

**CONSULTATION ON DRAFT NATIONAL POLICY STATEMENTS (NPS) FOR
MAJOR INFRASTRUCTURE PROJECTS FOR ENERGY AND PORTS**

To: **Cabinet**

Date: **26 January 2010**

From: **Executive Director: Environment Services**

Electoral division(s): **All**

Forward Plan ref: **N/a** *Key decision:* **No**

Purpose: **To consider consultations from the Department of Energy and Climate Change (DECC) and the Department for Transport (DfT) on National Policy Statements (NPSs)**

Recommendation: **That Cabinet agrees the draft response set out in Appendix 1 of this report and delegates to the Portfolio Holder for Growth, Infrastructure and Strategic Planning in consultation with the Executive Director: Environment Services the authority to amend the response in line with comments made by Cabinet for submission to Department of Energy and Climate Change (DECC) by 22 February 2010 and Department for Transport (DfT) by 15 February 2010.**

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1 INTRODUCTION

- 1.1 The Government is currently consulting on a number of draft National Policy Statements (NPSs), as shown below:
- National Policy Statement for Energy (EN-1)
 - National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)
 - National Policy Statement for Renewable Energy Infrastructure (EN-3)
 - National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)
 - National Policy Statement for Electricity Networks Infrastructure (EN-5)
 - National Policy Statement for Nuclear Power Generation (EN-6)
 - National Policy Statement for Ports
- 1.2 Policy Statements EN-1 to EN-6 have been published by the Department of Energy and Climate Change (DECC). The closing date for the consultation is 22 February 2010. The Statements and supporting documents can be viewed at: <https://www.energynpsconsultation.decc.gov.uk/home/>
- 1.3 The draft National Policy Statement for Ports is published by the Department for Transport (DfT). The closing date for consultation is 15 February 2010. The Statement and supporting documents can be viewed at: <http://www.dft.gov.uk/consultations/open/portsnps/>
- 1.4 The consultation is due to be discussed by Growth and Environment Policy Development Group on 21 January and comments will be reported verbally to Cabinet on 26 January 2010. Following consideration at these meetings, it is recommended that the final response be agreed by the Cabinet Member for Growth, Infrastructure and Strategic Planning in consultation with the Executive Director Environment Services.

2 INFRASTRUCTURE PLANNING COMMISSION

- 2.1 The Government has introduced changes to the planning system, through the Planning Act 2008, which are designed to reform the system as it relates to proposals for nationally significant infrastructure. The Government argues that the current process for obtaining planning permission for large infrastructure projects is an inefficient and slow process, involving many different consent regimes.
- 2.2 In the future permission for nationally significant infrastructure will be administered by a new independent body, the Infrastructure Planning Commission (IPC) under a single system of consent. The IPC will not be a policy making body, but will focus on issues specific to an individual application. Policy relating to nationally significant infrastructure will be set out separately by Government in a series of National Policy Statements, seven of which have been issued in draft and are the subject of this report.

- 2.3 It is intended that the NPSs considered in this report, when finalised, will be a primary consideration for the IPC when it makes decisions on consent for nationally significant infrastructure. The Government argues that, by setting out the need for particular types of infrastructure in national policy, the consent process will be streamlined and will focus on the specifics of a particular scheme. The consultation paper also states that the NPSs may be a material consideration in decision-making on applications that fall outside the scope of the IPC and within the Town and Country Planning Act, although no further guidance is given.
- 2.4 The Government envisages that there will be 12 NPSs. In addition to the seven outlined above, it is intended that further Statements will follow covering:
- National networks (e.g. strategic roads and railways) – consultation early 2010
 - Airports – consultation early 2011
 - Waste water (e.g. sewage treatment infrastructure) – consultation spring 2010
 - Water supply (e.g. reservoirs) – consultation late 2010
 - Hazardous waste (e.g. high temperature incineration) – consultation summer 2010
- 2.5 The consultation states that the NPSs have been prepared having regard to existing Planning Policy Statements (PPSs). However, NPSs will be the primary consideration for the IPC when it makes decisions on applications, and will take precedence over PPSs. The final NPSs will also need to take account of the provisions of the emerging Floods and Water Management Bill, particularly in regard to the provision of Sustainable Drainage Systems (SUDS).
- 2.6 The IPC began advising potential applicants under the new regime from 1st October 2009, and the intention is that it will be ready to receive applications for proposals in the energy and transport sectors from 1 March 2010. The IPC will examine proposals for nationally significant infrastructure over certain thresholds, set out below. However the Secretary of State may also direct a proposal to the IPC even if it does not meet the threshold, if it is considered to be of national significance. Less significant schemes will continue to be decided under existing regimes. More information on the Infrastructure Planning Commission can be found at:
<http://infrastructure.independent.gov.uk/>
- 2.7 After an application has been accepted as valid by the IPC an Examination will be held, at which interested parties will be able to put their views on the merits of the proposal. In deciding an application, the IPC can disregard representations relating to the merits of general policy as set out in the NPSs and may refuse to allow them to be heard. It is anticipated that examinations will take no longer than six months. The IPC will then issue a decision within three months of the close of the examination. There will be no opportunity to challenge the decision of the IPC other than through the courts.

3 DRAFT NATIONAL POLICY STATEMENTS FOR ENERGY (EN-1 to EN-5) AND DRAFT NATIONAL POLICY STATEMENT FOR PORTS

Draft Overarching National Policy Statement for Energy (EN-1)

3.1 EN-1 is an overarching document that sets out a framework for the other energy Statements (EN 2 – EN 5). The Statement sets out the Government's broad policy regarding the UK's obligation to reduce greenhouse gas emissions, maintain security of energy supply and prepare for the impacts of climate change. The Statement highlights challenges facing the country, as set out in 'The UK Low Carbon Transition Plan' (July 2009), including:

- managing energy demand;
- the closure of power stations coming to the end of their design life and declining gas production from North Sea fields;
- providing for an increased contribution from renewable and nuclear sources;
- providing for new fossil fuel generating capacity, incorporating carbon capture technology; and
- establishing a 'smarter' electricity grid to support a more dispersed pattern of electricity generation.

It is estimated that over the next 20 years it will be necessary to replace around a third of the country's electricity generating capacity.

3.2 Given the above, EN-1 states that:

- The IPC should start its assessment of applications for energy generation infrastructure on the basis that need has been demonstrated.
- In terms of network infrastructure, there will be a significant need for expansion and reinforcement of the UK's transmission and distribution networks, including extension into areas that have not previously seen such developments.

3.3 Section 4 of EN-1 sets out key principles that the IPC should use in determining applications for energy infrastructure and a range of considerations that an applicant should have regard to when preparing an application. EN-1 states that, given the level of need, if the proposed development is in accordance with the NPS, then the IPC should operate on the basis that consent should be given. In addition to policy set out in the NPSs, the IPC should also have regard to national, regional and local benefits and adverse impacts, and if the Commission is satisfied that adverse impacts outweigh the benefits then consent should be refused. In the event of a conflict between other planning policy statements, Regional Spatial Strategies or local development plans and a National Policy Statement, the NPS will prevail.

Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)

- 3.4 EN-2 deals with policy for fossil fuel electricity generating infrastructure of more than 50 megawatts (MW). The government states that fossil fuels will play a vital role in providing reliable electricity supplies and securing the UK's move to a low carbon economy, through the incorporation of carbon capture and storage (CCS) which could reduce emissions by 90%.
- 3.5 EN-2 sets out specific considerations relating to fossil fuel generating stations that the IPC will need to take into account, such as air emissions, landscape and visual impacts, noise, dust and water quality and resources.

Draft National Policy Statement for Renewable Energy Infrastructure (EN-3)

- 3.6 EN-3 deals with policy governing renewable energy infrastructure from biomass or waste schemes of more than 50MW, onshore wind schemes of more than 50MW and offshore wind schemes of more than 100MW. EN-3 highlights that a significant increase in generation from large-scale renewable energy infrastructure is needed to ensure a transition to a low-carbon economy. EN-3 sets out specific considerations affecting biomass and waste combustion, offshore and onshore wind farms that the IPC should take into account in coming to a decision on schemes.

Draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)

- 3.7 EN-4 sets the framework for the importation, storage and transmission of natural gas and oil products, which the consultation argues will be crucial to meeting energy needs during the transition to a low carbon economy. EN-4 covers:
- large underground gas storage facilities;
 - liquid natural gas import facilities;
 - large gas reception facilities;
 - gas transporter pipelines conveying gas to at least 50,000 potential customers and over 10 miles long.

Draft National Policy Statement for Electricity Networks Infrastructure (EN-5)

- 3.8 EN-5 states that the UK needs new electricity generating infrastructure to move to a low carbon economy whilst maintaining security of supply. This will be dependant on an electricity network that can support a more complex system of supply and demand and cope with generation occurring in more dispersed locations. EN-5 covers:
- above ground electricity lines of 132 kilovolts (kV) and above; and
 - other infrastructure for electricity networks associated with a Nationally Significant Infrastructure Project (NSIP).

Draft National Policy Statement for Nuclear Power Generation (EN-6)

- 3.9 EN-6 summarises the Government's approach to the role of nuclear power in energy generation. The Statement stresses that, to achieve the objectives of the Low Carbon Transition Plan, it is likely that by 2050 the UK will have to reduce carbon emissions from the power sector to almost zero. Although there is potential for renewable sources to contribute around 35 gigawatts (GW) of new capacity by 2025, a total of 60GW will be needed from all sources by that date. EN-6 argues that new nuclear power generation should contribute as much as possible towards meeting the 25GW deficit that will have to be found to meet the 2025 total.
- 3.10 The Statement sets out considerations that the IPC should take into account when assessing applications for new nuclear power stations. EN-6 highlights that the Government has set out a framework for the long term management of radioactive waste in the 'Managing Radioactive Waste Safely (MRWS) White Paper' (June 2008), incorporating geological waste disposal. It is therefore stated that the IPC should not consider this issue when assessing applications for new sites.
- 3.11 Part 5 of the Statement lists sites that the Government has assessed and found to be potentially suitable for new nuclear power generation. This follows an assessment process undertaken in 2009. Ten sites are identified in EN-6 as having potential, including, in the East of England:
- Bradwell, Essex – at the site of the existing Bradwell nuclear power station, currently being decommissioned; and
 - Sizewell, Suffolk – at the site of the existing Sizewell A and B power stations.
- 3.12 Although the Government maintains that these sites are acceptable in principle for nuclear power generation, the assessments undertaken so far have not been able to examine more detailed site specific issues. EN-6 is intended to set out considerations that will aid the IPC in coming to a decision on schemes for these sites. The Statement stresses that it is likely that all ten sites will be needed and the IPC should start its examination on the basis that need for the sites has been demonstrated. EN-6 sets out policy relating to these ten sites only; the Statement stresses that if other sites come forward, then the IPC can make a recommendation on an application, but the final decision will be taken by the Secretary of State.

Draft National Policy Statement for Ports

- 3.13 This NPS applies to port developments exceeding certain volumes of traffic or numbers of movements a year. The Statement highlights the important role that shipping plays in moving the vast majority of freight in and out of the United Kingdom, in ensuring energy supplies and in the tourism and leisure industries. The Statement stresses that the provision of sufficient sea port capacity will remain an essential element in ensuring the sustainable growth of the economy.

4 LIKELY IMPLICATIONS FOR CAMBRIDGESHIRE AND THE COUNTY COUNCIL

- 4.1 Local authorities are likely to be involved in the process for deciding national infrastructure projects in a number of ways, for example, by:
- Commenting on draft National Policy Statements;
 - Advising applicants for infrastructure schemes about the pre-application work they should undertake to publicise their proposals with local people;
 - Advising the IPC on the adequacy of the pre-application consultation undertaken by applicants;
 - Providing a local impact report to the IPC on the likely effects of the proposed development to aid the IPC in coming to a decision on a scheme;
 - Submitting evidence and appearing at any hearing into a national infrastructure scheme; and
 - If consent is granted, monitoring and enforcing any conditions placed on the application by the IPC.
- 4.2 The Planning Act identifies that county and other authorities will be statutory consultees on applications for national infrastructure in their own and neighbouring areas. In addition, as outlined above, county, unitary and district councils will have a role to play in advising applicants on the consultation they should undertake, reporting to the IPC on the adequacy of the consultation and preparing local impact reports on the likely effects of the proposed development, however, in two-tier areas it is not clear which authority would lead or co-ordinate this work. It appears that planning fees will be paid to the IPC and it is not known whether any additional resources will be made available to local authorities to undertake the work described above. An accompanying background document – ‘Infrastructure Planning Commission: Implementation Route Map’ (December 2009) - states that further guidance will be published early in 2010.
- 4.3 It is difficult to know at this stage how the new system will affect Cambridgeshire or the County Council, as impacts will depend on whether any schemes are proposed for the County. A list of likely schemes is being maintained by the IPC and can be viewed on their website at: http://infrastructure.independent.gov.uk/?page_id=202 At present for the East of England this list refers to a potential scheme for the Sizewell C Nuclear Power Station and a 26 kilometre overhead electricity line (Sizewell C Connector) linking Bramford, near Ipswich, to Twinstead, near Sudbury.
- 4.4 Regarding port facilities and nuclear power stations, it seems likely that the major impacts for Cambridgeshire would be through increased traffic through the County.
- 4.5 Regarding gas and oil pipelines and storage, the storage of gas within a water aquifer would involve the large-scale abstraction of water to provide gas capacity and it is doubtful whether the impact on water supplies in this area would be acceptable to the Environment Agency. There are several pipelines for the national gas transmission system running through Cambridgeshire.

The NPS does not give an indication of the likely additional demand for pipelines so potential impacts are difficult to assess. Any scheme could have a visual and noise impact, where above-ground compressors or pumping stations are located in rural or other noise-sensitive areas.

- 4.6 It seems likely that the most direct impacts are likely to come from renewable energy and electricity networks infrastructure. Regarding renewable energy, recent developments in the County have included a number of wind farms in Fenland and Huntingdonshire of between 9 and 24 MW (from 3 to 12 turbines), in addition to a straw burning power station in Sutton in East Cambridgeshire of 36.85 MW. These would all have fallen below the threshold for consideration by the IPC, which is for schemes of 50 MW or more, however larger schemes may come forward in the future.
- 4.7 Regarding electricity network infrastructure, reference is made in EN-1 to the report of the Electricity Networks Strategy Group (ENSG), 'Our Electricity Transmission Network: A Vision for 2020' (July 2009), which highlights that improvements to the network will be needed in a number of areas, including from Eastern England to centres of demand in the Midlands and South East. Cambridgeshire's location between the east coast and the Midlands means that new power transmission lines from large-scale renewable generation schemes or new nuclear power stations may be proposed to pass through the County to serve major centres of population elsewhere.

5 CONCLUSIONS

- 5.1 While there is undoubtedly a need for significant infrastructure projects and the existing system has led to some lengthy inquiries (that for Heathrow Terminal 5 taking seven years), there are significant concerns about the draft NPSs. The Statements pay little regard to the existing regional and local planning policy framework that local authorities and other partners have put considerable resources into establishing. In addition, the pre-application process seems to be focussed more on informing local people of the proposals than refining the scheme with the expert knowledge of local stakeholders. This gives rise to serious concerns that the system will result in applications that will not take account of local circumstances and conditions. While local authorities can highlight planning policies and local considerations in their local impact reports, this will be at a stage when the application is largely finalised. This could lead to significant and unnecessary adverse impacts.
- 5.2 Given the above, it is proposed that the comments set out in Appendix 1 be submitted to DECC and DfT as the County Council's response to the proposals under consultation.

6 SIGNIFICANT IMPLICATIONS

Resources and Performance

- 6.1 The implications for resources and performance will depend on whether any applications for nationally significant infrastructure projects come forward in

Cambridgeshire. As highlighted above, local authorities may have a significant role to play in advising applicants about how they should consult local communities, assessing the consultation that they undertake, advising the IPC on local impacts, putting forward their views at any hearing and enforcing conditions if consent is granted. It is not clear whether county or district councils would lead on this work. In addition, it is not known whether there will be any resources available to local authorities to undertake this extra work from the planning fees that will be paid to the IPC or other sources. Further guidance on this is expected soon.

Climate Change

- 6.2 The implications for climate change will depend on what applications come forward. As described above, the Government argues that, to reduce the country's carbon emissions, significant new energy infrastructure will be needed, with emphasis being given to renewable energy, nuclear power and fossil fuel power incorporating new methods of carbon capture. Linked to this will be the need for new electricity network transmission infrastructure to enable a more dispersed pattern of energy generation.

Access and Inclusion

- 6.3 The implications for access and inclusion will depend on what applications come forward. As the consultation highlights, energy is essential for the functioning of our society – heating homes, supplying businesses and essential services and enabling travel. An individual project may bring specific benefits for an area in terms of job creation and the wider effects on the local economy (it is estimated that a third of the employment in West Cumbria depends on Sellafield because of off-site multiplier effects). However, there may also be negative effects on the economy through the impacts of traffic congestion or damage to tourism resulting from impacts on the natural environment.

Statutory Duties and Partnership Working

- 6.4 The implications will depend on what applications come forward. Local authorities will be statutory consultees on schemes in their own and neighbouring areas. As outlined, there may be a significant role for local authorities in advising the applicant and the IPC and participating in any hearing. At this stage it is not clear how these duties will be divided between county and district councils.

Engagement and Consultation

- 6.5 This report is in response to consultation by Government on the first seven NPSs; as highlighted above, a further five NPSs will be consulted on over the next two years. If an application for a nationally significant infrastructure project comes forward in Cambridgeshire, local authorities will have a significant role to play in advising the applicant about what engagement and consultation they should undertake and in assessing this work to inform the decision of the IPC. At this stage it is not clear how these duties will be divided between county and district councils.

7 NEXT STEPS

- 7.1 Following Cabinet, which will have the benefit of the PDG comments, it is proposed that the draft response set out in Appendix 1 of this report be finalised in line with comments made by the Portfolio Holder for Growth, Infrastructure and Strategic Planning in consultation with the Executive Director, Environment Services and submitted to the Department of Energy and Climate Change (DECC) by 22 February 2010 and the Department for Transport (DfT) by 15 February 2010.
- 7.2 The 'Implementation Route Map' states that, following consideration of the consultation responses and scrutiny by Parliament, the seven NPSs discussed in this report will be formally approved later this year, although no date is given. The IPC will be able to start receiving applications for energy and transport related development from 1 March 2010, irrespective of whether the relevant NPS has been designated. If the relevant designated NPS is not available when an application reaches the decision-making stage, the IPC would have to make a recommendation to the Secretary of State, who would be responsible for the decision.

Source Documents	Location
<ul style="list-style-type: none">• Infrastructure Planning Commission – Guide to its Role and Operation Working Draft (IPC, October 2009)• Reforming the Planning System – The Infrastructure Planning Commission• Introducing the Infrastructure Planning Commission – A Guide to its Role (IPC, 2009)• Infrastructure Planning Commission – Fact Sheet (IPC, 2009)• Infrastructure Planning Commission: Implementation Route Map (Communities and Local Government, December 2009)• Draft Overarching National Policy Statement for Energy (EN-1)• Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)• Draft National Policy Statement for Renewable Energy Infrastructure (EN-3)• Draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)• Draft National Policy Statement for Electricity Networks Infrastructure (EN-5)• Draft National Policy Statement for Nuclear Power Generation (EN-6)• Draft National Policy Statement for Ports	A Wing 2 nd Floor, Castle Court, Cambridge

APPENDIX ONE: PROPOSED COUNTY COUNCIL COMMENTS

- (1) *There needs to be a comprehensive approach to national infrastructure planning that recognises the capacity and potential of different areas of the country. The Statement on Ports, for example, has been published without reference to the Statement on road and rail infrastructure which is to follow, and without consideration of the capacity of regional road and rail infrastructure to accommodate the resulting freight traffic or promote a transfer from road to other more sustainable forms of transport.*
- (2) *The relationship between the NPSs and the development planning system needs to be clarified and reference to regional and local planning documents strengthened. At present it appears that national infrastructure planning will take place almost entirely without reference to the existing development plan system:*
 - *It is highlighted that the NPSs may be a consideration for local authorities in assessing proposals below the scheme thresholds alongside existing Planning Policy Statements, but no further explanation or guidance is given.*
 - *Regional spatial strategies are referred to in relation to waste and renewable energy targets, but not in relation to the growth, regeneration or transport strategies they set out, nor in relation to other policies that may be relevant, such as areas of search for wind energy schemes.*
 - *The NPSs highlight the need for applicants to assess how their proposals relate to local landscape policies and assessments of greenspace, and how the socio-economic impacts of energy schemes relate to local planning policies, but no other reference is made to the local planning framework.*
- (3) *Planning frameworks set out in local authorities' planning documents are the result of considerable work by authorities engaging local people, establishing a vision and setting out areas for future growth and conservation. These documents have been subject to scrutiny and tested at examination, and public and private sector organisations draft their investment plans on the basis of the strategies they set out. The NPSs must make it clear that applicants should have regard to the development plan for the area in drawing up their schemes. If the applicant considers that it is in the national interest for the IPC to set these policies aside, then this needs to be justified. Applicants must also have regard to the development plan in regard to the details of their schemes, such as access, design, lighting, noise mitigation and other matters. Under current proposals, while local planning authorities can highlight these policies to the IPC in their local impact reports, this will be after the application has been largely finalised and at a stage where changes will be more difficult to make.*
- (4) *The NPSs should highlight the need for early consultation with local authorities on all aspects of their schemes. The draft Statements are arbitrary in this regard: applicants are advised to seek pre-application advice from highways authorities in relation to flood risk (EN-1 and Ports) and construction traffic for wind farms (EN-3) but no other transport issues are highlighted. Potential impacts on public services are highlighted for nuclear and port developments, but not for other schemes, and there is no reference to the*

need to consult local authorities or other partners providing these services. Similarly, EN-1 refers to the need for applicants to provide assessments of the economic impacts of their schemes, but no reference is made to the Local Economic Assessments that local authorities are tasked to produce. In regard to flooding, no reference is made to the need to seek the advice of upper tier local authorities, which are to become lead Local Flood Authorities under the Flood and Water Management Bill.

- (5) All schemes over the threshold for consideration by the IPC are likely to have significant impacts for local authorities and their partners, and early consultation should be undertaken on all aspects of these proposals. The pre-application process envisaged seems to relate more to publicising a scheme than to refining and improving a scheme using the local knowledge and expertise of local authorities and other stakeholders. The success of the new system will depend on the quality of pre-application discussion, especially with local authorities which will have to cope with the impacts of the scheme, monitor its implementation and ensure that legal obligations are properly discharged.*
- (6) Infrastructure delivery for an area will be set out in delivery plans at the regional and local level, and these plans provide a clear link between areas of future growth and the infrastructure needed to deliver it. At present there is no reference in the NPSs to these plans and it appears that national infrastructure projects will be developed without reference to regional and local infrastructure plans and requirements. The applicant must demonstrate that the proposed scheme takes these plans into account and will either complement or not conflict with regional and local delivery plans. EN-6 on Nuclear Power states that applicants should demonstrate that the proposed development would not have an unacceptable negative impact on significant infrastructure, such as highways, but this is not reflected in any of the other NPSs.*
- (7) The resource implications of the NPSs need to be recognised. Local authorities may find themselves having to undertake significant work advising applicants about their consultation strategies and assessing the results of these for the IPC. In addition, authorities may have to provide local impact reports to the IPC and, if consent is granted, may be charged with monitoring conditions. However, there appears to be no mechanism for funding these activities through the planning application fees charged by the IPC. This needs to be rectified to recognise the increased workload and new burden that local authorities will have to undertake.*