

# The Development Consent Order Process

Overview for Bedford Borough Council

Nigel Phelps, EWR TP Area West DCO Lead

9 March 2026

## Presentation Structure

- Pre-Application
  - Consultation
  - DCO Submission
  - Acceptance Stage
  - Pre-examination
  - Examination
  - The Made Order
  - Post Decision
- *Key theme of the presentation is to make clear the responsibilities of the Local Authority vs the Applicant*
  - *The changes brought in by the Planning & Infrastructure Act 2025 have also been highlighted*

# Pre-application Stage (1)

## During this stage:

- The programme for pre-application stage is governed by the applicant and can take a number of years, particularly where there are separate phases to assess broad route corridors, route options for the preferred corridor, and fine tuning of the design.
- This stage is 'front loaded' to address not only the project development and its environmental assessment, but also extensive consultation and engagement with stakeholders including LAs, statutory environmental bodies (SEBs), utility companies, landowners, and communities.
- The Planning Inspectorate (PINS) and the applicant meet periodically to discuss the project, issues likely to become material at examination and the DCO application.



# Pre-application stage (2)

## Applicant's role

- Undertake site surveys
- Develop engineering design
- Environmental impact assessment (EIA) and mitigation design
- Targeted consultation
- Engagement with affected parties, stakeholders and other consultees
- Drafting and production of the DCO application for submission

## Change Introduced by PIA 2025:

- Removal of Statutory Consultation Requirement – to be replaced by guidance-based system
- Commencement Regulations required (date still unknown, guidance likely from government in early summer)
- Access rights to survey land made easier

## LPA's role

- Respond to PINS's consultation on the EIA Scoping Report
- Negotiate a Planning Performance Agreement (PPA) with the applicant
- Help develop the scheme through collaborative working on technical issues
- Respond to Consultations to help shape the project
- Support preparation of draft Statement of Common Ground (SoCG), and prior to this, the progress of the Issues Tracker;
- Arrange appropriate delegations where required/ team to represent the LPA at examination stage;
- If desired, draft a Principal Areas of Disagreement Summary Statement (PADSS) and provide to the applicant to include in their DCO application.

- EWR is a designated 'Pathfinder Project'

# Key terminology for Consultation

- **Statement of Common Ground (SoCG)** - A written record used during the DCO process to identify the most current position of the parties; what is agreed, what is not agreed and any outstanding matters. SoCGs are prepared jointly by the applicant and another party or parties.
- **Principal Areas of Disagreement Summary Statement (PADSS)** - PADSS take the approach of SoCGs a stage further by an interested party setting out not just the key areas of disagreement, but also a statement as to what precise change to the draft DCO is sought to resolve the issues. A PADSS is prepared by an interested party or local authority during the pre-application stage and submitted by the applicant as part of their DCO application.

# DCO Application Structure

**Volume 1** – Application forms

**Volume 2** – Plans, drawings and sections

**Volume 3** – Draft Development Consent Order

**Volume 4** – Compulsory Acquisition information

**Volume 5** – Reports and Statements

**Volume 6** – Environmental Statement

**Volume 7** – Additional Prescribed Information for specific types of project (and any additional documents submitted during DCO examination stage)



# Acceptance

## During this stage:

- Typically the applicant would check that the whole application has been submitted, uploaded to the PINS project website, and that the files open successfully.
- PINS has 28 days to decide whether to accept the application.
- Applications are only accepted if accompanied by all relevant documents.
- The application is checked against the Planning Act Section 55 Acceptance of Applications

## Change Introduced by PIA 2025:

- S of S has to provide a Statement of Reasons if a DCO submission not accepted (rather than purely a notification).
- However the Planning & Infrastructure Bill originally had provisions allowing the S o S to request further information, clarifications, corrections and other limited changes to the application, and consequently to delay a decision on whether to accept the application beyond 28 days; and changing the test for acceptance from "satisfactory standard" to "suitable to proceed to examination".

But these were rejected by the House of Lords, and did not form part of the final Act

- Due to the removal of the Statutory Consultation Requirement, the corresponding requirement for a Local Planning Authority (LPA) to provide a formal "Adequacy of Consultation Representation" (AoCR) — defined as a representation on whether the applicant complied with those specific statutory duties — is also being removed

# Pre-examination stage

- Pre-examination is the time between the application being accepted and the Preliminary Meeting.
- The duration of this stage varies, but might be between three and four months.
- The Examining Authority (ExA) is appointed by PINS.
- The ExA invites organisations and individuals to register as an 'Interested Parties' and go on to invite Interested Parties to submit a 'relevant representation' setting out matters they agree and/or disagree with in the application, what they consider the main issues to be, and their impact.
- The ExA issues the Rule 6 letter, which invites Interested Parties to the Preliminary Meeting, sets out the draft Examination timetable, proposed deadlines for written submissions and contains the initial assessment of principal issues that the ExA intends to focus on during Examination.
- The ExA issues the Rule 8 letter after the Preliminary Meeting to confirm the final Examination timetable and formal deadlines for submissions and hearings.
- The ExA reviews the DCO application and plans the examination programme.
- The ExA hosts the preliminary meeting which sets out the procedures to be followed during the examination - this is not an opportunity to lobby objections on the application.
- Typically the Examination will start the day after the Preliminary Meeting, although sometimes hearings can be held on the same day or in the same week.

## **Change Introduced by PIA 2025:**

- The PINS 'Initial Acceptance of Principal Issues' carries more weight through examination

# Pre-examination stage

## Applicant's role

- Prepare for the Examination.
- Start preparing responses to the relevant representations forwarded to them by the ExA.
- Ongoing engagement with various parties including the LPAs, SEBs, utilities undertakers, and landowners.
- Engage to develop the SoCGs.
- Review the Rule 6 letter draft and provide comments to the ExA if required at the Preliminary Meeting.
- Attend the Preliminary Meeting.

## LPA's role

- Continue preparation of the SoCG
- Draft and submit a Relevant Representation to the ExA by the requested deadline
- Prepare for Examination including engaging specialist support if required
- Review the Rule 6 letter and provide comments to the ExA if required at the Preliminary Meeting
- Attend the Preliminary Meeting
- Begin work on the Local Impact Report (LIR) to be submitted at the start of the Examination.

# Examination stage

- The examination stage is **six months** long as prescribed in the Planning Act 2008
- The examination is largely a written process
- The ExA will examine the application, its compliance with the relevant NPS, and the material submitted to it during the Examination at a series of deadlines
- The ExA may undertake a short accompanied or unaccompanied site visit
- The ExA will hold a number of hearings during the course of the Examination
- All participants, including the Applicant and the LAs, may respond to documents submitted by other parties at the previous deadline
- Participants must submit additional detail if required to answer queries
  
- **EWR has signed up to the PINS 'Enhanced Level of Service' – a key part of this is the expediting of the examination stage, target 4 months rather than 6 months**

# Hearings

The Examining Authority will hold three types of hearing:

- **Compulsory Acquisition** hearings to consider the aspects specifically relating to Affected Parties (this could include local authorities as landowners).
- **Issue-specific** hearings to discuss topics which are the most contentious (and not addressed through written representations), including impacts on people, the environment and on the DCO itself in detail.
- **Open floor** hearings which are open to anyone to air their views (often held in the evening so everyone can attend).



# Examination stage

## Applicant's role

- Prepare responses to the Relevant Representations, Written Representations, the ExA's questions, and material provided by other parties at the previous deadline
- Attend hearings on particular topics
- Advise the ExA on their itinerary and attend site visits with the ExA if required – NB no presenting of evidence to ExA during site visit.
- Finalise the SoCGs by the end of examination stage

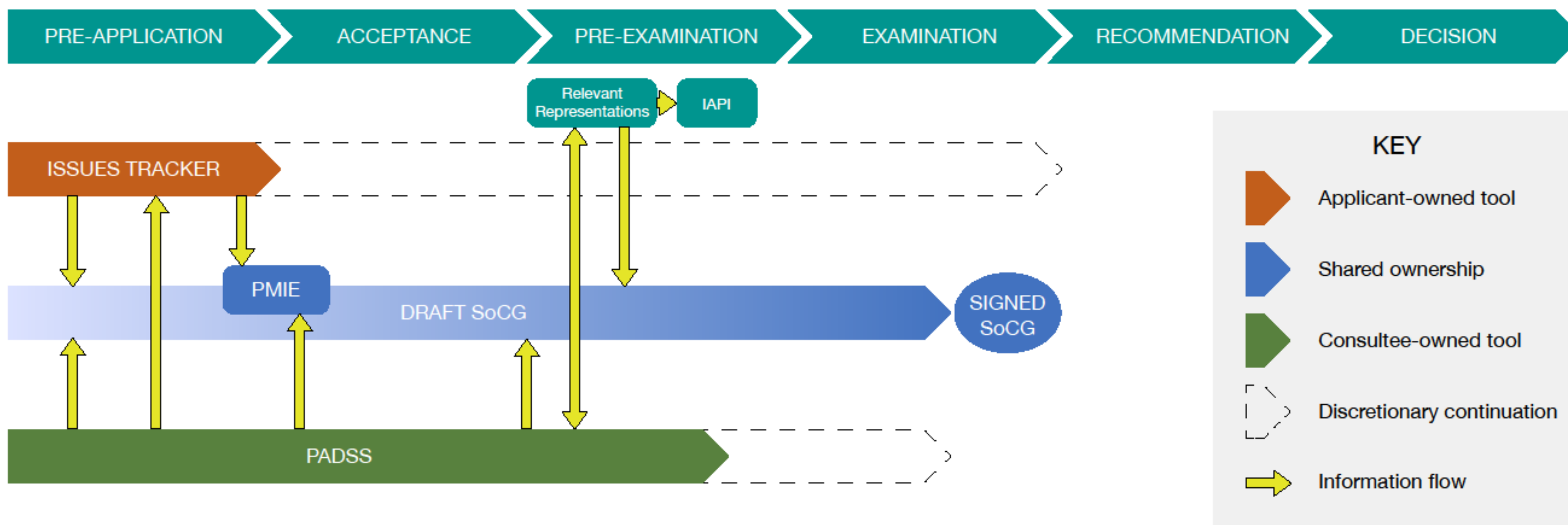
## LPA's role

- Prepare and submit Written Representation and LIR by the deadlines
- Comment on itinerary and attend site visits with ExA if required – NB no presenting of evidence to the ExA during site visit.
- Attend hearings on particular topics
- Respond to written questions from the ExA and then other parties responses to those questions
- The LA may choose to respond to written submissions made by other parties at each deadline
- Finalise SoCG with the Applicant by end of the examination stage even if matters are yet to be agreed

# Local Impact Report

- LPAs are invited to submit their Local Impact Report (LIR) giving
  - ‘details of the likely impact of the proposed development on the authority’s area (or any part of that area).’  
Planning Act 2008
- SoS must have regard to any LIRs in coming to a decision;
- Start preparation as soon as application is formally accepted – gather relevant information during pre-application consultation
- Cover: planning history, relevant local policy, pipeline development proposals, local area characteristics and qualities, local transport patterns and issues, site and area constraints
- LIRs are separate from a local authority’s written representations. The principal purpose of the LIR is to make the ExA aware of the potential impacts of the project with the benefit of local knowledge.
- Provide views on the content of the DCO.

# Summary of relationship between documents prepared by the applicant and consultees



# The Development Consent Order is made by the relevant Secretary of State.

## Recommendation and the Decision

- Once the Examination in Public is closed by the ExA, they will write their report in 3 months and make a recommendation.
- The Report then goes to the relevant SoS who has three months to decide whether to grant the DCO.
- The SoS can ask for additional information prior to making a decision. LAs should be prepared to respond to consultation on additional information.
- The SoS may also decide to delay the decision.
- During this period, the applicant may work 'at risk' to develop their designs and prepare materials for the discharge of requirements
- Ongoing engagement with the LAs and other parties.
- Like all planning decisions, it is open to legal challenge.



Heidi Alexander,  
Secretary of State  
for Transport

# Post decision stage

- Following the announcement of the decision by the SoS, there is a six week period in which a request for a judicial review (JR) may be made.
- If no JR is submitted, the applicant works to discharge any requirements attached to the approved consent
- If changes are required to the DCO post examination, there is a set process to follow as set out in the DCO
- Commence construction of approved DCO enabling and early works where applicable
- Continued engagement with LPAs during construction and changes required

## Change Introduced by PIA 2025:

- Opportunities for JR narrowed – removal of ‘paper permission’ route, follow-on C of A route removed for challenges considered ‘totally without merit’ in High Court



# Post decision stage

## Applicant's role

- Continue to prepare the materials and undertake activities required to discharge the requirements in the DCO
- Continue with detailed design with Network Rail technical approval
- Leads into enabling works and main construction programme
- Ongoing engagement with stakeholders

## LA's role as a statutory consultee

- Role in discharge/monitoring/enforcement of the requirements in the DCO
- Respond to any formal applications for changes to the DCO as granted which are submitted directly to the SoS
- Continue to engage with EWR

## Change Introduced by PIA 2025:

- Amalgamation of Material Change and Non-Material Change processes into a single, unified system (details still awaited)

# Q&A