

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**PLANNING ACT 2008 - CONSULTATION ON THE NATIONAL POLICY STATEMENTS
ON ENERGY INFRASTRUCTURE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform members about the consultation currently taking place on the first tranche of draft National Policy Statements prepared under the Planning Act 2008, published by the Department for Energy and Climate Change.
- 1.2 To seek agreement to the response outlined in this report on the National Policy Statements on Energy Infrastructure, and refer them to DECC.

2. BACKGROUND INFORMATION

- 2.1 The Planning Act 2008 established a new regime for dealing with proposals for Nationally Significant Infrastructure Projects (NSIPs), including proposals for major energy generation, airports, highways, railways, water resources and waste treatment facilities. A key part of this new regime was the creation of the Infrastructure Planning Commission (IPC) as the body which will determine proposals for NSIPs.
- 2.2 The Planning Act 2008 also makes provision for the publication of National Policy Statements (NPSs). The NPSs are designed to guide the IPC's decisions, and will cover a range of infrastructure that will be part of the IPC's remit. The NPSs will cover –
 - The need for new or expanded infrastructure.
 - Locational considerations.
 - How impacts are to be assessed and weighed against benefits.
 - The mitigation of impacts.
- 2.3 Twelve NPSs will eventually be published. The first drafts for energy and ports infrastructure were published at the start of November 2009. The NPSs for energy infrastructure are organised into six documents – an overarching policy for energy infrastructure, and then five policy statements covering different energy technologies.

- 2.4 The draft NPSs have been subjected to an Appraisal of Sustainability, and are available for public consultation until the deadline of 22 February 2010. Following any amendments to the drafts, they will be scrutinised by Parliament, and subject to any further changes, they will be designated. The relevant Secretary of State can review, withdraw or suspend NPSs.

3. OPTIONS FOR CONSIDERATION

- 3.1 This draft overarching NPS for energy is written in the context of government policy on climate change, energy security and fuel poverty. The UK government now has a legal obligation to reduce carbon emissions by 80% by 2050, and changing the energy supply will have a significant impact on this target. There is also agreement that having a diverse and reliable energy supply, using different technologies and sources, will provide secure supply. This needs to be delivered in a cost effective way that maintains low energy bills in order to protect the most vulnerable from rising energy costs.
- 3.2 The scope of the NPS for energy infrastructure includes:
- power stations generating more than 50 megawatts onshore and 100 megawatts offshore from fossil fuels, wind, biomass, waste and nuclear.
 - electricity lines at or above 132Kv.
 - large gas reception facilities and liquid natural gas facilities and underground gas storage facilities
 - cross-country gas and oil pipelines and Gas Transporter pipelines.
- 3.3 The overarching energy infrastructure NPS should be used in conjunction with the relevant technology-specific NPSs for energy.
- 3.4 Overall the NPSs set out a significant need for new energy infrastructure. These projects need to be developed quickly to meet this demand, particularly as some infrastructure, such as nuclear, have long lead in times. The NPSs state that the IPC does not need to consider the relative advantage of one technology over another. Rather the government believes companies should be free to bring forward projects as long as they fit within this broad strategic framework.
- 3.5 There are a number of considerations that will affect the need for new electricity generation capacity:
- generating capacity will need to continue to meet demand at all times with a safety margin
 - significant closure of existing generating capacity up to 2020 due to the introduction of tighter environmental regulation and ageing power stations

- a large proportion of electricity needs to come from renewable sources to meet targets in the Renewable Energy Strategy, which also means the grid needs to be able to cope with intermittent supply
 - in the long term electricity demand is likely to increase, although it is predicted to remain at around 60GW per year up to 2020 taking account of economic growth and energy efficiency.
- 3.6 There are also considerations made to other approaches other than developing new large energy infrastructure. For instance, by reducing demand from electricity consumers, promoting the installation of decentralised energy systems or more intelligent use of electricity by managing peak demand. However, the view is that this will not be sufficient to meet demand. This does not mean they will not be pursued but simply that it does not affect the need for large scale generation.
- 3.7 The framework for energy infrastructure needs to deliver a mix of energy, which addresses the following policy commitments:
- The UK has committed to generating 30% of electricity from renewable sources by 2020 compared to 5.5% today.
 - Nuclear power stations need to be constructed to start generating from 2018 with increasing numbers up to 2025.
 - Fossil fuels provide reliable electricity supplies, but all new coal and gas plants will have to be build carbon capture ready and the government will support four coal carbon capture demonstration projects to be operational by 2020.
 - Electricity networks need to grow and evolve to ensure a reliable supply of electricity, for instance being able to accommodate substantial supply from intermittent renewable energy.
 - Demand for gas will continue to be high and there needs to be a diverse mix of gas storage and supply infrastructure, particularly as North Sea gas fields deplete.
 - There will also continue to be a demand for oil and petroleum pipelines.
- 3.8 As well as the relevant NPS, the IPC will take into account Planning Policy Statements, local impact reports, and the need for a Marine Policy Statement, under the Marine and Coastal Access Bill. The IPC will also need to take into account the national, regional, and local benefits and adverse impacts of any planning proposals.
- 3.9 In order for the IPC to assess these conditions they will expect the applicant to provide certain information. For instance projects must have an Environmental Statement (as set out in the European Environmental Impact Assessment Directive), setting out the effect on human beings, fauna and flora, soil, water, air, climate, the landscape, material assets and cultural heritage. Key principles are provided in the NPS to support the IPC's

decision- making for each of these areas. It is not an exhaustive list, but provides guidance based on current government policy.

- 3.10 It would be helpful to provide information on significant social and economic effects of the development. There is a requirement under the Habitats Regulations to consider whether the development will have an effect on a protected site. These regulations also require the IPC to consider alternatives in some circumstances, which should have been identified in the Environmental Statement.
- 3.11 The NPS gives specific advice on a number of topics that the IPC will be taking into account:
- The IPC should be satisfied that the developer has considered **good design** and has taken into account both aesthetics and functionality. More specific advice is given in the technology-specific NPSs.
 - There are specific requirements for **Combined Heat and Power** plants to be considered as part of applications for thermal generating stations, which the IPC should be aware of.
 - There are definitions of what is required for new combustion plants to be **Carbon Capture Ready** (e.g., sufficient space is available for carbon capture equipment in the future) and **Carbon Capture Storage**.
 - It is recognised that energy infrastructure is a long term investment that will need to remain operational in a **changing climate**. The applicants should take into account the UK Climate Projects and the advice of the Environment Agency to identify appropriate measures to adapt to the risks of future climate change. Where energy infrastructure has safety critical elements, plans should be made for high emissions scenario, that is based on the likelihood of the biggest change in climate.
 - The applicant will need to liaise with the National Grid or relevant Distribution Network Operator to secure **grid connection**.
 - The IPC will need to be aware of the **relevant pollution control and environmental consenting regimes**. While they should not duplicate work, they will need to liaise with the relevant regulatory bodies to ensure requirements for permits and other consents will be met.
 - Similarly the IPC should consult with the Health and Safety Executive on matters relating to **safety and hazardous substances**. Any negative impacts on health and well being should be considered as part of the Environmental Statement.
 - It is possible for applicants to include in their application a request for the grant of a defence of **statutory authority against nuisance claims**. This means the IPC needs to identify and consider appropriate conditions for any possible nuisance before granting development consent.

4. ANALYSIS OF OPTIONS

- 4.1 The publication of the NPSs on energy infrastructure represent a further step in the implementation of the Planning Act 2008, and the new regime for dealing with proposals of NSIPs. The draft NPSs were accompanied by numerous questions as part of the public consultation package, but this committee report provides a more appropriate overview. Generally, whilst the NPSs are welcomed, there are some concerns about their contents as well as the process for dealing with NSIPs as a whole.
- 4.2 Overall, the NPSs on energy infrastructure appear to provide sufficient policy guidance against which the IPC can make decisions on proposals for energy-related NSIPs. They provide a useful basis for promoters and developers when putting together proposals for NSIPs, as all information and policy requirements are set out in the documents.
- 4.3 In addition they will help local authorities in drawing up their local impact reports. These reports are to be prepared by local authorities on applications for NSIPs, and submitted to the IPC. As its name suggests, a local impact report will set out how the NSIPs will affect all or part of the local authority area, as well as the extent to which it accords with the Development Plan, which is the only place where local policies can be brought in. The IPC should consider the local impact reports when determining proposals.
- 4.4 The above leads to one area of concern – the role and status of the Local Development Plan. Whilst the NPSs will be a key part of the local impact report, they state that in the event of a conflict between the NPS and the local Development Plan, the NPS takes priority for the purpose of the IPC's decision-making process. It is considered that regional and local plans should be material considerations in the IPC's decision-making process. This in turn would assist regional planning bodies and local planning authorities in preparing their plans to ensure consistency between national, regional, and local levels.
- 4.5 Aside from the technology-specific NPS on nuclear energy, there is a lack of a spatial dimension in the NPSs. It is acknowledged that this may be difficult to provide as different energy generation technologies have differing locational needs, and the NPSs are not supposed to favour one technology over another. Nonetheless, some broad locational guidance should be included in the NPSs.
- 4.6 As mentioned above, the nuclear energy NPS identifies a series of sites for new or replacement nuclear policy stations around England and Wales. The majority of these are existing locations. However, it should be noted that a number of additional sites were put forward for consideration, and were investigated. One site was at Owston Ferry. It was rejected on a number of grounds, including:
- Lack of precedent for a river-based nuclear power station in the United Kingdom. This makes it unattractive from a development perspective.
 - Potential impacts on light aviation, and potentially military aviation.

- The use of river water for cooling may lead to reduced thermal efficiency that could result in lower power generation, and there may be susceptibility to reduced emissions during drought.
- Difficulty in bringing the site on-stream by 2025.

The exclusion of Owston Ferry and the reasons for doing so are supported.

- 4.7 The overarching energy NPS recommends that even where an NSIP is not subject to EIA, the applicant should provide information on the environmental, social and economic impacts of the proposal. This should be welcomed.
- 4.8 The NPSs mention specially designated areas, which include Ancient Monuments, Listed Buildings, Conservation Areas, and Registered Parks and Gardens, some of which are relevant to North Lincolnshire. The NPSs for renewable and nuclear energy state that where NSIPs are proposed in these areas, the objectives of the designation will not be compromised, and for development consent to be given, any significant adverse effects must be clearly outweighed by the benefits of the development. Provided all NPSs repeat this constraint, this would provide a reasonably consistent approach.
- 4.9 There is a more general concern which relates to the process of determining NSIPs. The thresholds for major energy infrastructure applications and the resource issues they will create will directly impact upon local planning authorities. They are expected to act as major consultees in the process and play a significant role in the pre-application consultation process, as well as spend time preparing local impact reports. This involvement will not result in the local planning authority receiving a fee, as this will go directly to the IPC. However, local planning authority resources will be required, thus placing additional burdens on existing resources.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial – the fee income to the Council’s Development Control team will not be received by the Council regarding the submission of NSIP applications for energy infrastructure. Those applications that trigger the thresholds set out in paragraph 3.2 will be determined by the IPC, and the planning application fee will go to the IPC.
- 5.2 Staffing – the Council will become a consultee regarding NSIP applications for infrastructure, but it is expected the Council will still be heavily involved. Work will continue to be undertaken by staff from within the Spatial Planning and Development Control teams in partnership with other Council services and key stakeholders.
- 5.3 Property - there are no property implications.
- 5.4 IT - there are no IT implications.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 6.1 Statutory – the advances by Government of the NPSs for energy infrastructure and the formation of the IPC will give statutory control by the Government over NSIP applications. The Council ceases to be the determining authority and will take the role of consultee.
- 6.2 Environmental – the NPS sets out guidance for the IPC on the environmental issues which they must consider in assessing applications for NSIPs. Applicants will be expected to provide an Environmental Statement. The Council should be able to influence applications and environmental issues via the consultation process, in particular through the local impact report.
- 6.3 Diversity – it is assumed that all relevant groups of the community will be consulted, as appropriate, on applications for energy-related NSIPs.
- 6.4 Section 17 - Crime & Disorder - there are no s.17 implications.

7. OUTCOMES OF CONSULTATION

- 7.1 As stated above, the public consultation on the first tranche of NPSs finishes on 22 February 2010, and will be published shortly afterwards.
- 7.2 All relevant council offices have consulted on the content of this report.

8. RECOMMENDATIONS

- 8.1 The contents of the report are noted.
- 8.2 A response be sent to DECC, requesting that the North Lincolnshire Council observations on the first draft NPSs, for energy infrastructure, as indicated in paragraphs 4.1 to 4.9 above be taken into consideration.

HEAD OF STRATEGIC REGENERATION, HOUSING & DEVELOPMENT
HEAD OF PLANNING

Pittwood House
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: Geoffrey Bennett
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Background Papers used in the preparation of this report

Draft National Policy Statements EN-1, EN-2, EN-3, EN-4, EN-5, and EN-6 (DECC, November 2009).