Nationally Significant Infrastructure Projects action plan

1 Executive Summary

On 23 February, the Government published an action plan[1] for Nationally Significant Infrastructure Projects. The plan involves 18 actions across various government departments with timeframes for some extending to 2025. The aim of the plan is to speed up the delivery of major infrastructure, such as off-shore wind or new transport links. A new fast track process will be piloted, with powers for the Secretary of State to set shorter timelines for certain projects. The changes also intend to increase community engagement and make environmental protections more effective.

This briefing provides an overview of the action plan, and considers what implications it may have for local authorities.

Contents

1 Executive Summary **1**

2 What is a Nationally Significant Infrastructure Project (NSIP)? **2**

3 Legislative context **2**

4 Why an action plan has been introduced **2**

5 Call for evidence **3**

6 The Action Plan **3**

6.1 Work already underway *3*

6.2 Five reform areas *4*

7 When will the reforms have an impact? **5**

8 APSE Comment **7**

[1] https://www.gov.uk/government/news/cross-government-plan-to-speed-up-delivery-of-major-infrastructure-projects

2 What is a Nationally Significant Infrastructure Project (NSIP)?

An NSIP is a major infrastructure development relating to energy, transport, water, or waste in England and Wales that is considered by the Government to be so big and nationally important that permission to build it needs to be given at a national level, by the responsible Government minister (the 'Secretary of State').

Instead of applying to the local authority for Planning Permission, the developer must apply to the Planning Inspectorate for a different permission called a Development Consent Order (DCO).

NSIPs can include power plants, large renewable energy projects, new airports and airport extensions, and major road projects.

3 Legislative context

The Planning Act 2008 introduced a new bespoke consenting route for major infrastructure projects in the fields of energy, transport, water, waste and wastewater. This new type of consent, known as "development consent", automatically removes the need to obtain several separate consents, including planning permission, and is designed to be a much quicker process than applying for these separately. This consent process was subsequently amended to allow certain business and commercial projects to opt into the process, and the Localism Act 2011 reduced the number of local authorities that need to be consulted during the pre-application stage.

Since its introduction in 2010, over 110 Nationally Significant Infrastructure Projects (NSIPs) have been consented.

4 Why an action plan has been introduced

The Government has listed the following as prompting the action plan:

1. **An increase in the average length of time it takes for a case to reach a decision.** The timespan for Development Consent Orders (DCO) increased by 65% between 2012 and 2021 from 2.6 to 4.2 years. Deadline extensions to statutory stages of the NSIP process are most prominent in offshore wind and highway related developments.

2. **More projects are requiring multiple extensions of time at the decision stage.** Out of a total of 118 decided projects, 12 have involved multiple extensions at decision stage, with 5 of those being for NSIPs decided in 2020/21. This is generally due to complex issues related to the project remaining unresolved following examination and requiring detailed consideration at the decision stage.

3. **There has been an increase in the volume of documentation created during the NSIP process** (some applications have generated in excess of 90,000 pages of documentation

published on the Planning Inspectorate website). This can slow down the decision-making process making it less accessible to those seeking to engage and does not guarantee better outcomes.

4. **The number of projects that are subject to successful legal challenge is increasing.** Since 2021 there have been 4 successful challenges out of a total 15 legal challenges to date. There have been 4 Development Consent Orders (DCO) quashed in the system overall, all of which occurred in 2021

5 Call for evidence

In November 2020, the National Infrastructure Strategy established a National Infrastructure Planning Reform Programme, as part of Project Speed, to make the NSIP system "more effective and deliver more certainty in the process and better, greener and faster outcomes." Part of this reform programme involved a 'call for evidence' which ran from August to December 2021. The 'call for evidence' received over 130 responses from local authorities, community groups, infrastructure developers, statutory consultees, environmental non-governmental organisations, and professional bodies.

6 The Action Plan

6.1 Work already underway

This Action Plan sets out the reforms to the NSIP regime that the Government will implement to ensure the system can support future infrastructure needs. Some of this work is already underway, and amongst other things:

- An Innovation and Capacity Fund has been established to better address the challenges councils face in engaging with NSIPs. The 'Improving performance of the NSIP planning process and supporting local authorities' policy statement on 30 August 2022 announced the funding awarded to 10 successful local authorities.

- The Government has worked with the Planning Advisory Service (PAS) to set up a Local Authority Working Group to explore how using resources more efficiently and/or supplying additional resources to key users of the regime can improve programme outcomes.

- The Government has proposed amendments to the Levelling-up and Regeneration Bill to take legal powers to make a number of improvements to the NSIP system. This includes powers to enable the Secretary of State to set shorter statutory timeframes for examination, as well as the ability for the Secretary of State to set regulations for the decision making on non-material change applications. The amendments also include a power to introduce, through regulations, a cost-recovery mechanism for statutory consultees inputting into NSIP applications.

- The Chancellor of the Exchequer and the Minister for Local Government and Building Safety have asked the National Infrastructure Commission to conduct a study looking into the role of National Policy Statements in the NSIP consenting process to support these reforms.

6.2 Five reform areas

To meet the Government's objectives of ensuring the NSIP consenting process is "better at meeting statutory timescales, faster where environmental and community concerns can be addressed before examination, greener for the environment, fairer for communities, and more resilient in resourcing", 18 actions have been prescribed with timeframes for some as far as 2025.

The actions are grouped under five broad reform areas:

1. **Setting a clear strategic direction**, where National Policy Statements and wider government policy reduce the policy ambiguity faced by individual projects.

2. **Bringing forward operational reforms to support faster consenting** with an emphasis on delivering proportionate examinations for all projects, strengthening pre-application advice and introducing a fast-track consenting timeframe for projects that meet quality criteria.

3. **Realising better outcomes for the environment** replacing the cumbersome environmental assessment processes with new Environmental Outcomes Reports; reviewing the protected sites and species policy framework (including Habitats Regulations Assessment (HRA)), and introducing biodiversity net gain and developing principles for marine net gain for NSIPs.

4. **Recognising the role of local authorities and strengthening community engagement with NSIPs**, with greater support and measures to embed community input and benefits much earlier in the process.

5. I**mproving system-wide capacity and capability**, including through developing skills and training and extending proportionate cost recovery by the Planning Inspectorate and key statutory consultees to support effective preparation and examination of NSIPs and build resilience into the system.

7 When will the reforms have an impact?

For the reform programme overall, the Government is working toward the following timescales for its 18 actions:

	Actions	Lead	Target timeline
1	Review the existing NPSs, where appropriate, to provide a clear and up-to-date need case for infrastructure and to take into account the emerging Environmental Outcomes process.	Defra, DESNZ, DfT	Water Resources – designation in Q1 2023; Energy (EN1-5) – designation in Q2 2023; National Networks NPS – designation during 2023.
2	Update planning guidance to make the process for determining when and how to carry out NPS reviews clearer and simpler.	DLUHC	Spring 2024
3	Bring forward legislative changes to streamline and strengthen the application process.	DLUHC and Planning Inspectorate.	Spring 2024 (subject to parliamentary time).
4	Establish a new 'fast-track' consenting timeframe option for projects that meet quality standards.	DLUHC and Planning Inspectorate.	From September 2023, start piloting the process.
5	Introduce a new application service portal.	Planning Inspectorate.	Implementation by summer 2023.
6	Bring forward digital transformation of NSIP services and rationalise information requirements.	DLUHC and Planning Inspectorate.	Initial external trials 2022, agree full data standards by 2024, ongoing gradual implementation.
7	Establish a new Environmental Outcomes Reports process that will replace SEA/EIA.	DLUHC lead but works closely with Defra and the other process departments on policy and approach to regulations. The Government will work with stakeholders, end users, statutory consultees and the Planning Inspectorate to develop the approach.	LURB Royal Assent expected in 2023. Implementation will be phased in following Royal Assent and further consultation.
8	Review protected sites and species policy framework (including HRA) for terrestrial and marine environments.	Defra.	Nature Recovery Green Paper consultation closed on 11 May 2022.
9	Incorporate Biodiversity Net Gain (BNG) requirements for all (terrestrial) NSIP	Defra, working closely with DLUHC	Draft biodiversity statement expected to

	projects from November 2025 and develop an approach for Marine Net Gain.		be published for consultation in early 2023. Commencement of BNG for NSIPs planned for November 2025.
10	Implement a new Offshore Wind (OFW) Environmental Improvement Package.	Defra / DESNZ working closely with stakeholders.	To be brought forwards through the Energy Bill.
11	Implement the Marine Spatial Prioritisation Programme and ongoing marine planning reform projects.	Defra, working closely with DLUHC, DESNZ and other interested bodies.	The programme will conclude early 2024.
12	Continue to support local authority engagement through the Local Authority Innovation and Capacity fund (I&C)	DLUHC and Planning Advisory Service.	Ongoing.
13	Build upon the newly established Local Authority Support Network.	Planning Advisory Service	Ongoing.
14	Develop guidance on community engagement expectations.	DLUHC, DESNZ and departments owning National Policy Statements.	Secondary legislation (if required) spring 2024 (subject to parliamentary time).
15	Consult on measures to ensure communities are benefiting appropriately from hosting electricity transmission network infrastructure.	DESNZ.	Early 2023.
16	Develop workforce strategies targeted at addressing NSIP skills and capabilities gaps in government agencies.	LUHC with the Planning Inspectorate, Defra and Defra agencies.	To be developed from end 2022 onwards.
17	Move towards full cost recovery for the NSIP consenting system.	DLUHC with the Planning Inspectorate, Defra and other relevant departments and their relevant arm's length bodies, and the Planning Advisory Service.	For financial year 2024/25.
18	Support capacity and capability, including in local authorities, through the Innovation and Capacity fund, shared learning through a network of authorities, and wider work to build skills and capacity in the planning profession.	DLUHC.	Ongoing.

8 APSE Comment

Infrastructure is vital to society; major assets help to drive economic growth, improve the health and wellbeing of the population and protect our communities from the effects of extreme weather events. As the NSIP regime is now over a decade old, and the consenting process clearly slowing down, the time is right for reform. However, that reform should not come at the expense of local authority oversight and input, so we encourage all local councils to engage with DLUHC whenever and wherever possible.

The coming updates to National Policy Statements – transport, energy and water - are also long overdue. These updates ought to reflect the changing policy landscape – especially those relating to net zero and the environment (such as Biodiversity Net Gain).

As the paragraph above states: infrastructure is important. But that applies to both major infrastructure – airports, power plants - and (less-headline worthy) local infrastructure - houses and roads. Local government is compelled to focus on the immediate problems staring it in the face and the impact of the cuts of the last decade have taken their toll. There are now reckoned to be about 1.2m households on local waiting lists in England.[2] Is there any better starting point for the levelling up journey than to address quality homes which do not cost the earth in carbon, and deliver affordable warm and decarbonised homes for local communities? APSE and the TCPA's most recent report *'Rising to the climate change challenge: The role of housing and planning within local councils'* considers the important role of local councils in tackling climate change, with an emphasis on their responsibilities in relation to housing and planning. The report is available to read for free via the APSE website here.

Matt Ellis,
APSE Acting Principal Advisor
mellis@apse.org.uk

[2] https://www.theguardian.com/society/2022/nov/15/around-120000-families-in-social-housing-in-england-have-mould

Sign up for APSE membership to enjoy a whole range of benefits

APSE member authorities have access to a range of membership resources to assist in delivering council services. This includes our regular advisory groups, specifically designed to bring together elected members, directors, managers and heads of service, together with trade union representatives to discuss service specific issues, innovation and new ways of delivering continuous improvement. The advisory groups are an excellent forum for sharing ideas and discussing topical service issues with colleagues from other councils throughout the UK.

Advisory groups are a free service included as part of your authority's membership of APSE and all end with an informal lunch to facilitate networking with peers in other councils. If you do not currently receive details about APSE advisory group meetings and would like to be added to our list of contacts for your service area please email enquiries@apse.org.uk.

Our national advisory groups include:-

- FM and Building cleaning
- Catering (School Meals)
- Cemeteries and Crematoria
- Cost of Providing/Cost of Living Network
- Highways and Street Lighting
- Housing, Construction and Building Maintenance
- Local Authority Commercialisation, Income and Trading Network
- Parks, Horticulture and Grounds Maintenance
- Recovery and Renewal
- Renewables and Climate Change
- Roads, highways and street lighting
- Sports and Leisure Management
- Vehicle Maintenance and Transport
- Waste Management, Refuse Collection and Street Cleansing

Visit www.apse.org.uk for more detail

Association for Public Service Excellence
3rd floor,
Trafford House,
Chester Road, Manchester M32 0RS.
telephone: 0161 772 1810
fax: 0161 772 1811
web: www.apse.org.uk

Carbon Literate Organisation Platinum

INVESTORS IN PEOPLE™
We invest in people Gold

NEW MUNICIPALISM
Delivering for local people and local economies