



Kent
Wildlife Trust

Kent Wildlife Trust Guidance Participating in the Development Consent Order (DCO) Process for Nationally Significant Infrastructure Projects (NSIPs)



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Introduction

Large-scale infrastructure projects, known as Nationally Significant Infrastructure Projects (NSIPs), play a key role in supporting economic growth, energy needs, and transport infrastructure in the UK. These projects, however, can have significant environmental and community impacts, making it essential for stakeholders to engage in the decision-making process.

The Development Consent Order (DCO) process provides a legal framework for assessing these projects. It allows stakeholders, including individuals, local communities, and conservation organisations, to provide input, ensuring that environmental considerations and public concerns are taken into account.

This document serves as a guide to help you participate effectively in the DCO process, including how to register as an Interested Party, write evidence-based Written Representations, and reference relevant policies and legislation. By engaging thoughtfully, you can help shape the outcomes of infrastructure projects to protect both local communities and the natural environment.



Differences Between the DCO Process and the Normal Planning Process

The planning system in England operates under two primary legislative frameworks: the [Town and Country Planning Act 1990](#) and the [Planning Act 2008](#). The Town and Country Planning Act 1990 governs most development projects, requiring developers to seek planning permission from local authorities. In contrast, the Planning Act 2008 was introduced to streamline the approval process for Nationally Significant Infrastructure Projects (NSIPs) by consolidating multiple consents into a single Development Consent Order (DCO).

Another key difference between NSIPs and normal planning applications lies in their policy framework. NSIPs are assessed primarily against [National Policy Statements \(NPSs\)](#), which set out specific government policies for large infrastructure projects. In contrast, normal planning applications follow the [National Planning Policy Framework \(NPPF, 2024\)](#) and local development plans. While the NPPF may be a material consideration for NSIPs, it does not have the same legal weight as NPSs in their determination.

Additionally, the [Environment Act 2021](#) establishes key environmental principles, requiring new developments to consider Biodiversity Net Gain (BNG), air quality, and other environmental factors. BNG has been mandatory for major development (10 or more houses or flats) since 12th February 2024 and for small developments (fewer than nine dwellings or sites under 0.5 hectares) from 2nd April 2024. However, BNG is not mandatory for NSIPs until November 2025 – meaning that only DCOs submitted after this date will be legally required to include BNG. Any DCO submitted before November 2025 may still incorporate BNG voluntarily, but are not legally required to achieve the 10% biodiversity uplift.

The key difference between the two lies in scale and decision-making, while the Town and Country Planning Act applies to everyday development, the Planning Act focuses on large infrastructure projects of national importance.

What Type of Projects Use the DCO Process?

The DCO process, established under the Planning Act 2008, is used for NSIPs, which include:

- Major energy projects (e.g., power stations, wind farms, electricity transmission lines)
- Large transport developments (e.g., major roads, railways, airports, ports)
- Water and waste infrastructure (e.g., reservoirs, wastewater treatment works, hazardous waste facilities)

In contrast, the normal planning process applies to most other developments, such as housing, commercial buildings, and smaller infrastructure projects.

Who Makes the Decision?

For NSIPs, the DCO is examined by the Planning Inspectorate (PINS), who makes a recommendation to the Secretary of State who has the final say. Normal planning applications are decided by the Local Planning Authority (LPA) for example, the district or borough council. Appeals for normal planning are handled by PINS but do not involve ministerial approval.

Public Consultation

The DCO process for NSIPs have an extensive pre-application stage, with multiple consultations and opportunities for the public to comment on the proposals. This pre-application stage can take years. Once the DCO is submitted, the public, organisations and stakeholders, can register as Interested Parties and submit comments during the examination stage. Formal hearings and a structured examination process provide opportunities for public participation. For normal planning applications, public consultations usually occurs after the planning application is submitted. Members of the public can submit comments - usually within a 21 day period - but there are no formal examinations. Some applications may be decided by planning committees, which allow limited public involvement.

Development Consent Order

STEP 1

Understanding the DCO Process:

Pre-Application: The applicant consults with stakeholders, including statutory bodies, local authorities, and the public. The Preliminary Environmental Information Report (PEIR) is submitted, which forms the basis for public consultation and helps consultees make informed comments on the environmental aspects of the project. Feedback gathered during this stage helps shape the final application.

Acceptance: The applicant submits the DCO application to the Planning Inspectorate, who has 28 days to decide whether it meets the required standards. After the 28-day review, the Planning Inspectorate decides if the application moves to the next stage, however if rejected, the Planning Inspectorate provides feedback detailing the missing information, allowing the applicant to address these issues before resubmitting.

Examination: The Examining Authority has six months to review evidence, hold hearings, and gather input from stakeholders. Interested Parties, including the applicant, statutory bodies, local authorities, and the public, can submit Written Representations presenting evidence for or against the project. The Examining Authority may seek clarification, conduct site visits, and issue Written Questions to ensure a thorough assessment of the project's benefits and potential impacts.

Pre-Examination: If the DCO is accepted, it enters the Pre-Examination stage which usually lasts around 3 months. During this period, Interested Parties can register as formal participants in the examination process by submitting Relevant Representations, summarising their concerns or support of the project. At this stage, the Planning Inspectorate assigns an Examining Authority, often a panel or single inspector to manage the examination phase.

Recommendation & Decision: Once the Examination stage closes, the Examining Authority has three months to review all evidence, submissions, and hearing records collected during the examination. The Examining Authority compiles these findings into a Recommendation Report. This report is submitted to the relevant Secretary of State who reviews the recommendation and has an additional three months to issue a decision to grant, deny or modify the DCO.

Post-Decision: Once the Secretary of State issues the decision, both the decision letter and the Recommendation Report from the Examining Authority are published on the Planning Inspectorate's website. After the decision is published, there is a six-week period during which Interested Parties and stakeholders can apply for a judicial review if they believe there were legal flaws in the decision-making process. A judicial review does not challenge the merits of the decision, but rather focuses on whether the process followed the law. If a judicial review is granted and finds legal errors, the decision could be quashed and potentially reconsidered.

STEP 2

Registering as an Interested Party

To actively participate in the DCO process, individuals and organisations must register as Interested Parties during the Pre-Examination stage. Here's how:

Monitor the Planning Inspectorate's Website

- Once a DCO application is accepted, it will be published on the [Planning Inspectorate's website](#). Stakeholders can access key documents, including the Environmental Statement and Consultation Report.

Submit a Relevant Representation

- Visit the project's page on the Planning Inspectorate's website and complete the online form.
- Clearly state your interest in the project, any concerns, or reasons for support.
- The submission deadline is typically 28 days after the application is published.

Become an Interested Party

- By submitting a Relevant Representation, you gain the right to submit Written Representations, attend hearings, and respond to Examining Authority questions during the Examination stage.

STEP 3

Writing Effective Representations



Written Representations are a key opportunity to influence the Examination process. To be effective, they should:

Be Evidence-Based

- Use data, research, or first-hand observations to support your points.
- Review relevant documents submitted in the DCO, such as the Environmental Statement, to strengthen your arguments. Use the ecological data within these documents to highlight potential issues or gaps.
- Reference specific paragraphs and reports from the DCO submission so the Examining Authority can easily verify your claims.
- Example from Kent Wildlife Trust's Written Representations for the Lower Thames Crossing project: *"As stated within paragraphs 15.6.19 and 15.9.9 of ES Chapter 15 – Climate, the Project will have a total net greenhouse gas emissions of approximately 6.596 million tonnes of carbon dioxide equivalent (tCO₂e). This is an unacceptable increase in greenhouse gas emissions and does not align with the Government's net zero targets. The Climate Change Committee (CCC), which is an independent, statutory body established under the Climate Change Act 2008, states that 'new roads should only be built if they can be shown not to increase emissions.' It is understood that the applicant plans on delivering a carbon neutral development and is committed to 'using the time available before construction of the Project begins, to explore ways of achieving greater reductions in emissions.' However, it is unlikely due to the scale and timeframe of the Project that this would be achievable, with no reassurance on how this would be deliverable or the consequences if this is not achievable."*

Reference Policies and Legislation

- National Planning Policy Framework (NPPF, 2024): Highlight policies on biodiversity, climate change, and sustainable development.
- The Environment Act 2021: Highlight requirements for Biodiversity Net Gain (BNG) and commitments to halt species decline and address climate change.
- 25 Year Environment Plan: Reference the Government's commitment for improving the environment within a generation and leaving it in a better state than we found it.
- The Conservation of Habitats and Species Regulations 2017 (as amended): Emphasise protections for Special Protection Areas (SPAs), Ramsar sites, and European Protected Species (EPS).
- Wildlife and Countryside Act 1981 (as amended): Ensure that the applicant is complying with the legal protection afforded to species and habitats.
- Natural Environment and Rural Communities (NERC) Act 2006: Point out the duty to conserve biodiversity.

Be Specific

Clearly outline your concerns, such as:

- Impacts on protected sites like Ramsar sites, SPAs, or SSSIs.
- Loss of biodiversity, irreplaceable habitats or Local Wildlife Sites (LWS) and Local Nature Reserves (LNRs).
- Impacts on protected and priority species.
- Insufficient mitigation measures.
- Quote and reference documents you are referring to within the DCO application.
- Example: *"paragraph 9.10.3 of Chapter 8 – Marine Biodiversity fails to adequately assess noise impacts on [species]."*





Suggest Solutions

- Where appropriate, propose alternatives or mitigation measures to address concerns.
- Example from Kent Wildlife Trust's Written Representations for the Lower Thames Crossing project: *"Due to the loss of ancient woodland, we would expect to see compensation planting of new native woodland follow the recommendation from Natural England, which involves a minimum of 30ha created for every one hectare of ancient woodland lost (30:1), which would result in approximately 230ha of planted woodland. However, within Environmental Statement (ES) Chapter 8 – Terrestrial Biodiversity, the scheme has proposed only 48.75ha of woodland to be planted to compensate for the loss of irreplaceable ancient woodland."*

Use Subheadings to Organise Your Representation

- Divide your Written Representation into clear sections using subheadings. Each subheading should address a different point of concern, making your representation easier to read and follow.
- Suggested subheadings include:
 - Assessment of Alternative Options
 - Impacts to Biodiversity
 - Protected Species
 - Mitigation and Compensation
 - Biodiversity Net Gain
 - Climate Change

STEP 4

Key Considerations for Written Representations

When drafting your Written Representations, consider the following:

- **Understand the Site** - Use tools like MAGIC (Multi-Agency Geographic Information for the Countryside) to identify protected sites and habitats affected by the project.
- **Review Environmental Documents** - Review the applicant's Environmental Statement and other relevant ecological documents to identify gaps or weaknesses.
- **Reference the Relevant National Policy Statement (NPS)** - Each NSIP is assessed against the applicable NPS, which outlines the government's objectives for specific infrastructure sectors. Ensure your representation refers to the appropriate NPS and highlights any areas where the project may not comply.
- **Focus on Material Considerations** - Ensure your representation addresses relevant planning issues, such as:
 - Environmental impacts
 - Compliance with national and local policies
 - Adequacy of mitigation and compensation plans

STEP 5

Relevant Policies & Legislation

NSIPs must comply with a range of policies and legislations at national, regional and international levels. Referencing appropriate policies and laws strengthens your representation.



Key documents include:

Primary Legislation

- Planning Act 2008 – Establishes the NSIP regime and the DCO process.
- Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 – Requires Environmental Impact Assessments (EIA) for qualifying projects.
- Environment Act 2021 – Introduces biodiversity net gain (BNG) requirements and broader environmental protections.
- Habitats Regulations 2017 – Implements EU-derived protections for biodiversity and habitats, requiring Habitats Regulations Assessment (HRA) for sensitive sites.

International Designations

- Ramsar Convention: Protects wetlands of international importance.
- EU Habitats Directive (transposed into UK law): Safeguards SPAs and SACs.
- Aarhus Convention: Ensures public participation in environmental decision-making.

Environmental and Climate Laws

- Climate Change Act 2008 – Requires NSIPs to align with the UK's net-zero targets and carbon budgets.
- Environmental Protection Act 1990 – Governs waste management and pollution controls.
- Water Resources Act 1991 – Regulates water quality and resource management, especially for projects affecting rivers and groundwater.

National Planning Policy Framework (NPPF, 2024)

- Although NSIPs are assessed against NPSs, the NPPF may still be a material consideration, especially for local environmental and planning impacts.
- Section 15 emphasises conserving and enhancing the natural environment.
- Paragraph 192 outlines protection of habitats and biodiversity, including mitigation hierarchy and the restoration of Priority Habitats, ecological networks and Priority Species.

National Policy Statements (NPSs)

- These are sector-specific policies that form the primary basis for decision-making on NSIPs.
- Examples include: Overarching National Policy Statement for Energy (EN-1), National Policy Statement for National Networks (Roads/Rail) (NN NPS), National Policy Statement for Ports (NPSP).
- If no relevant NPS applies, decisions are based on other planning policies, including the NPPF and local development plans.

Other Planning Policies

- Local Development Plans – Local planning policies are considered where relevant, particularly for community impacts and mitigation measures.

Sample Structure for a Written Representation:

Introduction

- Briefly introduce yourself and explain your interest in the project.
- State whether you support or object to the proposal.

Summary of Concerns or Support

- List the key points you will address (e.g., impacts on biodiversity, mitigation measures, climate change etc)

Detailed Evidence

- Provide detailed arguments, referencing policies, legislation, and supporting documents.
- Example: *"The development contravenes NPPF Paragraph 189, as the mitigation measures fail to prevent harm to the [protected habitat]."*
- Use subheadings such as Assessment of Alternative Options, Impacts to Biodiversity, Mitigation and Compensation to organise your response.

Proposed Solutions

- Suggest changes to the project or additional mitigation measures.

Conclusion

- Summarise your main points and restate your position.

For an example of how to structure your representation, you can review Kent Wildlife Trust's Written Representation for the [Lower Thames Crossing](#) and [Stonestreet Solar Farm](#) projects. These documents demonstrate effective use of subheadings and evidence-based arguments.

For additional guidance or support, contact Kent Wildlife Trust at: planning.enquiries@kentwildlife.org.uk

TOP TIPS

- **Engage Early:** Participate in consultations before submission to influence project design and highlight concerns before the examination stage.
- **Be Aware of Deadlines:** Follow the process and ensure submissions are within the deadlines.
- **Be Clear and Concise:** Structure your representation logically, avoiding unnecessary detail while ensuring key points are well-supported.
- **Reference Evidence:** Use data, reports, and relevant documents to strengthen your argument, including the applicant's Environmental Statement and planning policies.
- **Stay Objective:** Focus on planning considerations rather than personal opinions to make your representation more persuasive.

Engaging with the DCO process is a valuable opportunity to shape infrastructure projects in a way that protects the environment and benefits local communities. By registering as an Interested Party, submitting evidence-based Written Representations, and referencing relevant policies, you can ensure your voice is heard and contribute meaningfully to the decision-making process.

