



environmental protection, improvement, innovation

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Dear Sir or Madam

NSCA RESPONSE TO THE 'PLANNING FOR A SUSTAINABLE FUTURE' CONSULTATION

I am writing on behalf of NSCA's Air, Noise and Land Quality Committees in response to the consultation document 'Planning for a Sustainable Future'.

The NSCA Committees have considered the consultation document and welcomes the opportunity to comment on the proposals. Our full comments are as follows:

Summary of Main Points

- a) While NSCA is supportive of reform to streamline the planning system, we do have significant concerns about the details and balances of the proposals in the White Paper.
- b) National Policy Statements are desirable to clarify national policy, and to provide a transparent approach to developing infrastructure needs and decisions. The development process, however, needs to have a wider range of considerations, including compatibility with existing and anticipated policy on the global and local environment, and with aims for human health and quality of life. Further, consideration needs to be given to how co-ordination between overlapping policy areas will be achieved, for example, if an airport development is proposed - surface transport access needs to be considered.
- c) We support the creation of an Independent Planning Commission, however the body as described in the Bill comes across as toothless. Aside from its advisory role, its role appears to be to nod through applications according to decisions made by the National Policy Statement development process. We think the IPC should be given a wider remit, including far stronger consideration of local consequences.
- d) We do not believe that existing policies should be given de-facto 'National Policy Statement' status. Existing policies should serve to inform the IPC, while new NPS are under development, but with a reduced status.
- e) The role of local authorities as community leaders and as planning authorities should not be unnecessarily undermined. Local authorities should have a special

status in the consultations on location specific NPS, and in individual planning decisions by the IPC.

- f) Although the PWP supports development of town centres first in principal, it talks of replacing the current needs test, with the language suggesting a softening approach to restriction of out of town development in the context of 'promoting competition' and increasing 'consumer choice'. We believe the development of healthy, sustainable communities should be the priority.
- g) Permitted development rights are a strong feature of the proposals. For microgeneration there is reference to work undertaken to examine the prospects for allowing this while 'protecting residential amenity'. The proposal issued for consultation on Permitted Development Rights for Householder Microgeneration did not reassure NSCA members that this has been adequately considered, and those views were expressed in our response.

Answers to Individual Questions Asked

Q.1 The proposed package of reforms

NSCA understand that there is a case for reforming the current planning system for nationally significant infrastructure. The current system is often cumbersome and slow. Furthermore the lengthy nature of the planning process for some past infrastructure projects has made it difficult and expensive for members of affected communities to feed in to the process.

Whilst we accept a new structure of the reformed system, we do have significant concerns about the details and balances in the proposals, and whether they would, in their proposed format, achieve a cleaner, quieter, healthier world. We will cover our concerns in detail below.

Q.2 Introduction of national policy statements

Yes, statements of policy are desirable, with the caveats mentioned below in our answer to Q.3.

Q.3 Content of national policy statements

The criteria given in the consultation document are sound, however we believe that the following additional criteria should be expressly covered in the national policy statements:

- **Climate Change Mitigation:** Compatibility with the carbon reduction objectives set out in the Climate Change Bill. Each NPS should examine how it will affect carbon emissions, and state its compatibility with the 5-year carbon 'budgets' currently in statute and the longer targets in the Climate Change Bill. Sectors that lie outside the scope of the Climate Change Bill (e.g. aviation) should also examine how proposals will effect carbon emissions, and, if reductions are not roughly in line with the Climate Change Bill targets, state how emissions can be mitigated at a later date and /or offset via reductions in other sectors.
- **Climate Change Adaptation:** A test should be used to ensure that infrastructure is resilient to expected changes in our climate over its design life, e.g. increased flooding, heat stress, etc

- **Air Quality:** Compatibility with the targets set out in the UK Air Quality Strategy and, for NPS containing location specific content, consideration of how the proposals will affect any nearby Air Quality Management Areas. The Rogers Review of local regulatory priorities found air quality to meet criteria as a national enforcement priority.
- **Environmental Noise:** Compatibility with the requirements of the Environmental Noise Directive, which are to limit people's exposure to harmful or unwanted noise from transport and industry and to protect quiet in both urban and rural environments, with a mind to the pending requirement for noise action plans.
- **Neighbourhood Noise:** Compatibility with the National Noise Strategy (to be published this year), which will aim to improve the management of noise, ensuring improved local environmental quality.
- **Land Quality:** Compatibility with the Contaminated Land Regime and requirements to ensure land is suitable for use prior to development and that potential risks arising from contamination are appropriately addressed through the planning and building control systems.

Sustainable Development?

The Bill and each NPS should clarify their meaning of 'delivering sustainable development', as this is used throughout, with no definition. We believe the Government should set out a strong definition of sustainable development in the Bill.

It would clarify the aims of each NPS if the benefits to the three stated 'pillars' of economic, social and environmental development were set out. Each NPS should use a uniform system to assess its sustainability with equal consideration of all three areas.

Quality of Life and Health

While stating in paragraph 1.1 that planning is 'of fundamental importance to the quality of people's lives', further mention of impact on the well being of communities is sadly absent from the proposals set out. The recent Royal Commission on Environmental Pollution report 'the Urban Environment' called for Health Impact Assessments to be included in the planning process, which we fully support. This should be included in both the NPS development process and also as part of the Independent Planning Committee's decisions on individual pieces of infrastructure.

The Rogers Review rated noise nuisance, contaminated land and local environmental quality as priorities for local enforcement – and the potential impact of major infrastructure proposals on local communities should be all be considered in the NPSs.

Q.4 Status of national policy statements

We believe that the NPS should be *one of the* main considerations for the IPC. However the proposals as set out in the Bill effectively make the IPC a rather toothless body, unable to make decisions outside of those already taken at the NPS development stage other than in exceptional circumstances. The IPC's pre application advisory function would be far stronger than the decision making function, which begs the question of whether there is any point in establishing such a weak body.

We would like to see the IPC given a stronger role with a greater range of considerations. These should include:

- A much greater consideration of local factors for particular infrastructure covered by non-location specific NPS.
- Greater consideration of Strategic Environmental Assessments for infrastructure covered by non-location specific NPS, including equal consideration of climate change and local environmental quality impacts. This should also apply to existing statements serving for interim NPS, as scientific understanding may have significantly advanced since their publication.
- The introduction and consideration of Health Impact Assessments, which again would have greater weight for infrastructure covered by non-location specific NPS, and for existing NPS.
- A power for the IPC to recommend individual NPS for review, if individual cases considered by the IPC find them to be flawed or out of date.

Q.5 Consultation on national policy statements

Whilst we agree that there would be effective public engagement in the production of NPS, there is inadequate opportunity for public engagement in the consideration of major projects, which, notwithstanding national statements, may potentially have a local impact on health or quality of life.

Q.6 Parliamentary scrutiny

We agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements, but do not have further comments on the appropriate mechanisms.

Q.7 Timescale of national policy statements

In principal, we agree with the timeframes. The timeframe of each NPS should, however, be decided according to what is deemed appropriate by experts for the area in question, during its development.

Q.8 Review of national policy statements

In principal the 5-year period is appropriate. As previously stated however, we think that the IPC should have the power to trigger a review outside of the 5 year period if an individual case decision found an NPS to be flawed or out of date.

We think the 5-year review should include at least the following assessments to determine if a full review of the NPS was needed:

- A needs test to see if the infrastructure in the NPS is still appropriate
- A new sustainability (with sustainability defined) assessment
- Consideration of local factors for infrastructure covered by location specific NPS.
- A Strategic Environmental Assessment, including equal consideration of climate change and local environmental quality impacts
- A Health Impact Assessment

Q.9 Opportunities for legal challenge

We agree with the proposals as set out, however we believe the 6 week window for legal challenges should be extended, as this may not provide enough time for smaller, more poorly resourced communities, individuals and organisations to mount a legal challenge.

Q.10 Transitional arrangements

Existing policies will not have been prepared to the same standards and should not acquire the same status as National Policy Statements. We do however understand that producing NPS will take some time. We suggest that existing policies should be considered as national policy by the IPC, but with a diminished status, giving the IPC more scope to reach a decision than there would be with a NPS in place.

Furthermore we do not think that any existing policies should serve as a template for the National Policy Statements, and that a new format should be devised for their development.

Q.11 The preparation of applications

Setting defined standard for applications to meet before the infrastructure planning commission agrees to consider them would be equitable, and ultimately save time for both developers and the IPC.

Q.12 Consultation by promoters

Consultation should be undertaken by promoters prior to application. The form of this consultation should not be too prescriptive as there will be significant differences between applications in the type of infrastructure they cover and the communities they affect. Applications should, however, be assessed to ensure the consultation is comprehensive and adequately covers all sections of affected communities, including hard to reach groups.

Consultation by promoters should add to, rather than replace, consultation by the IPC, as the latter is more likely to be trusted to be fair and balanced, therefore reducing problems further into the process.

Q.13 Consulting local authorities

Local authorities have an important role as community leaders. Furthermore, the ability of local authorities to shape their communities should not be needlessly undermined by the new major infrastructure system. The form of this consultation should not be too prescriptive as there will be significant differences between applications in the type of infrastructure they cover and the communities they affect.

Q.14 Consulting other organisations

We agree, in principle, that the list of statutory consultees is appropriate at the project development stage, however it seems anomalous that the Mayor of London is included and no other Mayors with Executive powers.

Q.15 Statutory consultees' responsibilities

We agree in principle that the Government should set out in legislation an upper limit on the time that statutory consultees have to respond to a promoter's consultation.

The statutory consultees should be consulted before the time limit is set and given an indication of how many applications they are likely to receive to ensure they are adequately resourced to cope with the demand.

Q.16 The infrastructure planning commission's guidance role

We agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation.

Q.17 The infrastructure planning commission's advisory role

The IPC should direct promoters to the correct planning pathway as appropriate, as this will save time for all parties

Q.19 The commission's role at the point of application

We agree that the commission should have the powers described in the consultation document at the point of application

Q.20 Scope of infrastructure planning commission

Thresholds are useful, however it may be desirable to set more detailed guidelines in the NPS themselves. Two examples of where more detailed thresholds may be needed are:

- The 50MW threshold for electricity would equate to a small conventionally fuelled station, or a reasonably large wind farm. It is likely that a wind farm would be more controversial as there are potential local impacts, yet in light of the carbon saving targets of high national importance. Therefore it may be appropriate to set a lower threshold for renewable energy projects, and a higher one for conventional generation.
- Waste to energy plants are often tied closely into local waste strategies. In the interests of integrated decision making it is probably desirable to raise the 50MW threshold to allow greater local decision-making.

Q.21, Q.22 Electricity system and Gas infrastructure

We agree with the proposals for the electricity system and gas infrastructure, as described in the consultation document.

Q.23 Other routes to the infrastructure planning commission

Ministerial powers should be clearly set out in each NPS to avoid undermining the system. Individual ministerial direction should only be used after consultation with affected local authorities. Use of these powers should not be used in place of a full review of a NPS or planning thresholds.

Q.26 Preliminary stages

Again it seems anomalous that the Mayor of London is included in the list of statutory consultees, but no other Mayors with Executive powers.

Q.29 Decision

Our opinions on this question are mainly covered in our answer to question 4. We reiterate that the IPC should have a greater range of considerations than simply an overriding NPS, otherwise it may simply be a rather toothless ‘rubber stamp’ body.

We would also like to see ‘adverse local consequences’ expand beyond simply those incompatible with EU and UK law, some of which is still evolving – for example requirements for protection of quiet areas under the Environmental Noise Directive are following a five yearly implementation cycle. There also needs to be consideration of pending legal requirements.

Much will change in any particular local area between the publication of a NPS and the submission of a particular planning application, and in the case of non-geographically specific NPS no consideration of the consequences for a locality will have been considered at all. All applications should therefore have a Strategic Environmental Assessment, Health Impact Assessment and a Sustainability (to be defined) Assessment to help inform the IPC’s decision.

Q.31 Rights of challenge

We agree with the opportunity for legal challenge to a decision by the infrastructure planning commission, as described in the consultation document.

Q.32 Commission’s skill set

The skill set stated is appropriate, however independents with specialist expertise should be brought in where projects require it. The assurance that it will be possible to recruit members of the commission that have the skills needed to make decisions on such complex projects would instil greater confidence in the proposal.

Q.33 Delivering more renewable energy

The development of renewables can make an invaluable contribution to delivering our energy needs. In order to fast track initial projects, and to allow for impact assessments of these developing technologies to be made for informing future potential developments, we would recommend that the non residential land and property is examined first for development opportunity, as it is here that there is likely to be the least potential for adverse impacts on the health and quality of life of neighbouring communities. Also, brownfield land unsuitable for inhabited development (with minimal potential for impact on neighbours) should be a priority for renewables development.

Q.34 Joined up community engagement

A more joined up approach to community engagement is welcome. This should not be at the expense of scope for input from potentially affected communities.

Q.37 Sustainability appraisal and Supplementary Planning Documents

We believe that there *should* be a blanket requirement for supplementary planning documents to have a sustainability appraisal.

Q.38 Permitted development for non domestic land and buildings

Please see our answer to question 33.

Q.39 Neighbour Agreements

Neighbourhood agreements for a streamlined process for approval of minor development are acceptable, provided all potentially affected neighbours are in agreement.

Q.40 Minor amendments of planning permission

We agree that it should be possible to allow minor amendments to be made to a planning permission, as long as a fully transparent approach is in place.

If you wish to discuss any of our comments, or need clarification of any points, please get in touch using the contact details at the top of this letter.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Philip Mulligan', with a stylized flourish at the end.

Philip Mulligan
Chief Executive