on applicants at pre-examination and examination stages could be reduced?</i>
Response: There needs to be full and proper examination by the Inspectors, for there to be a fairness in the system to take account of the responses given to the scheme and to ensure the appropriateness of the evidence and information before the Inspectors to make sure it is an informed decision.
<i>Should making changes to the examinations process be a priority for this review and which change would you most like to see?</i>
Response: Yes
Changes to Development Consent Orders after consent is granted
<i>Do you agree with the idea of streamlining the current consultation and notification arrangements in cases where non-material changes to development consent orders are being made?</i>

<p>Response: The Secretary of State needs to receive advice on whether a change is non-material, and this can be done through a process of publication and consultation with those involved in the scheme (supporters and objectors). Alternatively, there would need to be clear guidance on what was considered to be "non-material", however this may be difficult as it would need to be determined on a case by case basis.</p>
<p><i>Do you think a distinction between minor and more significant material changes would provide a model for simplifying the process for changes to development consent orders?</i></p>
<p>Response: The difficulty in splitting material into "minor and significant" is that it very much depends on what the change is and the scheme it relates to. If there is the publicity, then there might be the opportunity for a reduced time period for consideration, but this should not be at the expense of proper consideration.</p>
<p><i>Are there other ways to shorten or simplify or otherwise improve current processes for making changes to development consent orders?</i></p>
<p>Response: There should be encouragement to get on with the consented scheme as soon as approved, so it is unlikely to require changes. Though we accept that when works are tendered for, the contractor might want to make some changes to the construction that improve the scheme. However, in light of the extent of engagement of the various parties and the careful consideration given by the Examining Authority as to the requirements imposed in the Development Consent Order it is unclear to what extent there can be scope for change, as although it may only be proposed as a minor change there could be implications on other matters within the DCO arising as a consequence.</p>
<p><i>Should this be a priority area for the review?</i></p>
<p>Response: Yes</p>
<p>Streamlining Consents</p>
<p><i>Has the government got the balance right in its approach to handling consents under the nationally significant infrastructure planning regime or is further streamlining required?</i></p>
<p>Response: Yes we believe that the balance is about right.</p>
<p>Improving engagement with local communities, local authorities and Statutory Consultees</p>
<p><i>Do you agree with the views expressed to date about the issues faced by local authorities, communities and statutory consultees in engaging in the nationally significant infrastructure planning regime?</i></p>
<p>Response: We agree that this is an important area and welcome opportunity for early engagement and involvement and in sharing lessons learned. We think it might be helpful to have a feedback session with PINS regarding the schemes that have gone through to distil this.</p>
<p><i>Do you support the ideas for improvement which have been suggested so far for strengthening engagement are there any other ideas or solutions which you think should be considered?</i></p>
<p>Response: Yes and see above.</p>
<p><i>Should this be a priority area for the review?</i></p>
<p>Response: Yes</p>

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