

2026

Energy Development Consent Orders: *Getting Your Renewable Energy Project DCO Right the First Time*

Executive Summary

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Planning consultants Lichfields and city law firm Charles Russell Speechlys LLP (CRS) recently hosted a roundtable to explore how renewable energy developers can successfully navigate the Development Consent Order (DCO) process for the consenting of Nationally Significant Infrastructure Projects (NSIPs).

The DCO system is at a critical juncture, with significant legislative changes being introduced by the Planning and Infrastructure Act 2025 (the Act) to speed up the process. However, the updated regulations and guidance needed to bring the main reforms into effect are still awaited. The latest Government indication is that revised guidance may be published ahead of the relevant secondary legislation due in summer 2026, but it should not be relied upon until those legislative changes are in force.

The roundtable provided a good forum for a stimulating discussion on the issues facing promoters of renewable energy NSIPs. We are in a period of transition and, even during this period of change, there are good and sensible ways to improve the whole DCO process. The roundtable discussion highlighted many of these.

A full report of the discussions
can be found here.



The main topics discussed at the roundtable were as follows:

1

Early engagement and appreciation of place is key

Projects are always grounded in a locality, and the individual characteristics should inform engagement and project inception.

2

Importance of engagement style

Engagement and consultation events should be appropriate and informed by local circumstances. Formal presentations may not always be suitable. The key message is simple: know your audience!

3

Defra's latest single regulatory system approach is welcomed

This entails appointment of a single lead environmental regulator for DCO projects to co-ordinate communication across numerous regulators and to address how related environmental licences and consents are to be treated in the DCO process. New guidance should explain how Defra's model should be incorporated into the DCO process.

4

Access and cost constraints can delay intrusive survey work

This work is needed to inform the EIA and reduce the potential for later mitigation. Where that occurs, there may be merit in flexibility in the examination timetable to allow such surveys to be undertaken after acceptance, provided this can be accommodated without prejudicing the examination process.

5

A land acquisition strategy is important from project inception

Local circumstances are key and utmost care should be taken in dealing with rural farming communities established over many decades. However, where landowners do not wish to engage, or do not advance reasonable assessments of value, promoters may need to rely on compulsory acquisition powers, with a clear record of negotiation maintained for examination purposes.



6

The evolving draft DCO, including its articles and schedules, should be integrated into the wider project management system

This will ensure that the various teams undertaking studies during pre-application and through the examination understand how their work links to the drafting of the DCO itself.

7

EIA should be used as a project management tool from the outset

The Act removes the requirement for a Preliminary Environmental Information Report. With the requirement for statutory consultation also being removed in the new regime, forthcoming guidance should provide advice on project evolution and when it would be appropriate to assess preliminary environmental issues to better inform consultation following the changes. In this respect, EIA should inform scheme development from the outset, rather than being treated simply as a reporting requirement. This would better equip an application to determine appropriate consultation, design changes and the robustness of design freeze.

8

A Funding Statement is an important NSIP application requirement

Whilst a realistic explanation of the source of funds for project delivery should generally satisfy the Examining Authority, certainty of funds for property acquisition remains critical. If there is any material uncertainty as to funding, DCO articles may provide for a form of security to be approved prior to the exercise of compulsory acquisition powers.

9

Energy co-location with heavy energy users such as data centres is becoming an important trend

As grid capacity becomes increasingly constrained, co-location with large energy users is becoming more relevant. Whilst recent regulations now allow qualifying data centre schemes to be brought within the DCO regime on a case-by-case basis via a section 35 direction under the Planning Act 2008, promoters should consider carefully other consenting strategies, including use of the Town and Country Planning Act 1990, whether in tandem with an NSIP regime approach or otherwise, with the EIA scoped accordingly.

10

NESO's emerging Strategic Spatial Energy Plan (SSEP) is welcomed provided it is not overly prescriptive.

NESO is also leading the grid reform process and its latest Gate 2 decisions re-order the queue for project connection dates. However, the re-ordering may have knock-on effects by unfairly penalising renewable energy developers pursuing DCOs whose connection dates are now substantially delayed for reasons beyond their control. Any such delay should not influence the consenting process.



Conclusion

The roundtable provided a useful forum for discussion of the current issues facing promoters of renewable energy NSIPs.

Many of the themes raised are already relevant to the Government's ongoing reform of the DCO regime, including the publication of updated guidance and the introduction of amended regulations.

However, the discussion also highlighted the importance of ensuring that, as the regime evolves, the reform process remains informed by the practical issues facing NSIP promoters, particularly in the energy sector.

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