

**3rd Annual National Sustainable Communities 2011: Local Growth,
Local Futures Conference**

**Major Infrastructure Planning Regime -
Engaging with Communities**

**Robert Upton
Deputy Chair
Infrastructure Planning Commission**

2 November 2011

PA 2008: New, Novel and Different

Planning Act 2008

- . National Policy Statements (NPSs)
- . ~~Single consents regime~~
- . Early Engagement
- . Statutory timetable
- . Inquisitorial process
- . Openness policy
- . Advice and guidance

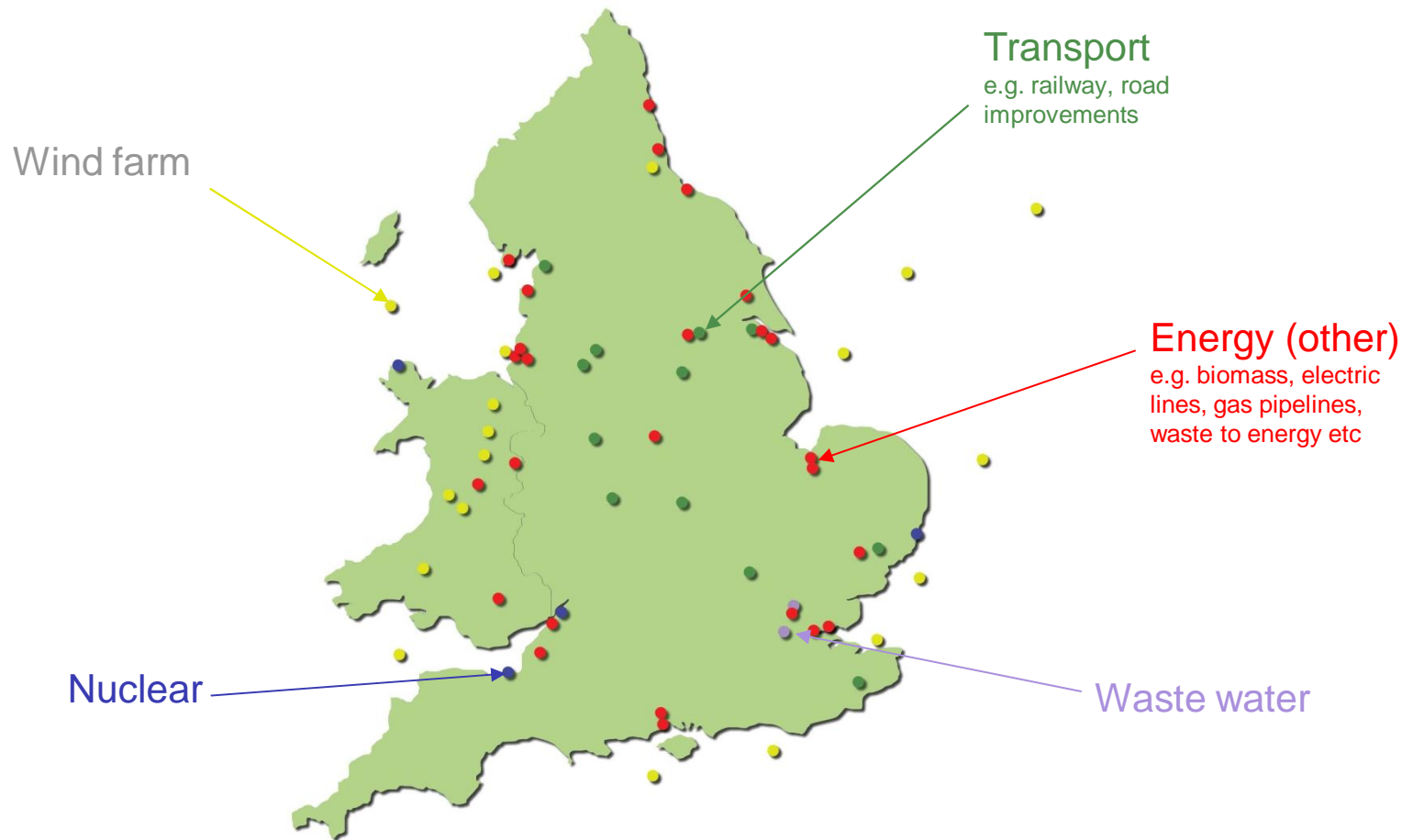
Localism Bill 2011

- . IPC to be abolished
- . 2008 Act regime largely unchanged
- . Parliamentary approval of NPSs
- . Secretary of State decisions in all cases

Current status - NPSs

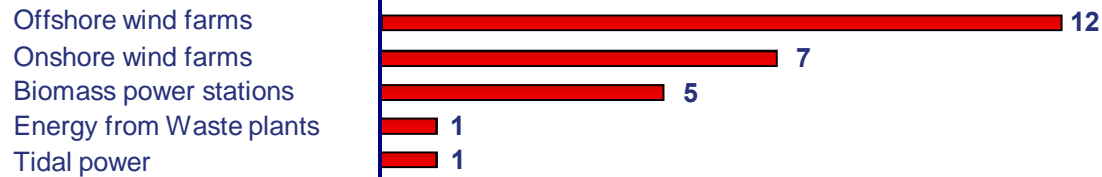
- . **Energy NPSs** (six . including the overarching energy NPS): designated 19 July 2011
- . **Transport Networks (rail and road):** to follow
- . **Ports NPS:** Draft NPS
- . **Aviation NPS** - No NPS yet . but a DfT Aviation Scoping consultation is currently in progress
- . **Water supply:** No NPS yet
- . **Waste water:** Draft NPS . consultation ended 22 February 2011
- . **Hazardous Waste:** Draft NPS - consultation ended 20 October 2011.

The size of the challenge (1)



The size of the challenge (2)

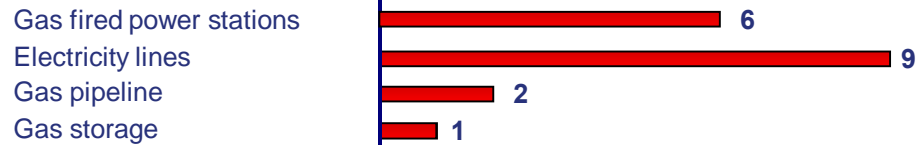
Renewable Energy (26)



Nuclear power stations (4)



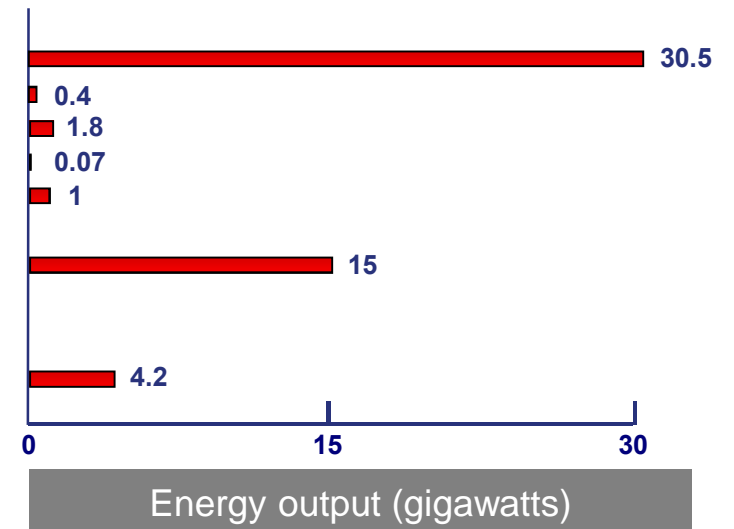
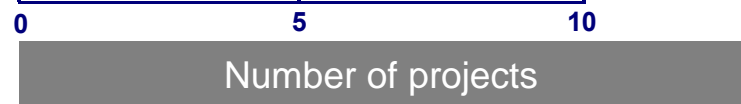
Other Energy (18)



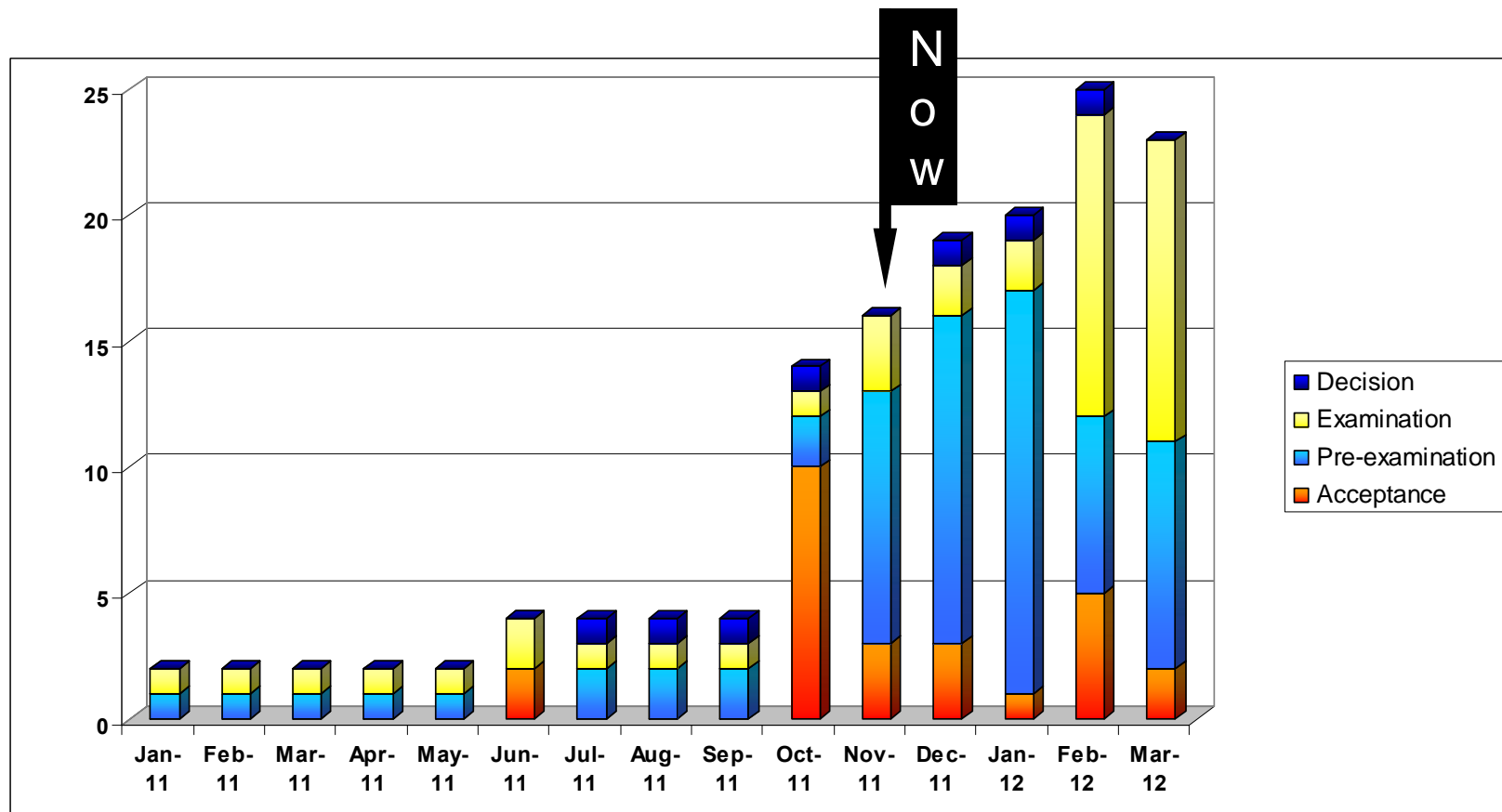
Transport (13)



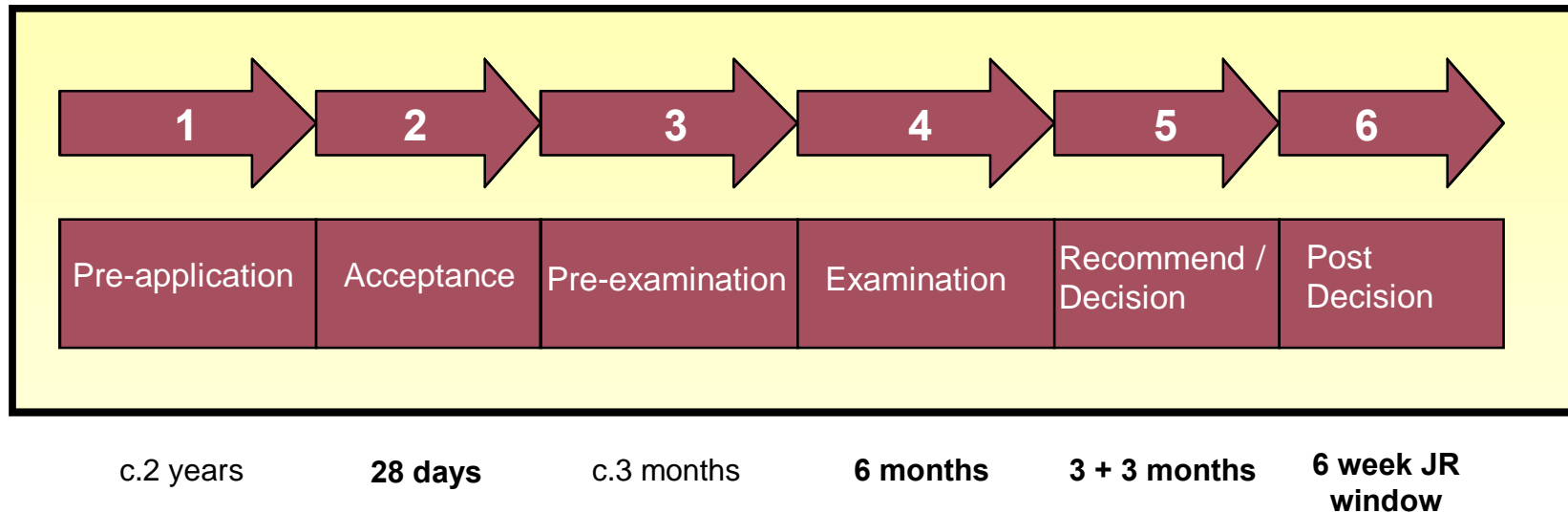
Waste Water (2)



Applications: Examination Caseload and forecast

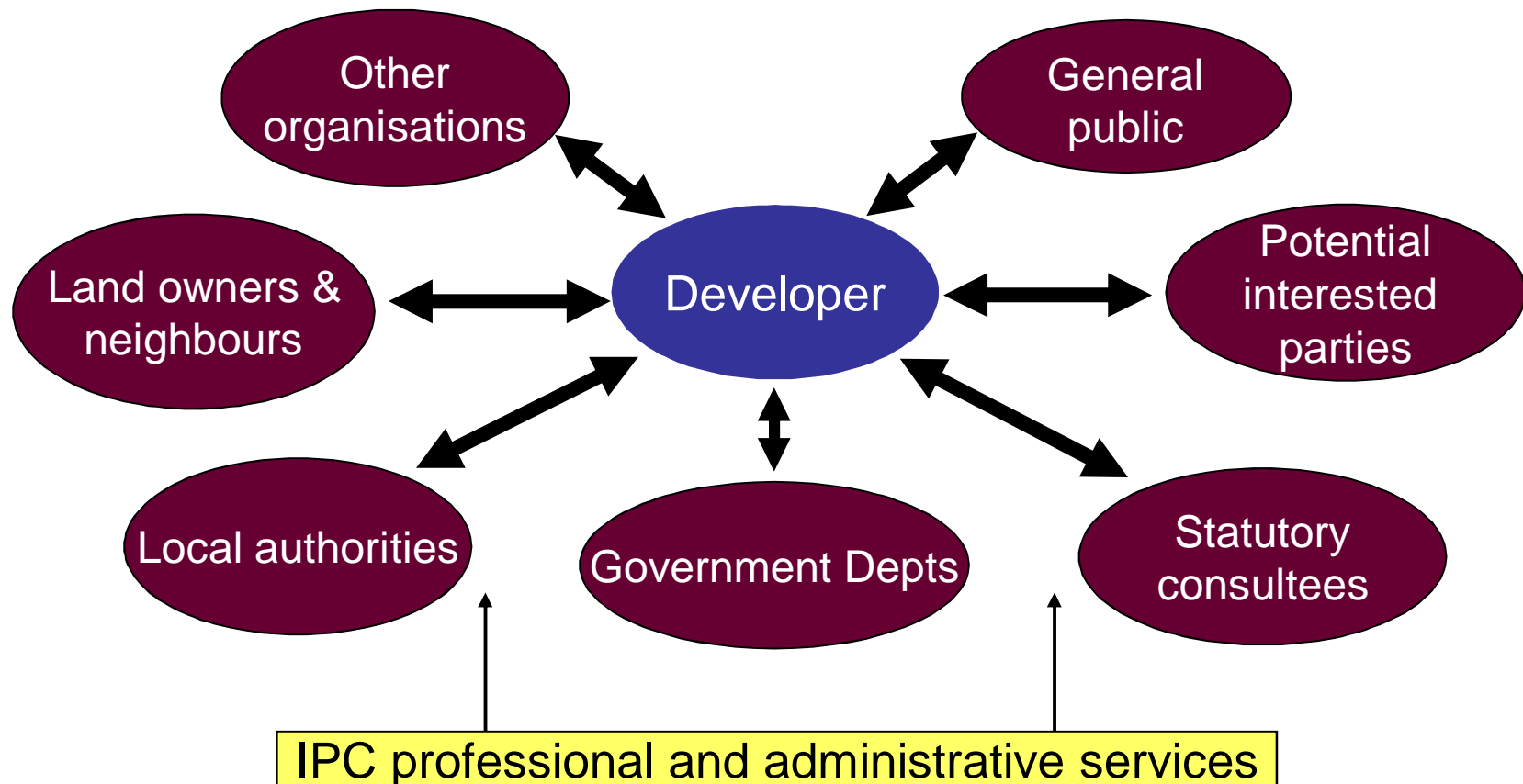


The Planning Act 2008



Times in **bold** are statutory

Pre-application: the developer in the lead



Pre-application work for developers

Total application: No shocks, no surprises

- . Environmental screening and scoping, PEI and ES
- . Consultation with prescribed bodies (s42) and landowners
- . Consultation with the community (SoCC and s47)
- . Draft Development Consent Order
- . Limited scope for amending applications post submission



Local authorities . community champions

- . Statutory Consultee
- . Planning Performance Agreements?
- . Statement of Community Consultation
- . Comment on adequacy of consultation
- . Local Impact Report
- . Discharge of Conditions (on land)
- . Enforcement



Post-application opportunities for engagement

- . Acceptance: s55 checklist and decision
- . Pre-examination: registration, *outreach*, *relevant representations*, principal issues, *preliminary meeting*
- . Examination: timetable, *written representations*, *hearings* (issue-specific, compulsory acquisition, ***open floor***), site visits
- . Recommendation and SofS decision
- . *Application for Judicial Review?*

Some questions from local authorities

- When do we prepare the adequacy of consultation response?
- When do we draft the Local Impact Report . and what should it say? Can the deadline be extended? S5
- Does the Planning Act 2008 have precedence over TCPA?
- Do we need to talk to other consultees?
- Can Parish councils comment on the draft SoCC?
- Are we statutory consultees and how do we become one?
- Can we have some of the fee?
- Who is responsible for enforcing the development consent order? S3
- How will the IPC consider s.106 agreements? S2

Slide 12

S2 The Planning Act 2008 (PA2008) amends the 1990 Town and Country Planning Act (TCPA) so that development consent obligations (in effect s.106 obligations) can be entered into in connection with an application for an order granting development consent (s.174 of the PA2008 amends s.106 TCPA). The need for development consent obligations should be discussed between the Local Planning Authority and the developer at the pre-application stage and heads of terms agreed before an application is submitted. In holding pre-application discussions with developers, draft obligations on 'community benefits' are required to be submitted with an application where such benefits are directly related to the development and meet all the other applicable tests set out in Government guidance. For further information on these tests and policy see Circular 05/05. The IPC may seek representations on the extent to which such obligations are directly related to the development and the weight that should or should not be attached to the obligations when the decision whether to grant development consent is made.

The Commission will expect any draft agreement or undertaking relating to development consent obligations to be submitted with an application for development consent along with any necessary explanatory information. If s.106 obligations have not been finalised or completed prior to the start of the examination process the Examining Authority may include deadlines requiring this in the examination timetable.

The IPC will welcome local authorities' views in their Local Impact Reports to proposed development consent obligations and whether they consider they meet the tests set out in Government guidance.

SDILLY, 26/10/2011

S3 The relevant Local Planning Authority is responsible for enforcing the provisions and requirements set out in the DCO (see Part 8 of the 2008 Planning Act). Any conditions on a deemed Coast Protection Act 1949 consent or Food and Environmental Protection Act 1989 licence (or Marine Licence) would though be enforced by the Marine Management Organisation.

SDILLY, 26/10/2011

S5 Given the tightness of the overall time frame prescribed for the examination stage, local authorities must expect to be asked to submit the LIR within a very short time limit. It is therefore very important for authorities to begin work on the LIR well before the start of the examination. There is no requirement under Section 60 of the Planning Act 2008 for LAs to carry out a consultation exercise prior to preparing and submitting their LIR to the Infrastructure Planning Commission (IPC). Statutory consultees and other interested parties may submit their representations directly to the IPC.

Guidance on the preparation of LIRs is available in IPC Advice Note 1: Local Impact Reports and section 10 of Communities and Local Government Guidance for Local Authorities (March 2010). The deadline for the submission of the LIR will be set by the Examining Authority at or soon after the preliminary meeting. The LIR is an important report giving details of the likely impact of the proposed development on the authority's area. The LA can decide on the contents of the report. The LIR must be considered by the decision-maker.

SDILLY, 26/10/2011

Some questions from the public

- Who keeps us informed about proposals to the IPC?
- How do I object? S6
- Can I speak at a hearing? If I can't attend a hearing will my views still be taken into account?
- What should my ~~relevant~~ representation include?
- Can I see the recommendation before it goes to the Secretary of State?
- Can I appeal if you recommend to grant consent?
- How will our views be taken into account. Is it important how many times they are made and by whom? S7

Slide 13

S6 The developer is responsible for correctly advertising the proposal under section 48 of the Planning Act 2008. This involves advertising in the local press.

See Advice Notes 8.1-8.5 for further information

SDILLY, 26/10/2011

S7 The Commissioner/s will determine how much weight is afforded to representations/evidence.

SDILLY, 26/10/2011

Some questions from developers

- Can we share this with the local authority? With others?
- Do we need to re-consult if we change the scheme after consultation?
- Can we change the SoCC as we consult?
- How do we balance consultation responses with policy?
- Can we include alternative proposals in our submitted application?
- How much can we change the application once accepted?
- Should we assess the legacy use of associated development in the Environmental Statement?

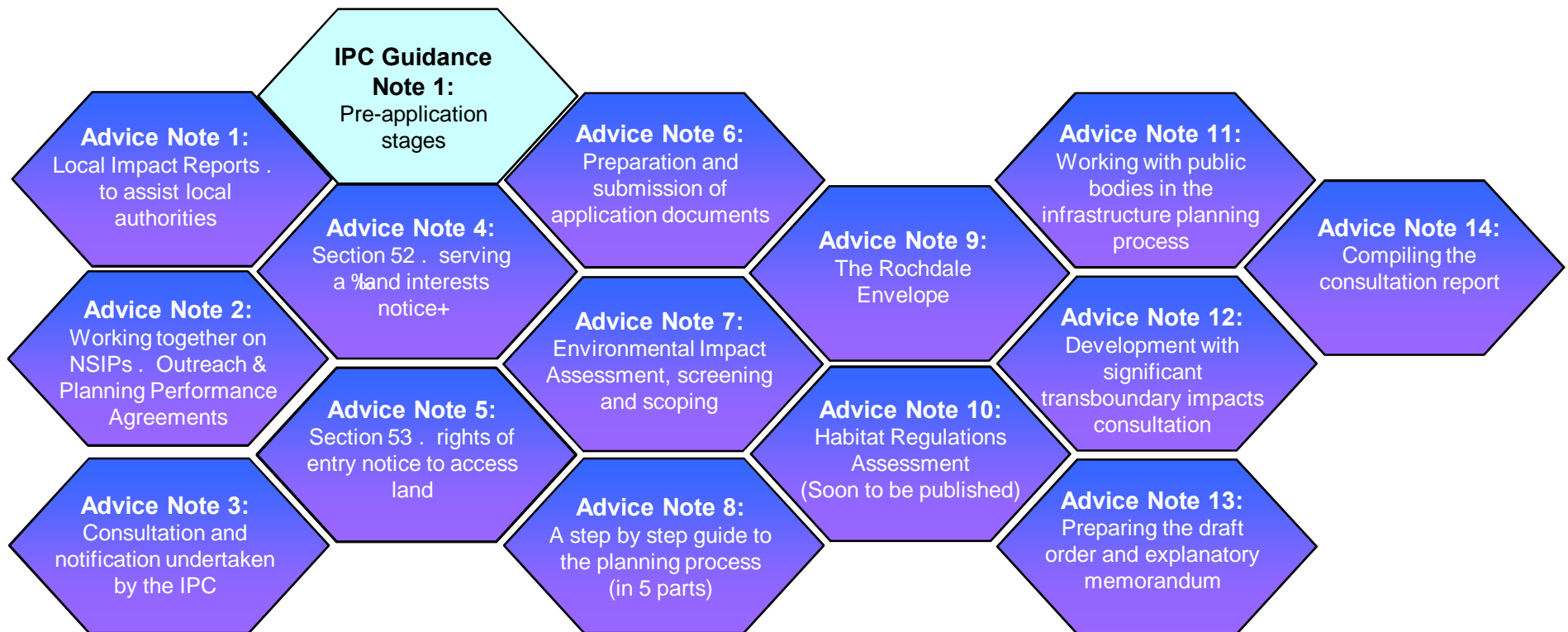
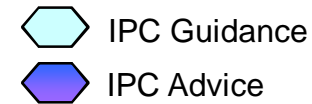
Some answers for local authorities

- . Talk to the applicant
- . Start early . consultation response, LIR, s.106
- . Think about a Planning Performance Agreement
- . Think about sharing resources for LIR
- . Think about possible link between LIR and s.106
- . Think about possible requirements for draft DCO

Messages for applicants

- . Talk to local authorities and other parties . no shocks
- . Effective public engagement is a key part of good project management
- . Draft the DCO as you go . and share it
- . Quality application . robust and efficient examination
- . Total application . no gaps or surprises

Guidance and Advice



Contact us

Infrastructure Planning Commission (IPC)

Temple Quay House

Temple Quay

Bristol

BS1 6PN

0303 444 5000

ipcenquiries@infrastructure.gsi.gov.uk

www.infrastructure.independent.gov.uk