

Planning Reform Working Paper: Streamlining Infrastructure Planning

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The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources. The energy sector supports 700,000 jobs in every corner of the country.

Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Executive Summary

Energy UK considers the working paper's positions on reviewing the National Policy Statements more regularly very positive. Making the application process less burdensome is welcome, especially with the focus on pre-application and post consent phases, but requires more detail than provided in the working paper. Energy UK does support some flexibilities in the process, but are concerned that the proposals go too far in this regard, and could possibly undermine the new guidance from the updated NPS and other areas.

If you would like to discuss this response in further detail with Energy UK and its members, we would welcome further engagement.

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Question a: Would the package of measures being proposed in this paper support a more streamlined and modernised process? Are there any risks with this package taken as a whole or further legislative measures the government should consider?

Overall, yes. There is scope to investigate whether the proposals should go further and be more radical in some cases, however there are some significant risks in the latter half of the paper on providing the Secretary of State with new powers. The biggest risk in the paper is the Secretary of State having so much individual flexibility on a case-by-case basis that undermines the purpose of having an existing framework. Full responses can be found below to the rest of the questions in this consultation, however in response to the main points raised;

- *A. Reviewing National Policy Statements (NPSs) on a more regular basis and making it easier to update them in the interim;*
The details around National Policy Statements are very positive, and align with much of Energy UK's pre-existing position.
- *B. Protecting the role of consultation in the consenting process but making it less burdensome;*
The principles are sound, however more detail on exactly what this is likely to entail is required. Resourcing, simplifying the framework, and introducing penalties for non-engagement are possible levers for change.
- *C. Supporting delivery of infrastructure post-consent;*
Post consent is indeed a key area, however it is not clear from the proposals how much of a departure this would be from the present system.
- *D. Allowing for appropriate flexibility in the process applied to projects where this is merited;*
More flexibility could be useful, but the approach outlined of granting the Secretary of State more powers on a case-by-case basis undermines the framework (including NPSs) and is not sustainable in the long run.
- *E. Strengthening statutory guidance to ensure clarity over what is and is not required.*
These reflect the rest of the paper and our respective positions.

Other overall observations include the extensive role that secondary legislation can play, in particular through the Planning Act 2008, is very positive for Clean Power by 2030, given the long timeframes needed for generation technologies like offshore wind and the potentially lengthy process of introducing primary legislation. It would be useful to understand in more detail the impact of secondary legislation on the planning system to Clean Power 2030, and how much this differs from primary legislation. Energy UK recognises the importance of both mechanisms for speeding up deployment of energy infrastructure ahead of 2030.

General approaches to this planning reform process are positive, with evolution not revolution, of the NSIP process in line with industry thinking, and a faster, more certain, and less costly NSIP regime very much along the right track. However, this is

contingent on detail, especially in particular areas. A move to outcomes-based decisions on the planning process is a good strategic direction, but what this means in practise is still relatively open in the paper. Alignment with government goals such as a Clean Power by 2030 is one such direction highlighted, but how this will impact the planning process more directly needs further direction. The same is true for streamlining of the pre-application process and keeping the consultation process proportionate, two objectives Energy UK fully supports, but different approaches will vary this effectiveness.

The issue of resourcing is a longstanding issue of the current planning system, and while this is addressing it very directly in the working paper, it is not yet clear how much of the proposals to address this will solve the gap. Of the proposals suggested, such as greater training of specialised planners for specific applications, Energy UK is very supportive of these. The issue of public funding for the planning system will be particularly critical, given the overall pressures on public finances and the additional pressure 150 DCOs will add onto the system.

One of the measures to drive efficiency would be the implementation of clear and fixed statutory timelines for each stage of the planning process. This should include appropriate consequences for delays, particularly for statutory consultees, to ensure that all parties engage constructively and respond within reasonable timeframes. The absence of meaningful enforcement mechanisms currently leads to prolonged decision-making, which ultimately increases project costs and uncertainty for developers.

Question b: Are the proposed changes to NPSs the right approach and will this support greater policy certainty?

Energy UK is very positive about the direction proposed for NPS reform and regular five-year updates for them. Full updates for all NPS by July 2025 are an appropriate step. The reflective amendments process is a sensible measure to speed up the current system, which is much too onerous and slow to change, especially given the rapidly changing nature of some of the technologies involved. However, a year to update National Policy Statements is still a significant timeframe if these are to be updated every five years. Examining if this timeframe could be brought down further would be useful. It is crucial that these amendments maintain clear planning certainty for developers. Furthermore, the process of updating NPSs can take considerable time and resources, and hence clear transitional arrangements and grandfathering provisions must be in place to ensure maximum certainty for developers during periods of policy change to ensure the process does not create unnecessary complexity or risk disrupting the investment pipeline.

Additionally, to ensure the five-year review cycle is meaningful and not just a procedural exercise, clear guidance should be put in place detailing the scope of reviews, the engagement process, and the criteria for assessing whether updates are

needed. This will help ensure the review process effectively responds to changes in policy, technology, and energy market conditions.

The number of current National Policy Statement remains appropriate for energy, however new versions could be drafted for energy adjacent areas such as gigafactories. Strengthened NPS will give further certainty that the framework under NSIP is governed by robust policies that are up to date on the status of each of the technologies it covers.

On Point 19 of the working paper, while Energy UK agrees with updating NPS based on legislative, government policy, and court decision changes, a fourth category could be introduced for when there is a major change within the technology areas themselves. For example, the Nuclear NPS currently under consideration at time of writing has some focus on Small Modular Reactors, a very different type of application of the technology since the last NPS in 2011, and a major change. Similar changes that may occur at a rapid timescale, such as a new application of a technology, a major economic use case change, or a third-party impact of a technology, could be considered for future NPS updates alongside the above.

Finally, it is recommended that the integration of NPSs goes along with the Strategic Spatial Energy Planning (SSEP) to provide a clear, long-term vision for infrastructure development.

Question c: Do you think the proposals on consultation strike the right balance between a proportionate process and appropriate engagement with communities?

In most areas, however, there is scope for greater ambition in some parts. While greater engagement at the pre-application stage is to be encouraged, it should be cautioned that not all issues will be addressed here. Further details can be found below in the responses to Questions d and e.

The introduction of a more outcomes-focused approach, in principle, seems to be a positive step, however, more information is needed about how the Government envisages "outcome-based compliance with pre-application requirements" before fully endorsing the proposal. On the one hand, this approach could provide greater flexibility, allowing developers to demonstrate how engagement has influenced a project. However, without clear benchmarks to guide what is considered appropriate, decision-makers may struggle to determine whether consultation has been sufficient. This ambiguity could introduce delays rather than streamlining the process. For example, an outcome might be that project design was altered following consultation, but there could be equally valid reasons why no changes were made after engagement. The decision not to modify a project based on feedback should not automatically be considered inadequate consultation. Explaining such decisions in detail could result in longer pre-application processes rather than shorter ones.

Local authority (LPA) and statutory consultee engagement should be better structured to ensure meaningful early input. Currently, LPA engagement often relies on Planning Performance Agreements (PPAs) being in place, which can lead to protracted negotiations and delays. Providing clearer guidance on the role of LPAs and statutory consultees, including expected response times and engagement standards, would be beneficial. However, any new requirement must not result in increased costs for developers, particularly where engagement is delayed or inefficient.

Additionally, the consultation notes that some developers “gold plate” their engagement and go beyond statutory requirements. Members noted that developers often take this approach in response to expectations—or perceived expectations—set by local authorities and statutory consultees. Therefore, for this reform to be effective, local authorities must also be encouraged to take a less risk-averse approach in their discussions with developers, ensuring that consultation requirements remain proportionate and reasonable.

To ensure that applicants understand how to meet new consultation requirements, clear and comprehensive guidance should be provided. Without sufficient direction, there is a risk that developers may default to “gold-plated” consultation as a risk mitigation measure, which would undermine the intended benefits of these reforms. The new system should strike the right balance by ensuring that engagement is genuine, proportionate, and effective while providing certainty for developers on how to fulfil their obligations.

Question d: Do you agree with the proposal to create a new duty to narrow down areas of disagreement before applications are submitted? How should this duty be designed so as to align the incentives of different actors without delaying the process?

Yes. A pre-application period of up to 27 months is far too long, and should aim to be 12 months or less in most cases. More detail is required to properly assess the practicality of the proposals than is suggested in the paper, including what incentives are required to make this happen. The language of the paper is potentially open to interpretation by the parties, with a ‘*duty on all parties to identify and narrow down any areas of disagreement*’ having a potentially very broad meaning.

One way this could be done is by greater transparency on responses by statutory consultees, with responses by one consultee being shared to the others as soon as they become available. Deadlines for consultees to reach an agreement, oversight boards to coordinate a response, and penalties for failing to reach an agreement, are all possible policy mechanisms, however there are risks on both resourcing and due process.

Clear timeframes and expectations should be set for statutory consultees and local authorities (LPAs). One of the key challenges in the current system is the lack of

certainty around when consultees will provide substantive input. Delays in engagement can result in unresolved issues being carried into the examination phase, increasing costs and prolonging decision-making. Introducing defined response times for consultees, alongside appropriate accountability measures, would help ensure that issues are addressed at an early stage rather than being deferred to later in the process.

Additionally, there needs to be **clear guidance** on what happens if consultees, LPAs, or other stakeholders fail to engage. A possible process for this is where the Planning Inspectorate (PINS) can take into account a lack of engagement when assessing an application. This would help prevent a situation where applicants are penalised due to non-responsiveness from statutory bodies, ensuring that developers are not forced into unnecessary delays due to circumstances beyond their control.

It is well understood that there are existing resource constraints across the planning system and any attempts to streamline and speed up the process needs to take into account the crucial role that resourcing has in enabling and supporting these activities.

These kinds of interventions are the kind of policies that should be considered at this stage, as more radical re-structuring is likely to be required rather than re-wording of obligations for reducing disagreements. Starting with stronger interventionist measures may pave the way for middle-ground approaches on resolving disagreements that satisfy further parties.

Question e: Do you support the changes proposed to Category 3 persons?

Yes. Further amendments should be made to Planning Act 2008 to further define what is a 'reasonable' approach to including Category 3 persons. The current definition is;¹

(4) A person is within Category 3 if the applicant thinks that, if the order sought by the application were to be made and fully implemented, the person would or might be entitled—

- (a) as a result of the implementing of the order,
- (b) as a result of the order having been implemented, or
- (c) as a result of use of the land once the order has been implemented, to make a relevant claim.

This is subject to subsection (5).

(5) A person is within Category 3 only if the person is known to the applicant after making diligent inquiry.

The definition of 'diligent inquiry' and the broadness of the people who may be entitled to claim make the potential for Category 3 persons very large, and as with

¹ [Planning Act 2008, Chapter 28 \(legislation.gov.uk, 2008\)](https://www.legislation.gov.uk/ukpga/2008/15/section/28)

other aspects of the NSIP regime, there is therefore an in-built incentive for developers to over-do identification of every possible Category 3 person, often taking up more resources than strictly necessary. A stricter definition of what constitutes a Category 3 person would go some way towards resolving this, and this would go further than the proposals in the working paper.

As for identification of Category 3 persons in the pre-application stage, while reducing this as proposed would reduce resources and time taken, if the parameters of Category 3 persons remain this wide, it may well be better served in the pre-application stage, where there are fewer potential risks and potentially more flexible timescales than in the application stage. Therefore, while Energy UK supports this, reform of Category 3 persons overall might be the most important aspect of this approach.

Question f: With respect to improvements post-consent, have we identified the right areas to speed up delivery of infrastructure after planning consent is granted?

Mostly. More detail is required than provided in the working paper, but reducing the requirements post-consent is likely a key area for reducing time in the system overall with less impact on community consultation than other stages. The introduction of a deemed consent framework in the Planning and Infrastructure Bill is an interesting proposal, and could generate efficiency savings, a more thorough analysis is needed on the impact this could have on specific projects and sectors. On draft order corrections for DCOs, these are a sensible proposal, however they could have greater scrutiny and oversight by legal experts in the two-week window in addition to applicants. Energy UK supports a single process rather than material or non-material consents, noting the streamlining benefits and efficiency gains this may bring.

However, there is a risk that non-material amendments could be subject to an overly lengthy approval process if they are required to go through the same route as material changes. To ensure that the system remains proportionate and efficient, Energy UK would recommend:

- Introducing a defined timeframe for determining all post-consent amendments (e.g., a maximum of six weeks for any change).
- Providing clear guidance on what constitutes a material vs. non-material change, ensuring that minor modifications can still be processed under an expedited timeline.

Question g: What are the best ways to improve take-up of section 150 of the Planning Act? Do you think the approach of section 149A has the potential to be applied to other licences and consents more generally?

It is not yet clear. However, the methods of better communication of section 150 and its benefits, as well as monitoring uptake of section 150 off the back of this new policy, would seem an appropriate starting point.

Seeking consents via Section 150 should remain optional, allowing developers the flexibility to determine the most suitable route for their projects. However, guidance and support from decision-making authorities to facilitate the use of Section 150 would be welcomed. Clearer expectations on how these consents can be incorporated into the DCO process would help increase confidence in the system.

Supports extending the approach taken under Section 149A, which enables deemed consents for marine licences, to other key post-consent approvals. This approach should be expanded to include environmental permits, grid connection approvals, and biodiversity net gain requirements, which are often critical to the delivery of infrastructure projects.

To fully realise the "one-stop-shop" approach envisioned by the Planning Act, it makes sense to include as many consents as possible within the DCO process. Consolidating approvals into a single, streamlined process would reduce administrative complexity, avoid duplicative assessments, and accelerate project delivery.

Question h: With respect to providing for additional flexibility, do you support the introduction of a power to enable Secretaries of State to direct projects out of the NSIP regime? Are there broader consequences for the planning system or safeguards we should consider?

Energy UK is concerned about the new powers enabling the Secretary of State to direct projects further. While the government taking a more proactive role in projects in order to meet strategic goals is no bad thing in itself, these powers undermine the planning process by making it more unpredictable. For example, the sentence *'One approach which we believe has merit would be to allow projects that would qualify as NSIPs to be taken through alternative consenting routes, where that is deemed more appropriate'* could apply to a wide range of projects very subjectively. This goes against the objectives of the NSIP framework, as that framework sets out why decisions are made in the way they are, giving developers direction for what to aim for in the planning system. If a Secretary of State can take a more subjective view on individual applications, it makes it riskier for developers to go through this NSIP process. Upending of applications on an individual basis is a risk through this approach, such as in the sentence *'We are also seeking views more widely as to whether there is a case for providing the Secretary of State with the ability to adjust the DCO process for certain types of projects in instances where there may be a clear justification for doing so.'*

There is also the risk here of further 'politicising' the planning system. While the NSIP regime, it can be argued, is inherently based on decisions of the Secretary of State, further powers like this mean that the planning framework could shift significantly with future governments, as the priority for the Secretary of State and government of

the day could change greatly, meaning this approach could create uncertainties in the long term.

Instead, the NSIP regime should rely more heavily on regularly updated, comprehensive, and well explained National Policy Statements as the overall framework, with the Secretary of State making their decision based on an even combination of guidance from the NPS and the priorities of the Department. The potential issue of the system being too rigid is in some ways examining the wrong problems, with resourcing, timeframe barriers, and complex guidance more of a barrier to overcome. If the proposal is implemented, clear guidance should be issued on how this power would be exercised, including:

- The eligibility criteria for projects seeking to opt out.
- The timing of decisions on whether a project can be directed out of the NSIP process.
- The interplay with other planning regimes to ensure a smooth transition for developers opting for an alternative route.

Regardless of the consenting route chosen, statutory consultees must be required to engage early to ensure that potential issues are identified and addressed at the outset. Early and structured engagement will help to prevent delays and ensure a robust decision-making process, whether within or outside the NSIP framework.

Finally, the Department for Energy Security and Net Zero (DESNZ) must be adequately resourced to manage applications efficiently. To provide certainty for developers, a statutory determination period should be introduced to ensure that decisions on whether a project is directed out of the NSIP regime are made within a set timeframe.

Question i: Do you believe there is a need for the consenting process to be modified or adapted to reflect the characteristics of a particular project or projects? Have we identified the main issues with existing projects and those likely to come forward in the near future? Can we address these challenges appropriately through secondary legislation and guidance; or is there a case for a broad power to enable variations in general? What scope should such a power have and what safeguards should accompany it? If a general process modification power is not necessary, what further targeted changes to the current regime would help ensure it can adequately deal with the complexity and volume of projects expected over the coming years?

Some of these proposals are sound, especially on solar projects in point 51 of the paper. However, proposals are indirect in the working paper, and the with the sector having already undergone a change for the 100MW cap, new changes must be clearly communicated. Streamlining for solar would be welcome, however it must be seen in relation to other generation as well as any community pushback. For example, a more straightforward process for solar through the NSIP regime and not onshore wind would need solid evidence that the same changes cannot be made for

that sector, and if solar was being viewed as too publicly favoured it may increase rather than decrease pushback among host communities.

Integrating additional resources for more than one NSIP project in a region is a very interesting proposal, which if done correctly may go some of the way to reducing the resourcing issue in the regime. Further detail is needed, and the alignment with the SSEP is welcome, and should be underpinned by all other relevant energy spatial planning policies (such as the Regional Energy Strategic Plans). There are concerns though that these could create challenges depending on how time limits are defined. If an early-mover project is grouped with a later-submitted competing project, there is a risk that the first-mover may be disadvantaged, particularly where cumulative landscape and visual impacts are considered. This could lead to situations where well-developed projects face additional hurdles due to the actions of later entrants, potentially undermining investment confidence. The Government's consultation on *Planning Reform Paper: Development and Nature Recovery* considers cumulative environmental impacts and is wide ranging, so additional clustering requirements may add complexity without delivering meaningful benefits. Further details can be found in our response to that working paper (available on the Energy UK website).

While there are clear benefits to working together in areas such as shared access tracks or coordinating Abnormal Indivisible Load (AIL) deliveries, forcing collaboration at the application stage could create commercial and logistical challenges. Developers must retain flexibility in how they bring forward projects, rather than being required to coordinate with competitors in a way that could introduce delays or conflicts.

Additionally, with ongoing grid reform changes, the NSIP sector is becoming increasingly competitive. Therefore, any proposal that could make collaboration between competing developers a statutory requirement could risk creating barriers to project progression and investment. Any approach to modifying the consenting process must consider the commercial realities of infrastructure development and avoid introducing requirements that undermine competition or create uncertainty.

Please note that this consultation response is Energy UK's initial response to the working paper presented and the organisation's views to the questions provided. As this policy develops, Energy UK will develop further positions on streamlining infrastructure planning as we progress throughout the year. Energy UK welcomes bilateral and further engagement as our positions develop further.