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|--|---|---------------------------------------|
| <b>Title:</b> Major infrastructure planning – streamlining consenting process<br><br><b>Impact Assessment No:</b> RPC14-EANCB-CLG-2046(2)<br><br><b>Lead department or agency:</b><br>Department for Communities and Local Government<br><br><b>Other departments or agencies:</b> | <b>Impact Assessment (IA)</b>                 |                                       |
|  | <b>Date:</b> 18/02/15                         |                                       |
|  | <b>Stage:</b> Validation                      |                                       |
|  | <b>Source of intervention:</b> Domestic       |                                       |
|  | <b>Type of measure:</b> Secondary legislation |                                       |
| <b>Contact for enquiries:</b> Billy Kayada   |   |                                       |
| <b>Summary: Intervention and Options</b>   |   | <b>RPC Opinion: Awaiting Scrutiny</b> |

| Cost of Preferred (or more likely) Option |                            |  |   |
|---|----------------------------|--|---|
| Total Net Present Value                   | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, Measure qualifies as Two-Out? |
| £0.05m                                    | £0.05m                     | £-0.00m  | Yes   OUT   |

**What is the problem under consideration? Why is government intervention necessary?**

A developer wishing to construct a 'nationally significant infrastructure project' must first apply to the Planning Inspectorate for a Development Consent Order. This obviates the need for separate permissions, consents and licences unless they are specified on a list (called "section 150") in which case permission must be sought from the relevant consenting body to include it within the Development Consent Order. For section 150 consents, developers need to deal with a number of consenting bodies, and it can sometimes be hard to co-ordinate the timing of these consents. For example, a developer may find they have their overall Development Consent Order approved but are then held up because of the timing of a separate consent. Government can simplify the bureaucracy developers and others involved in the system encounter, by making it possible for fewer consents to be needed from fewer bodies.

**What are the policy objectives and the intended effects?**

The policy objective is to give applicants for Development Consent Orders the choice of using a more streamlined process that involves obtaining consent from fewer bodies or continuing with the existing process. This would be achieved by bringing three more consents, covering water discharge and trade effluent, into the Development Consent Order regime for nationally significant infrastructure projects. The intended effect is that applicants who decide they want to use this streamlined approach will benefit by having more control over the timing of their application process and therefore less risk of uncertainty. As part of the 2014 National Infrastructure Plan, the Government also announced its intention to streamline other non-planning consents at a later date; these would be subject to separate impact assessments, as required, and are not covered by this Impact Assessment.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The do nothing option would be to leave the position unchanged. This option was rejected as it is clear from the responses to the public consultation undertaken during Summer 2014 that there is significant support from business for the principle of further streamlining to enable developers to address the requirements of more consents as part of a Development Consent Order. The preferred option is to bring three more non-planning consents into the Development Consent Order regime. This gives developers the option of reducing the need to make separate applications to different agencies. The various options considered were dealt with in the earlier triage assessment, which was rated green, and those options have not been revisited as part of the subsequent policy decision to proceed.

|  |  |                     |                       |                     |                      |
|--|--|---------------------|-----------------------|---------------------|----------------------|
| <b>Will the policy be reviewed? It will not</b> is reviewed. <b>If applicable, set review date:</b> Month/Year         |  |                     |                       |                     |                      |
| Does implementation go beyond minimum EU requirements?   |  |                     |                       | N/A                 |                      |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.                       |  | <b>Micro</b><br>Yes | <b>&lt; 20</b><br>Yes | <b>Small</b><br>Yes | <b>Medium</b><br>Yes |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent) |  |                     |                       | <b>Traded:</b>      |                      |
|  |  |                     |                       | <b>Non-traded:</b>  |                      |

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister: Brandon Lewis Date: 3 March 2015

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Major infrastructure planning – streamlining consenting process

## FULL ECONOMIC ASSESSMENT

| Price Base Year | PV Base Year | Time Period Years | Net Benefit (Present Value (PV)) (£m) |            |                     |
|-----------------|--------------|-------------------|---------------------------------------|------------|---------------------|
|                 |              |                   | Low: 0.00                             | High: 0.14 | Best Estimate: 0.05 |
| 2014            | 2014         | 10                |                                       |            |                     |

| COSTS (£m)    | Total Transition (Constant Price) Years |  | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|---|--|--|----------------------------|
|               |   |  |  |                            |
| Low           | 0.0                                     |  | 0.0  | 0.0                        |
| High          | 0.0                                     |  | 0.0  | 0.0                        |
| Best Estimate | 0.0                                     |  | 0.0  | 0.0                        |

### Description and scale of key monetised costs by 'main affected groups'

There are no additional costs to business from this change. Applicants will still provide the information required to satisfy the requirements of the individual consent, the difference being that they will have the option of addressing this as part of a Development Consent Order application instead of separate applications. There is not expected to be any material reduction or increase in the amount of information required, so no change in the costs. We do not expect there to be any familiarisation cost to applicants from this change given the nature of the process for applying for Development Consent Orders.

### Other key non-monetised costs by 'main affected groups'

As above, there are no additional costs to business from this change.

| BENEFITS (£m) | Total Transition (Constant Price) Years |  | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|---------------|---|--|--|-------------------------------|
|               |   |  |  |                               |
| Low           | 0.0                                     |  | 0.0  | 0.0                           |
| High          | 0.0                                     |  | 0.0  | 0.1                           |
| Best Estimate | 0.0                                     |  | 0.0  | 0.0                           |

### Description and scale of key monetised benefits by 'main affected groups'

The only monetisable benefit would be a reduction in "application fees" by consolidating consents into a Development Consent Order. These would be in low thousands of pounds. Across the entire system, there might be direct financial savings by all applicants, combined, in the region of £5,000 per annum. However, the policy intention is not to reduce application fees; that is a small collateral benefit some applicants may enjoy as a consequence of this reform.

### Other key non-monetised benefits by 'main affected groups'

The non-monetisable benefit sought and obtained is highly likely to be a reduction in the risk associated with the timing of the project. This in turn can make project management more efficient and improve the confidence of Boards to approve applications (including milestones where applications can be aborted) and, to a small extent, overall confidence of potential or actual investors in the proposed schemes. The extent of these benefits to business will depend on the number, type and scale of projects that require development consent orders and the extent the developers of these projects that require these particular consents opt to go through the development consent order process.

|  |                      |      |
|--|----------------------|------|
| <b>Key assumptions/sensitivities/risks</b> | <b>Discount rate</b> | 3.5% |
|--|----------------------|------|

These changes are currently only expected to impact on a very small number of applicants, estimated to be somewhere approximately 3 per year based on relevant applications between 2013-2014. In this period, 12 development schemes have been approved where one or more of these three consents would have been needed alongside the Development Consent Order. This represents an average of 6 projects per year. We have assumed that just three in each year would use the new arrangements on the basis that a similar number might stick with the existing process. The number of beneficiaries may increase or decrease in the future depending upon the overall number and nature of applicants which is, itself, influenced by market and other conditions that we cannot predict.

## BUSINESS ASSESSMENT (Option 1)

|  |                      |                 |                                      |                             |
|--|----------------------|-----------------|--------------------------------------|-----------------------------|
| <b>Direct impact on business (Equivalent Annual) £m:</b> |                      |                 | <b>In scope of One-In, Two-Out ?</b> | <b>Measure qualifies as</b> |
| <b>Costs:</b> 0.0  | <b>Benefits:</b> 0.0 | <b>Net:</b> 0.0 |                                      |                             |
|  |                      |                 | Yes                                  | OUT                         |

# Evidence Base (for summary sheets)

## 1. Problem under consideration

- Major infrastructure projects are large and complicated, and take years to plan, including detailed physical as well as business planning, design and appraisal. The costs of developing an application can be significant (in the hundreds of thousands of pounds or more) and involve commissioning detailed technical studies and reports and significant investment in consultation with potentially affected parties
- The legal underpinnings of the nationally significant infrastructure planning regime are in the Planning Act 2008 (as amended by the Localism Act 2011). A developer wishing to construct a 'nationally significant infrastructure project' must first apply to the Planning Inspectorate for a Development Consent Order. This obviates the need for separate permissions, consents and licences unless they are contained on a list (called section 150) of non-planning consents which may only be covered by the Development Consent Order with the prior permission of the relevant consenting body. Over time, in response to requests from developers, Government has sought to streamline more consents into the regime, so applicants have fewer organisations to deal with and fewer consents and licences are needed. There is now the opportunity to expand the scope of Development Consent Orders to include a further three consents.

## 2. Rationale for intervention

- As part of the 2014 Technical Consultation on Planning, the Government proposed to bring more non-planning consents into Development Consent Orders without the permission of the relevant consenting body. Consultees generally supported the proposals we consulted on, and, in the National Infrastructure Plan published on 2nd December, Government confirmed we will bring more non-planning consents into the Development Consent Order regime, starting with three consents during this Parliament: These are for: (i) discharges to a watercourse when doing works, (ii) discharges by water undertakers from operational works and assets; and (iii) notifications to the Environment Agency where special category effluent is to be discharged by a sewerage undertaker. By choosing to wrap up these three consents into one Development Consent Order, this would reduce the need for applicants to make separate applications to a different agency. As part of this Plan, Government also agreed to streamline other non-planning consents through the Development Consent Order regime and other means at a later date; these consents will be subject to separate impact assessment as required.
- A major benefit of the nationally significant infrastructure planning regime is that it operates to a set timetable, for example the examination stage may not take longer than six months, and Ministers are expected to make their decision within three months of receiving a recommendation report. Developers and their backers value this certainty over timetable and it reduces the risk that characterised earlier systems where inquiries could take many years.
- This reform further consolidates the benefit of certainty over timetable, as it increases, albeit to a fairly modest extent, the number of consents that are covered by the fixed timetable associated with a Development Consent Order. That in turn can help with project planning, with obtaining and retaining Board level support to pursue an application, and in ensuring that financial backers of a proposed project remain confident.
- As part of the 2014 National Infrastructure Plan, Government agreed to streamline other non-planning consents into the Development Consent Order regime and by other means at a later date; these consents will be subject to separate impact assessments as required.

## 3. Policy objective

- The policy objective is to provide a more streamlined consents regime for nationally significant infrastructure by reducing the list of consents which sit outside of this process. By bringing the three consents covering water discharge and trade effluent into the Development Consent Order

regime, developers would have the choice to address more non-planning consents through one application, examination and decision-making process, without requiring the prior permission of the relevant consenting body. Developers could, if they choose, continue to apply for consents or licences separately, if that is their preferred approach on a case by case basis.

#### 4. Description of options considered:

##### The do-nothing option:

- This has been rejected as it does not resolve the policy issue that needs to be addressed. Leaving the three consents on the list of section 150 consents will mean that developers would be denied the choice of including these in their Development Consent Order. This option, if pursued, would undermine the Government's commitment to taking forward work to further streamline the consenting process for major infrastructure projects where the opportunity arises.

##### Option 1:

- Option 1 would involve amending the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations to remove the three consents. This option would provide developers, with more choice, so they could, if they choose, continue to use the existing consenting process.

#### 5. Monetised and non-monetised costs and benefits

- Applicants taking advantage of this reform will do so on the basis of assessed advantage, as it is a choice whether or not to include these consents within a Development Consent Order or continue to use the current consenting arrangements. Applicants can take advantage of free expert advice from Planning Inspectorate in making that choice, and typically employ expert agents who will be in a position to advise them on their best approach to consenting.
- There are no additional costs (monetised or non-monetised) because there is no change in the activity that a developer must undertake in making an application. They still have to provide relevant information to meet the requirements of the consent, regardless of whether that is within a Development Consent Order or in a separate consent. No new or additional work is involved here, and nor is any work taken away.
- There is a small, specialist community of major infrastructure developers and the agents who undertake the planning application work for them, with specialist planning consultancies and legal practices employing specialists in the field. The Department for Communities and Local Government has close working contacts with that community and well-proven dissemination channels to ensure that they are made aware of changes in advance of these coming into practice. Applicants will seek advice from planning consultancies and lawyers, and then from Planning Inspectorate, in determining whether or not to apply for a Development Consent Order and, if so, what to include within it. Therefore, we do not perceive there will be any familiarisation cost to applicants from this change.
- There are potentially modest direct financial savings from application fees, of several thousand pounds per applicant. If three applicants a year benefit, we estimate that there would be a net saving to them of approximately £5,000 (rounded to £0.00m in the summary section of this impact assessment). This is based on current application fee of £885 for each discharge for works consent. There are no application fees for trade effluent consents but charges based on the nature and volume of discharge. Our view is that the overall number of such applications will be very small, and the fee income saved also modest in relation to the organisations involved including the consenting bodies.
- We have also calculated lower and upper estimates, as illustrated in the table below.

| Estimate | Number of Development Consent Orders per | Number of consents incorporated into Development | Application fees saved per Development | Total application fees saved |
|----------|--|--|--|------------------------------|
|----------|--|--|--|------------------------------|

|       | year that opt to incorporate one or more of these consents into the Development Consent Orders | Consent Orders per application | Consent Order |         |
|-------|--|--------------------------------|---------------|---------|
| Lower | 0  | n/a                            | n/a           | n/a     |
| Best  | 3  | 2                              | £1,770        | £5,300  |
| Upper | 6  | 3                              | £2,655        | £15,900 |

- It is important not to exaggerate the likely scale of such benefits for these particular consents on individual applicants, or indeed on the likely number of such cases per annum, but such benefits should be realisable to some extent. The extent of these benefits to business will depend on the number, type and scale of projects that require development consent orders and the extent the developers of these projects that require these particular consents opt to go through the Development Consent Order process.

## 6. Rationale and evidence that justify the level of analysis used in the IA

### 6.1 Risks and assumptions

The main assumption here is on take-up, and our central projection is approximately 3 applications a year. This is based on the number of Development Consent Orders approved in past years that could have benefited from the change proposed in this Impact Assessment. Not all Development Consent Orders currently require all the three consents affected by this regulation. In 2013 and 2014, 12 development schemes were approved where one or more of the three consents would have been required alongside the Development Consent Order. In 2013, there were 4 such cases and in 2014, 8 cases. This represents an average of six projects per year. We have not based our estimate using data from before 2013: the regime for nationally significant infrastructure projects and Development Consent Orders has come into existence relatively recently so we have based assessments on recent years.

We have assumed that half of these developers would have opted to address the requirements for the three consents within a Development Consent Order, with the remaining opting to stick with the existing process. This means that on average three would benefit from the changes we are making, with the remaining three no better or worse off.

There is a high level of uncertainty around this estimate as the overall number of future Development Consent Orders is driven to a large extent by wider economic and business factors we cannot reliably forecast. In addition to this, the nature of consent and licence requirements cannot be reliably estimated, so the proportion of Development Consent Orders that would, under the current regulations, require one or more of the three consents covered by this change in regulation may vary over time.

Given that the overall benefit to business is estimated to be very small and there are no costs to business we regard the level of analysis in this impact assessment as proportional. This is consistent with the Better Regulatory Framework Manual that states that the resource invested in undertaking an impact assessment is proportionate and that factors considered should include the expected impact of the policy and that the ability and costs of doing further analysis relate to the benefits the analysis may yield.

## **6.2 Direct costs and benefits to business calculations (following One-In, Two-Out methodology)**

For each Development Consent Order where one or more of the three consents would have been required alongside the Development Consent Order, we do not know how many of the three would have been required. We therefore assume that on average 2 of the S150 consents would have been required, and that the application fee is £885 for each one. In practice the fee for the trade effluent consent will depend on the nature and volume of discharge.

So on the basis of there being three applications per year where on average 2 of these consents is incorporated into the Development Consent Order, the total monetised benefits to business would be an estimated £5,000 per annum in total.

## **6.3 Wider impacts**

The nationally significant infrastructure planning regime is a successful and well-regarded part of the planning system. It provides a rigorous, fair and efficient process to consider complicated and sometimes contentious schemes and to provide a fair balance between national needs for infrastructure and the needs and interests of local communities. By making small, modest, incremental improvements to the regime, we are able to ensure that it continues to make the UK a good place in which to invest in infrastructure.

## **6.4 Summary and preferred option with description of implementation plan.**

**The decision which is the subject of this Impact Assessment was announced by HMT alongside Autumn Statement 2014, in the 2014 National Infrastructure Plan.**

Implementation will be through amendments to the Infrastructure Planning (Applications; Prescribed Forms and Procedure) Regulations 2010 (as amended). The change is intended to come into effect on 6 April 2015.