Route to consent

The Government has requested that we take forward proposals to construct the Thames Tunnel project. We need to follow a rigorous process to seek permission to build the tunnel.

Planning Act 2008 and the Infrastructure Planning Commission

National Policy Statements (NPS) were introduced to the Planning Act 2008 to set out clear national policy for various types of infrastructure, and procedures for the examination and approval of Nationally Significant Infrastructure Projects (NSIPs). Promoters of such projects are required to obtain a development consent order by making an application to the Infrastructure Planning Commission (IPC).

The IPC is an independent body that stresses the importance of community and stakeholder consultation. They require a high degree of consultation at the pre-application stage. Applicants are required to have regard to consultation responses in formulating their application.

For more information about the IPC application process visit www.infrastructure.independent.gov.uk

The Government has indicated that it intends to bring the Thames Tunnel project within the remit of the IPC, given its national significance and the urgency of the need to proceed with the project.

We are carrying out our pre-application consultation to comply with the requirements of the Planning Act 2008 and related guidance.
Draft Waste Water National Policy Statement

The Thames Tunnel project was included in the Department of Environment and Rural Affairs’ (Defra) draft Waste Water NPS, which was the subject of consultation in late 2010 and early 2011. The draft NPS included a chapter on the need for the Thames Tunnel project and was examined by the Environment, Food and Rural Affairs (EFRA) committee of the House of Commons. It was also debated by the House of Lords Grand Committee in spring 2011.

The EFRA committee agreed that the project should be brought within the remit of the Planning Act 2008. Its report stated ‘with the Thames Tunnel project crossing some 14 London boroughs, it is clear that applying the current planning system would be highly complex and the project appears to be a prime candidate to benefit from the streamlined processes of the NSIP regime’.

The committee urged the Government to bring forward proposals to ‘amend the Planning Act 2008 to bring large scale sewage collection and transfer schemes such as the Thames Tunnel within the planning regime for Nationally Significant Infrastructure Projects’.

The future of the IPC

The Localism Bill, currently before Parliament, proposes to abolish the IPC and transfer its powers to the Secretary of State. The management of the application examination process by the IPC would be integrated into the Planning Inspectorate.

We understand that the day-to-day work of the IPC would be undertaken by a division of the Planning Inspectorate. The examination process would remain broadly the same as the current system for NSIPs.

It is likely that these changes will be made before we submit our application. In our documents we refer to making an application to the IPC, as the new unit has not yet been established.

Incorporating the Thames Tunnel project into the Planning Act 2008

On 13 July 2011, the Government began a consultation on a proposed Order to incorporate the Thames Tunnel project into the Planning Act 2008 process. This ran until 5 October 2011.

The Government is currently considering responses to the consultation with a view to the Order being made by Parliament early in 2012.

“We are... minded that development consent for the project should be dealt with under the regime for nationally significant infrastructure projects established by the Planning Act 2008. I consider that this project, with its unique scale and complexity, is of national significance, and therefore appropriate for this regime.”

Secretary of State at Defra, Caroline Spelman (7 September 2010)
Opportunities for involvement in the planning process
The Planning Act 2008 pre-application consultation is more rigorous than the current process that most planning applications must pass through. The consultation is ‘front loaded’. This means that far more consultation must take place before an application is submitted. The Localism Bill also adds more consultation requirements to the conventional system.

It is important to note that if the Thames Tunnel project were to be designated as a NSIP, then our application would still need to demonstrate how we have taken into account consultation responses in formulating our final application.

A report on consultation will be required, similar to our Report on phase one consultation.

Once an application has been received by the IPC it has 28 days to consider whether to accept it. One of the matters that the IPC will take into account is the adequacy of the applicant’s consultation.

If our application is accepted, we will then publicise it for at least 28 days. Anyone wanting to be involved in the process must register their interest at this time using a form supplied by the IPC, which allows a brief summary of a case to be made.

Following the registration period, the IPC will hold a preliminary meeting and will invite everyone who registered. This meeting will consider how the application will be examined.

Shortly after the preliminary meeting the IPC will publish a ‘Procedural Decision’. This will set out a timetable and a list of the issues, on which those examining the application are interested in receiving more written evidence. This is the time to make more detailed written representations.

You can also comment on the representations of others. Some issues will be considered by way of hearings; these may be on specific topics or where acquisition of land is involved. There is also the opportunity for ‘open floor sessions’. These allow you to express your views to those examining the application.

Local authorities can submit a Local Impact Report, which sets out the impact of a proposal on the local area. You may want to examine it and comment on it.
Route to consent

The panel examining the application will then consider all representations and write a report. Assuming that the Localism Bill becomes law, the Secretary of State (in our case we believe this will be the Secretaries of State at Defra and the Communities and Local Government Committee acting jointly) will consider that report and make a final decision on the application.

Further guidance can be found on the IPC website www.infrastructure.independent.gov.uk (in particular advice note eight).