

National Infrastructure Planning Reform Programme – Energy UK Response

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership. We represent the diverse nature of the UK's energy industry with our members delivering nearly 80% of the UK's power generation and over 95% of the energy supply for the 28 million UK homes as well as many businesses. The energy industry invests £13bn annually, delivers nearly £30bn in gross value added on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors, and supports over 700,000 jobs in every corner of the country.

17 December 2021

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3. What could government, its arms-length bodies and other statutory bodies do to accelerate the speed at which NSIP applications can be prepared and more generally to enhance the quality of submissions? (no more than 300 words)

- We welcome government's ambition to reduce the timelines for consent to NSIP projects.
- Better resourcing for government bodies such as the Environment Agency, Natural Resources Wales, Natural England and Marine Management Organisation would be very beneficial to enhance the quality of submission. This would ensure the consistency of approach, enhanced expertise and retention of knowledge. Government bodies should have not only a well-resourced dedicated service but also a legal duty to engage with NSIP projects within a clear timeframe.
- It is essential that government promotes a reform and simplification of the Habitats Regulation Assessment (HRA) regime for the energy NSIPs, in particular renewables and low carbon technologies. Considering the role low carbon technologies will play in minimising the impacts of climate change, greater weight should be given to the benefits of such projects to the environment and human health, as opposed to their localised potential effects.
- Currently, government departments such as Defra and arms length bodies such as Natural England/NRW have little appetite to consider *de minimis* impacts from energy NSIPs during consenting. This drives competent authorities such as the Crown Estate or PINS/SoS to take overly precautionary approaches to plan or project level HRAs. We perceive this as a real barrier and threat to the delivery of net zero.
- We would like a thorough pre-consultation process going forward. Government bodies should have a statutory duty to engage in the pre-consultation process within a pre-defined timeframe to speed up the NSIP applications.
- We would welcome the reform and simplification of the HRA assessment regime for low carbon technologies. Currently, the HRA assessment process causes delays to many applications. It would also be useful for government agencies to draw a Memorandum of Understanding on how to approach HRA assessment to facilitate and speed up decision making.

4. Following submission, are there any aspects of the examination and decision process which might be enhanced, and how might these be improved? (no more than 300 words)

- We would like to see PINS take on a more strategic role in the examination phase. This could include screening queries on applications and then ensuring the level of detail in the examination phase is proportionate to the number of questions received, and the potential impact of the given project.
- The pre-examination period of “intermediate length” should be subject to a statutory timescale in line with stages before and after, which will provide benefit to applicants on getting applications right at the first time.
- We question the benefit of Secretary of State inputting at pre examination stage where lists of issues or examiners first questions are completed – their expertise is mainly required at the back end of the process.

5. Where a development consent order has been made, what impediments are there to physically implementing a project which could be removed? (no more than 300 words)

- The variation process for Development Consent Orders (DCO) for making material changes needs to be simplified. It is a high burden to run the application process again to make material changes as often there are changes that arise from the stage of consenting to the stage of construction. Bringing flexibility and resilience into the process will be very beneficial.
- We would also welcome a clear and concise timescale for making any non-material changes. This would assist with planning the programme of construction and changes. Non-material changes to DCOs should be able to be promoted in a simplified and speedier way than the current statutory framework allows.
- We would like to see greater flexibility for material changes to DCOs during the examination process.
- For linear projects, DCO conditions should specify a lead planning authority for discharging requirements. This should be encourage through guidance on how this can be executed. For example, a similar model has been undertaken in the past for coastal impacts for onshore wind.

6. How might digitalisation support the wider improvements to the regime, for example are there any specific aspects that you feel could benefit from digital enhancements? (no more than 300 words)

- The DCO submission process should be completely digitalised and submissions should be made electronically. Applicants should be exempt from providing hard copies of the DCO applications and environment statements.
- Applicants should also be exempt from providing hard copies in the pre-application consultation process for projects, with paper copies being provided on request only.
- We welcome the introduction of virtual hearings. These have opened up the option to participate to a wider audience and we recommend that these are continued.
- The statutory instrument template is a barrier in submitting applications. We would welcome a updated and simplified template.
- Use of drone footage as part of pre application process will help with community consultation and engagement as well as negate the need for physical site examination. This would be a generally safer, environmentally friendly, and COVID-19 restriction friendly approach. We would strongly encourage published standards for the use of drone footage for consistency across projects and examiners.
- It would be beneficial to update applicants with public data in areas that impact the applications such as flood modelling updates.
- A library referencing system should be instituted at project inception, or in the run up to submitting a DCO application, to avoid dual numbering with a filing index.
- We would like to see more positively worded PINS advice notes, which help simplify the process. For example, the recent instruction to ‘not include hyperlinks’ in documents begs the question how to proportionately reference and evidence third party material.
- Automatic alerts of examination hearings and deadlines would be helpful, as well as automated online subscription to hearings.

- Bigger file sizes for submission to PINS.
- Further improvements to PINS website to allow easier location of documents.

7. What issues are affecting current NSIPs that would benefit from enhanced cross-government co-ordination including government departments and arms-length bodies? (no more than 300 words)

- We would welcome guidance for coordination between cross- government departments (particularly BEIS and Defra) on cases of compensation and derogation.
- The Environment Impact Assessment and Strategic Environment Assessment process should be simplified to deliver a quicker and more streamlined framework for assessing environmental impacts for key areas.

8. Does the NSIP regime successfully interact with other consenting and regulatory processes and the wider context within which infrastructure projects operate? (no more than 300 words)

- It would be beneficial to bring other required permits and assessments within the remit of the NSIP regime. Currently, the licenses and permits required from arms length bodies do not form a part of the DCO process. It would be beneficial to include these and streamline the process rather than making multiple applications for environmental permits etc. Making applications for multiple licenses defeats the intention and objective of the NSIP regime and doesn't make it as effective as it can be.

9. Are there areas where limits in the capacity or capability of NSIP applicants, interested parties and other participants are resulting in either delays or adversely affecting outcomes? (no more than 300 words)

- The application process has been delayed due to lack of engagement from consultees in the pre-consultation process. Better resourcing for government bodies would be essential for this. Government bodies should have not only a well-resourced dedicated service but also a legal duty to engage with nationally significant projects within a clear timeframe.
- Inadequate resourcing of regulators and local planning authorities mean they struggle to engage and to commit to deadlines. The following issues have been identified as a result of lack of resourcing:
 - a. Generic and delayed responses from major SNCBs during statutory pre-application consultations;
 - b. Missing or late relevant representations;
 - c. Missing or late engagement by utility firms (in examination instead of at relevant representation stage);
 - d. Limited use of relevant representation or written representation process by local planning authorities, which means that applicants may not understand their objections until the Local Impact Report is published even in instances where meetings have been held/attempted, given that officer level meetings do not always capture democratic process.

10. Is there anything else you think we should be investigating or considering as part of our end-to-end operational review of the NSIP process? (no more than 300 words)

- There have been multiple instances whereby the decision from the Secretary of State on NSIP applications has been delayed. We urge PINS to review the reasons for these delays and look at enabling action which will ensure decisions are granted on the dates as outlined in the application process.
- The NSIP process should be reviewed to accommodate for future technological developments such as with hydrogen and CCUS. This would include the review of how associated infrastructure should be implemented (e.g. small scale storage attached).

- The NSIP process should also be updated as per the review of the National Policy Statements currently taking place.
- A regular review of the NPSs, advice notes and relevant guidance documents at pace with policy changes.
- A review of the Habitats Regulations specifying the current climate emergency and Net Zero targets as IROPI.

The DCO process should be a front-loaded process with fixed time limits, which will enable more structure in the process but cognisant of the fact there may not be a one size fits all approach.**11.**

Please confirm how you interact with the NSIP regime?

- **promotor**
- **local planning authority**
- **statutory consultee**
- **lawyer**
- **consultant**
- **member of affected community**
- **other (please specify). – Via our members**