



# Delivering net zero, climate resilience and growth

Improving nationally significant  
infrastructure planning

**NATIONAL  
INFRASTRUCTURE  
COMMISSION**

Better infrastructure for all

**April 2023**

## Our remit

The Commission provides government with impartial, expert advice on major long term infrastructure challenges.

The Commission's objectives are to:

- support sustainable economic growth across all regions of the UK
- improve competitiveness
- improve quality of life
- support climate resilience and the transition to net zero carbon emissions by 2050.

In fulfilling our purpose and objectives, we:

- **set a long term agenda** – identifying the UK's major economic infrastructure needs, and the pathways to address them
- **develop fresh approaches and ideas** – basing our independent policy recommendations on rigorous analysis
- **focus on driving change** – building consensus on our policy recommendations, and monitoring government progress on their delivery.

A fuller description of the Commission's remit can be found on page 34 and on our website at [nic.org.uk/about/what-we-do/](https://www.nic.org.uk/about/what-we-do/). This includes a table of devolved administration responsibilities by infrastructure sector.

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Full biographies can be found on page 36 and on our website at [nic.org.uk/about/the-commission/](https://www.nic.org.uk/about/the-commission/)

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# Executive summary

In February 2023, the government asked the Commission to undertake a study on the infrastructure planning system and the role of National Policy Statements. The full terms of reference for the study can be found on [gov.uk](https://www.gov.uk).

**This report sets out the Commission’s recommendations on how to improve the consenting process for Nationally Significant Infrastructure Projects (NSIPs). Over the course of the study the Commission has sought input from a range of stakeholders and this report provides an independent, expert assessment of what could be done to strengthen and improve the current system both in the short and longer term.**

The Nationally Significant Infrastructure Project planning regime was established through the Planning Act 2008 to provide more certainty on the need for nationally significant projects. Under this system government sets out the need for different types of infrastructure through National Policy Statements. The system was designed to be inquisitorial, and the role of the Planning Inspectorate, acting under delegation from the Secretary of State, was to weigh the balance of scheme impacts on the basis of clear policy guidance from government.

Initially the system worked well, but since 2012 consenting times have increased by 65 per cent, moving from 2.6 to 4.2 years, and the rate of judicial review has spiked in recent years to 58 per cent from a long term average of ten per cent. The system has in part decelerated because National Policy Statements have not been updated since they were first issued and have not been supported by clear supplementary guidance. As a result, the role of the Planning Inspectorate has shifted from that of inquisitor to that of arbiter, having to determine the meaning of old and sometimes subjective guidance. Without clear and up-to-date statements of need for infrastructure, policy questions are being debated at planning examinations, lengthening timeframes. Inefficiencies and uncertainties in the system’s approach to the environment have also slowed down consent times and reduced the quality of outcomes. Schemes can spend months or years collecting environmental data which other schemes have already collected, or designing environmental mitigations where existing mitigations for the same impacts have already proved successful elsewhere.

The system has slowed down and become more uncertain while the need for it has increased dramatically. In the next decade, the UK needs to consent and build transformational infrastructure including wind farms, electricity transmission lines and reservoirs to achieve energy security and net zero, and build resilience to climate change.<sup>1</sup> Into the 2030s, the types of schemes required will expand further, with the potential requirement for carbon capture and storage pipelines and a hydrogen network. A slow planning system also constrains transport schemes and the economic growth they deliver. As the UK attempts regional economic rebalancing, delays to projects defer their economic benefits.

Improving the speed of the planning system for major infrastructure does not need to come at the expense of good decisions which take communities and the environment into account. Longer decision making processes mean more uncertainty for communities while decisions are made. Similarly, inefficiencies in environmental data gathering and mitigation design slow down the process, but do not improve the environment.

The Department for Levelling Up, Housing and Communities is aware of these issues and produced an action plan in February 2023 to deliver reforms to the Nationally Significant Infrastructure Project planning process. This plan introduced changes which should have a positive impact on the system and reverse to some degree the deceleration in planning consent timelines. The recommendations in this report build on and complement the proposals in the action plan as requested in the terms of reference for this study.

As an independent agency, the Commission has developed recommendations which comprise further reforms to ensure the system remains capable of delivering the volume and complexity of projects needed to meet net zero, energy security, climate resilience and growth goals and bringing consenting times back to at least 2010 levels. Although some of these reforms will have longer term benefits, the Commission's recommendation timelines reflect the fact that action is needed now to secure them. Without these reforms, it is likely that the planning system will become a major barrier to government achieving its policy goals.

Stakeholders with which the Commission engaged support reform of the Nationally Significant Infrastructure Project system rather than its replacement. The Commission believes that the system can be reformed to support the delivery of net zero, energy security, climate resilience and economic growth across regions. The recommendations set out in this report are designed to ensure the system meets four tests:

- 1. Faster:** The system must deliver more infrastructure more quickly, at a minimum rapidly returning to two and a half year consenting timetables achieved in the early 2010s. Longer term, this could be reduced further to around two years due to efficiencies derived from strategic environmental mitigation<sup>2</sup>
- 2. More flexible:** The system needs to be able to respond to rapid changes in technology, and to changes in legislation which have implications for planning policy
- 3. Increased certainty:** Scheme promoters, investors and communities must have more confidence about the outcome of planning decisions and the time they will take
- 4. Better quality:** The system must ensure that environmental outcomes are measurably improved and communities that host nationally important infrastructure receive direct benefits. It must also recognise the importance of good design, as set out in the National Infrastructure Design Principles.<sup>3</sup>

## Recommendations

As National Policy Statements have aged there has been less clarity about the need for infrastructure and how this relates to more recent legislation, such as the commitment to net zero. Government has committed to its first round of updates to National Policy Statements this year in its recent action plan. It should go further and make at least five-yearly reviews of key National Policy Statements a legal requirement. Government should also set out the criteria for triggering reviews of other National Policy Statements. These statements should follow a clear set of principles set out in more detail in the body of this report. To achieve net zero, the system also needs to include all viable forms of renewable generation, including onshore wind.

**Recommendation 1: By 2025, government should introduce legislation to make at least five-yearly reviews of the National Policy Statements for Energy, Water Resources and National Networks a legal requirement. These statements should include clear tests, refer to spatial plans and set out clear timelines and standards for consultation during pre-application. Reviews should consider the appropriateness of existing and future technologies and thresholds. Government should amend legislation to bring onshore wind into the Nationally Significant Infrastructure Project system as soon as possible. By 2025, government should also set out the criteria for triggering reviews of other National Policy Statements.**

Government should make the system more flexible, enabling National Policy Statements to keep pace with legislative change, such as the net zero target. ‘Modules’ should be produced and attached to legislation to set out how these changes relate to existing statements. They should not need to be separately consulted on as the legislation will go through, or be scrutinised by, Parliament. This will increase certainty in the system by ensuring statements align with newer legislation and enable departments to set out how they do so.

**Recommendation 2: By July 2024, government should introduce a system of modular updates to National Policy Statements linked to primary or secondary legislation to ensure clarity on how future legislative change relates to National Policy Statements.**

Currently, the environmental impact of infrastructure is managed on a scheme-by-scheme basis. This undermines the speed, quality and certainty of the system. The system is slowed down because individual schemes are required to collect up to three years of environmental data, sometimes duplicating recently gathered data. The system has fewer optimal outcomes because environmental management is considered on a scheme-by-scheme basis, but environmental impacts should be managed at ecosystem level. Finally, the system is less certain because the lack of clear guidance and expectations can mean that schemes’ proposed environmental management plans are open to legal challenge.<sup>4</sup>

These reforms will require the sharing of baseline data and the development of a library of mitigations which will take a while to deliver time savings. For urgent prioritised infrastructure, government should take a proactive approach by gathering baseline data and agreeing mitigations with developers. This should start with wind generation and electricity transmission, followed by water resource infrastructure, because these sectors are critical for delivering net zero, energy security and climate resilience.

**Recommendation 3: By the end of 2024 the Department for Environment, Food and Rural Affairs should introduce a data sharing platform for environmental data with clear data standards, sharing relevant developer and local nature recovery strategy data. By the end of 2025 statutory consultees should develop a library of historic and natural environmental mitigations for different kinds of infrastructure. Statutory consultees should also receive and use new resource to gather baseline data and agree strategic mitigations for urgent infrastructure, firstly for wind generation and electricity transmission, and then water resources, by the end of 2025.**

Some schemes, such as electricity transmission lines, deliver benefits at national level, but not at local level. Providing social, economic or environmental benefits at local as well as national level could improve community trust in the system which could in turn reduce the risk of legal challenge. Requiring developers to engage with communities early to understand their needs also improves the quality of the system. Community benefits have hitherto tended to be allocated on a voluntary basis by industry and developers and, as such, the level of funding and how it has been allocated has varied. Given the scale and rate of infrastructure change required, government should introduce the measures necessary to ensure local communities receive consistent, tangible and fair benefits from hosting network infrastructure that supports national objectives.

**Recommendation 4: By the end of 2023 government should develop a framework of direct benefits for local communities and individuals where they are hosting types of nationally significant infrastructure which deliver few local benefits.**

The failure to update National Policy Statements suggests that some departments may have overlooked planning in favour of short term concerns. More projects are also requiring multiple extensions at the decision stage. All parts of the system, including ministerial decision making, must be more disciplined to meet timeframes, and must resolve issues at the appropriate stage in the process. Given the challenges faced, stronger accountability is needed at the centre of government to guarantee the system meets the tests the Commission has proposed in recommendation 1. This could be in the form of a new appropriately skilled unit or task force under the Prime Minister or Chancellor to closely monitor the performance of the system, coordinate regular and consistent reviews of National Policy Statements, and to learn lessons from applications, unblocking systemic issues affecting certain types of schemes as they emerge.

**Recommendation 5: By the end of 2023 a central coordination and oversight mechanism should be developed, reporting to the Prime Minister or the Chancellor, with measurable targets for reducing consenting times for Nationally Significant Infrastructure Projects.**

Statutory consultees have a clear remit, such as protecting the natural environment or the historic environment, but this is not always aligned to the consenting and delivery of nationally significant infrastructure. Updates to National Policy Statements should provide statutory consultees with clear guidance. But the need for national infrastructure should also be reflected in the resourcing and incentives for these bodies. Similarly, developers should be required to demonstrate engagement and agreement with statutory consultees on cost recovery and service level agreements in advance of schemes being accepted for examination.

**Recommendation 6: By May 2024 performance indicators for statutory consultees operating under a cost recovery model should form part of compulsory service level agreements with developers, with budget implications for failure to meet agreed service levels. Developers' applications should only be accepted for examination once a service level agreement is in place.**



# 1. Planning for net zero, climate resilience and growth

## Background

The Planning Act 2008 introduced a new consenting process for Nationally Significant Infrastructure Projects in the energy, transport, water, wastewater and hazardous waste sectors. The process was designed to provide greater certainty for large scale infrastructure projects through government setting out the needs case in National Policy Statements, meaning the consenting process could focus on scheme design and not the question of need.

The regime has thresholds below which schemes apply for consent through mechanisms such as the Town and Country Planning Act 1990 and the Transport and Works Act 1992. When thresholds are not met, schemes can apply to the relevant Secretary of State for a Section 35 direction to be considered a nationally significant infrastructure project.

The role of the Planning Inspectorate is to establish facts and not to act as an impartial referee between developers and opponents of development.<sup>5</sup> The system relies on clear guidance from government so that the Planning Inspectorate can act on an objective basis and not be drawn into mediating between parties to interpret planning requirements. The process is deliberately front loaded, with community engagement, environmental monitoring and other activities done up front, prior to scheme examination. For this reason, schemes have to meet a certain quality standard which demonstrates they have undertaken this work prior to examination.

The Nationally Significant Infrastructure Project system has six stages, starting with pre-application. The length of this first stage is difficult to quantify as developers use different definitions of project commencement and contact the Planning Inspectorate at different stages in a project's maturity:

- **Pre-application:** Scheme developers undertake optioneering and produce an outline scheme design based on their preferred option. At this stage developers should also engage with stakeholders, including statutory consultees, on their options. The length of this stage will vary significantly depending on infrastructure type. The Planning Inspectorate can support applicants with advice prior to submitting their application. The formal pre-application stage does not have a statutory time limit.
- **Acceptance:** Once an application is submitted, the Planning Inspectorate has 28 days to determine whether it meets the standard required for examination.
- **Pre-examination:** Members of the public are able to register as interested parties, an

examining body is appointed, and preparation is made for examination. There is no statutory time limit, but this process usually takes three months.

- **Examination:** The Planning Inspectorate has up to six months to run an examination.
- **Recommendation and decision:** After examination, the Planning Inspector has three months to make a recommendation to the relevant Secretary of State, who then has three months to make a final decision on granting a Development Consent Order.
- **Post decision:** After the decision there is a six week period where interested parties can launch a legal challenge to the decision, known as a judicial review.

## The scale of the challenge

Initially the system worked well, with schemes taking an average of 2.6 years from the pre-application stage to securing planning consent. However, since 2012 the time taken for schemes to pass through the system increased by 65 per cent, taking an average of 4.2 years.<sup>6</sup> The outcome of decisions is also less certain. The rate of schemes being judicially reviewed has spiked in recent years to 58 per cent from a long term average of ten per cent.<sup>7</sup> The increase in legal challenges suggests that public trust in the system may be reducing, potentially because of the increase in the volume of schemes required, and that as the system has matured opponents of developments have become more experienced in launching legal challenges. Stakeholders suggest that challenges have also become easier because of the growth in online crowd funding since the 2010s. More legal challenges lead directly to delays, but also indirectly to greater risk aversion and gold plating throughout the whole process.

The system has taken longer and become more uncertain at a time when the need for it has increased dramatically. The UK has committed to decarbonise its electricity system by 2035, a task made more urgent by Russia's invasion of Ukraine. The government's response, the British Energy Security Strategy, set an ambition to build 50 GW of offshore wind by 2030.<sup>8</sup> Assuming a one-year build time, this could require around 20 new offshore wind farms to be consented in England and Wales in the next six years, with more than double the historic rate.<sup>9</sup>

Renewable energy will require a change in the electricity transmission system. The grid's capacity and footprint will need to expand as demand increases due to electricity replacing fossil fuels in transport and heat, and is more dispersed as renewable generation is further away from sources of demand. National Grid calculated that supporting the 50 GW offshore wind ambition by 2030 requires at least 17 new energy transmission consents within the next four years, allowing three years for construction.<sup>10</sup> This is a more than fourfold increase in annual transmission project consents from historic rates.<sup>11</sup>

The energy system is also likely to require large numbers of Nationally Significant Infrastructure Projects beyond 2030, when new technology such as carbon capture and storage and hydrogen networks could be deployed at scale. As proposed decarbonisation technologies remain uncertain, it will be critical that the planning consent system operates flexibly and at pace to accommodate the transition.

Minimising carbon emissions is not the only urgent challenge facing the UK's infrastructure. As the Commission set out in *Preparing for a Drier Future*, due to climate change and population growth the UK faces a growing risk of drought.<sup>12</sup> This has been underlined by the drought of Summer 2022. There is currently a one in four chance that large numbers of households will have their water supply affected for an extended period because of a severe drought in the next 30 years. Part of the solution is making better use of existing water resources through demand management and tackling leakage. But the Commission also recommended about a third of the deficit will need to be made up by new water resource infrastructure. Water companies' draft Water Resource Management Plans now suggest that nine new water resource projects will need to enter the Nationally Significant Infrastructure Project system in the next six years, and a further seven will need to have been granted consent in the next 15 years.<sup>13</sup> This will add further pressure to an already decelerating system because no water supply projects have been through the system to date.

The government has also committed to rebalancing economic growth and opportunity across the UK. As net zero infrastructure will often be sited in areas which have historically seen slower growth, fast tracking the rollout of this infrastructure through streamlining the process will accelerate growth opportunities. Similarly, transport schemes can deliver economic growth and improve quality of life through increased connectivity. Delays to these schemes caused by the planning system postpone these benefits.

The costs of planning delays are difficult to quantify, but they increase the costs of projects. These increases do not ultimately fall to developers. They are passed on to taxpayers for public infrastructure and bill payers or customers for private infrastructure. For every year of planning related delay to a project, consumers will pay for the ultimately increased costs caused by the delay. For large schemes, project teams can cost around £1.5 million to run per month, and because delays are of uncertain length, it is not possible to disband and reform teams while they are resolved.

Some types of infrastructure also incur specific costs. In 2022 energy bill payers paid between £600 million and £1 billion in network constraint costs because the existing electricity transmission network did not have the capacity to transmit all of the energy being generated by renewables. By 2030 this is estimated to rise to between £1.4 billion and £3 billion per year.<sup>14</sup> While National Grid is planning action to address this, every capacity enhancing electricity transmission scheme which is delayed by the planning system will result in increased network constraint costs on consumer bills. Other costs include planning delays causing electricity generation schemes to miss capacity auction dates. These are only two examples. The costs of delay are passed on through all private and public infrastructure schemes. While the cost is difficult to quantify, it is real.

The system has also been relatively inflexible, reducing its ability to respond to rapid changes in technology. For example, the thresholds for energy generation technologies to be considered Nationally Significant Infrastructure Projects are fixed in law, meaning, aside from offshore wind, energy generation projects above 50 MW are considered Nationally Significant Infrastructure Projects. However, for solar schemes this threshold may be too low, as the technology has improved such that the yield is higher for the same amount of land.

Developers argue the costs of taking a solar project through the system are not cost beneficial for schemes below 200 MW. This has led to a gap in the market for projects between 50 and 200 MW, potentially constraining the UK's renewable capacity.

## Causes of delay

The Nationally Significant Infrastructure Project planning system was intended to be inquisitorial, but stakeholders report that over time it has become adversarial, leading to lengthy delays and greater uncertainty.

### Inquisitorial system

The government sets out clear standards which schemes should meet. Projects spend more time before applying consulting with local communities and confirming with statutory environmental and heritage bodies that it has met these standards. Following this, examinations are quicker because the Planning Inspectorate is required to assess whether a scheme has met the clear tests the government has set out and make recommendations to the Secretary of State. The system provides more certainty in planning outcomes because all scheme developers should have access to the standards they are required to meet.

### Adversarial system

A planning authority acts as a mediator between scheme promoters and other interested parties seeking amendments to or prevention of a scheme. The system requires less upfront work by the developer because scheme design and impact management is influenced by the outcome of an inquiry which functions as a negotiation. This can lead to lengthy examination timelines and is much less certain in its outcomes because it depends on the planning authority's judgement.

There are a number of factors behind this shift including old national policy statements, increased public sensitivity to infrastructure schemes as volumes increase, and a lack of clear standards in some parts of the system, especially for historic and natural environment management. A front loaded inquisitorial planning system depends on the Planning Inspectorate being able to examine whether schemes meet tests set for them by government planning guidance and National Policy Statements. The Planning Inspectorate cannot do this if there are apparent clashes between National Policy Statements and subsequent government policy and legislation, or if the tests Statements set are unclear.

### National Policy Statements

The original suite of National Policy Statements for Energy and National Networks were issued between 2011 and 2014 and although both are under review, neither has seen a review completed since the introduction of the new system. Stakeholders report that the lack of more recent government guidance drives caution among planning officials, statutory consultees, technical specialists and planning lawyers, slowing down the system.

The response to uncertainty is for officials to ask for more paperwork. This does not necessarily improve the quality of scheme design, but does increase delays and costs for developers, and ultimately for billpayers, taxpayers and the wider economy.

A key role of National Policy Statements is to establish the need for different kinds of infrastructure at national level and its relationship to wider government policy such as the sixth carbon budget and the commitment to net zero. As National Policy Statements have become dated the need for infrastructure has been the subject of at least five scheme judicial reviews. A further six schemes were subject to judicial review because objectors argued that the scheme had failed to consider alternatives suggesting the needs case may not have been clear.<sup>15</sup> Up to date and robust policy statements would provide clarity on need, potentially avoiding some of these delays. It should also not be sufficient for statements to say that infrastructure schemes are compatible with carbon commitments but to credibly *show* how this is the case, including reference to wider policies that are designed to address carbon emissions.

## Unclear tests

Government analysis highlights that the biggest increase in planning consent timeframes has been at the pre-application stage, which now takes over two years on average.<sup>16</sup> This is almost as long as the entire process took in 2012. Stakeholders suggest the lack of clear guidance through National Policy Statements or government planning advice extends this timeline. For example, if scheme promoters do not know what constitutes an acceptable level of public consultation for different types of infrastructure, they are likely to err on the side of caution to avoid the risk of legal challenge.

Similarly, the lack of clear guidance on the requirement to set out alternatives to proposed schemes increases paperwork on a precautionary principle. This is likely to be compounded when scheme promoters and their legal teams note that schemes have been subject to judicial review on this basis, with one challenge being successful.<sup>17</sup>

Clear guidance is also a cornerstone of an inquisitorial planning system. Without it, stakeholders report that statutory consultees and developers can turn pre-application consultation into a negotiation, with neither side willing to back down on what standards a scheme should meet until examination stage. As examinations have a six month statutory timeline, this can mean that issues are often not resolved and deferred to the Secretary of State's decision. This partially explains the recent expansion in timings for Secretary of State decision making as more information is sought to resolve outstanding issues.<sup>18</sup>

## Systemic inefficiencies

Alongside the lack of up-to-date and clear advice, some aspects of the system are inefficient. Currently, all aspects of managing the environmental impact of schemes fall to scheme developers. Scheme level Environmental Impact Assessments require developers to gather environmental data from their proposed site, which can include up to three years of species behaviour data.<sup>19</sup> Once all relevant data is gathered, developers identify impacts and design mitigations.

These can be disputed at the examination stage and, if not properly evidenced, could be subject to judicial reviews once a scheme has been granted a Development Consent Order. Because of this, a great deal of care is rightly taken in designing and agreeing mitigations, but this work is duplicated by schemes with very similar impacts being developed in close proximity at the same time. These schemes can then experience the same delays when the appropriateness of mitigations is individually tested at examination or decision.

In the offshore wind sector in England, five offshore windfarms examined between 2018 and 2021 were subject to delays due to developing mitigations for similar environmental impacts, including on the same species of sea bird.<sup>20</sup> After the examination stage, which largely runs to the six month statutory timetable, the Planning Inspectorate did not feel able on the evidence available to recommend that the Secretary of State grant consent. As a result, these schemes were subject to a cumulative total of almost two and a half years of delays while the Secretary of State gathered sufficient information to ensure the decision to approve the schemes was robust to legal challenge. This is likely to be a small portion of the total delay because it does not take into account the additional time taken by scheme developers at the pre-application stage to gather environmental information and design mitigations. Many schemes will be in the same or overlapping locations, so are required to gather the same information to submit to the same government agencies.

Environmental groups also recognise that this piecemeal approach does not produce the best outcomes. Because mitigations are designed at scheme level, they are not always consistent and monitoring and enforcement after scheme completion is limited. Species operate at ecosystem level and mitigations should be designed at the same level.

## Principles for reform

The Department for Levelling Up, Housing and Communities produced an action plan in February 2023 to deliver reforms to the nationally significant infrastructure planning process. It introduced shorter term changes that should have a positive impact on the system and partially reverse the deceleration in planning consent timelines including:

- committing to designating the first Water Resources National Policy Statement, and updated Energy and National Networks National Policy Statements in 2023
- establishing an enhanced pre-application service run by the Planning Inspectorate and developing a 'fast-track' process for certain types of schemes
- by 2025, developing Environmental Outcome Reports to streamline environmental assessment, and delivering an Offshore Wind Environmental Improvement Package
- supporting Planning Inspectorate capability building and introducing cost recovery for statutory consultees to ensure they have the resources to engage with the system, accompanied by service level agreements
- establishing a Local Authority Innovation and Capacity fund to support local authorities in engaging with the process, making them better able to represent local communities.

As set out in its terms of reference, the Commission's study assumes that all of the government action plan's proposals are implemented. The action plan sets out to deliver a clearer strategic direction, faster consenting, better outcomes for the environment, strengthening community engagement and improving capacity. This report proposes additional changes to ensure the system remains fit for purpose. Although some of these proposals will improve the system in the longer term, they require action from government now. Industry stakeholders with which the Commission engaged support reform of the Nationally Significant Infrastructure Project system rather than its replacement. The Commission believes that the system can be reformed to support the delivery of net zero, energy security, enhanced climate resilience and boosting growth, but to do so it must meet four tests:

- 1. Faster:** The system must deliver more infrastructure more quickly, at a minimum rapidly returning to two and a half year consenting timetables achieved in the early 2010s. Longer term, this could be reduced further to around two years due to efficiencies derived from strategic environmental mitigation.
- 2. More flexible:** The system needs to be able to respond to rapid changes in technology, and to changes in legislation which have implications for planning policy
- 3. Increased certainty:** Scheme promoters and investors must have more confidence about the outcome of planning decisions and the time it will take to achieve them
- 4. Better quality:** The system must ensure that environmental outcomes are measurably improved and that local communities see the benefits of infrastructure projects. It must also recognise the importance of good design, embodied in the National Infrastructure Design Principles.<sup>21</sup> These improvements will increase public faith in the system.

The Nationally Significant Infrastructure Project planning system is necessarily complex as it has to balance national need against local impact. Making isolated reforms to one part of the system will not necessarily deliver the changes required because stages of the process where improvements are delivered run concurrently with other stages where reforms are also required. Using the four tests above, the Commission has proposed a package of recommendations aimed at ensuring the planning system is not a barrier to the delivery of the country's net zero, energy security, climate resilience and growth objectives.

## 2. National Policy Statements

**The government needs to ensure it keeps planning guidance up to date and builds flexibility into the system.**

**The government has yet to designate a revised National Policy Statement since the first statements were published in 2011, despite the initial intention being that guidance should be reviewed every five years.**

This may be because departments were focused on shorter term priorities, but stakeholders report that dated National Policy Statements have increased delays. The government's action plan proposes updates to key National Policy Statements in 2023, and planning guidance now recommends reviewing statements every five years. To ensure these important documents are kept up to date after designation of the 2023 versions, there should be a legal requirement to update National Policy Statements in sectors with high volumes of schemes. The Energy and National Networks National Policy Statements account for 90 per cent of all schemes that were decided by the end of 2022, so these should be subject to compulsory reviews at least every five years.<sup>22</sup> Water resources will also account for a significant number of schemes in the next 15 years, so the National Policy Statement for Water Resources Infrastructure should also be subject to five year reviews. Without this guidance, the Planning Inspectorate will increasingly become an interpreter of government policy, rather than an assessor of schemes.

For other areas, where there is currently less activity, government should set out a trigger point for a National Policy Statement review. This could be a significant change in policy, technological change, or a significant increase in schemes covered by the relevant statement. Making sure statements are up to date could, alongside other reforms, bring consenting timelines back to 2010 levels and prevent future delays.

Regular updates to National Policy Statements are necessary but not sufficient to reduce the delays caused by uncertainty in planning policy. The contents of National Policy Statements are also important in ensuring that uncertainty is removed from the system as far as possible. The Commission has developed principles for the contents of National Policy Statements which future revisions should consider to ensure the system is and remains standards based and does not rely on the interpretation of subjective guidance. When guidance is open to interpretation, it is open to the risk of legal challenge, causing delays. Developers also spend more time in the pre-application stage attempting to risk proof their projects against this threat.

To avoid this, tests in National Policy Statements or accompanying guidance should be measurable, and Statements should clearly set out how the government thinks potential trade-offs should be managed. A good example of such a standard is the draft Energy Networks National Policy Statement which sets out a 'strong starting presumption' in favour of overhead lines as the most cost effective option, except in nationally designated landscapes where underground cables should be installed to mitigate landscape impacts.<sup>23</sup>

Clear tests in National Policy Statements would also enable the Planning Inspectorate to identify schemes at pre-application stage which it thinks have not met the required standard to be accepted for examination. This could reduce the burden on the inspectorate and statutory consultees by removing low quality projects from the pipeline, or delaying their entry into the system until they meet the required quality standard.

**Principle 1: National Policy Statements should avoid generalised language which is not accompanied by specific guidance, and tests within them should be measurable.**

National Policy Statements are intended to settle the question of need for infrastructure so that the application focuses on the design of schemes. Government should be as specific as possible at national level about which schemes are needed through linking need to spatial plans.

In some sectors spatial plans with varying degrees of specificity already exist, and in many cases these plans were drawn up after public consultation and an appraisal of other options. This is the case for Water Resource Management Plans. Similarly, although the Road Investment Strategy is an investment plan, it is consulted on and could form the basis of a spatial plan demonstrating the need for road infrastructure. The proposed Centralised Strategic Network Plan for the energy transmission network, referenced in the draft energy transmission statement is also a stepping stone towards a strategic plan for energy transmission.<sup>24</sup> The relevant National Policy Statement should set out clearly that the need for the schemes outlined in spatial plans is settled. Defra's Land Use Framework will also create an opportunity to consider how land use could be multifunctional, such as by solar schemes designing in livestock grazing or encouraging biodiversity between panels.<sup>25</sup> Spatial planning would enable prioritisation where schemes are competing for the same land, as happens offshore through the UK Marine Policy Statement.<sup>26</sup> Government needs to ensure that the marine statement is updated to enable clear prioritisation between proposed uses, rather than adopting a first come, first served approach.

For government to rely on these plans, they need to be designated as spatial planning documents subject to public consultation and accompanied by the appropriate assessments including Habitat Regulations Assessments and Strategic Environmental Assessments. In sectors where clear spatial planning frameworks do not already exist, such as energy generation, given the urgency of scheme rollout required, they should not be insisted on before schemes can go ahead. Additionally, setting out preferred schemes may inhibit the benefits of private competition in driving down the cost of delivery. However, as set out below, more detailed spatial planning outlining 'development areas' will be important in the future for supporting strategic environmental mitigation.

Greater spatial planning will also deliver wider benefits. Currently some local authorities report twelve to fourteen Nationally Significant Infrastructure Projects within their area within a year and that this is challenging to plan for because there is no visible spatial pipeline. This means Local Authorities are unable to take full advantage of the economic opportunities schemes might unlock by planning associated developments, and they can't plan to mitigate the cumulative impact of schemes effectively.

## **Principle 2: National Policy Statements should refer to spatial plans where clear spatial plans already exist, and for energy generation spatial plans should be considered.**

Technology thresholds for schemes are set in the Planning Act, but must be reviewed alongside National Policy Statement reviews, because changes in technology, policy and other circumstances can mean that public and industry requirements change. For example, in the water sector the relatively high number of requests for projects to be considered as Nationally Significant Infrastructure Projects under Section 35 directions suggests the current threshold for water infrastructure to automatically be considered a Nationally Significant Infrastructure Project in the National Policy Statement could be too high. Similarly, the draft energy National Policy Statement sets a 50 MW threshold for onshore electricity generation which may be too low for some technologies. Solar farm developers suggest there is a gap in their pipeline of projects between 50-200 MW because a Town and Country Planning Act application for projects under 50 MW can take less than a year, while a Nationally Significant Infrastructure Project application can take four to five years and is not financially viable for projects under 200 MW. Similarly, stakeholders question whether a 2 km length is too low a threshold for energy transmission schemes to be considered nationally significant. After review, legislation should be amended where necessary to reflect proposed changes.

The inclusion or exclusion of different technologies in the system also has a clear impact on scheme delivery, particularly when some infrastructure types are more contentious and may be resisted at local level. In 2016, the government removed onshore wind from the system, returning planning decisions to local authorities. Following this, alongside tighter restrictions being introduced in the National Planning Policy Framework, onshore wind installations in England have decreased by over 80 per cent between 2016 and 2022.<sup>27</sup> To deliver net zero and energy security, onshore wind, one of the cheapest forms of renewable energy generation, should be included in the Nationally Significant Infrastructure Project system.

The option to refer schemes as Nationally Significant Infrastructure Projects under Section 35 was designed to make the system flexible to market and community needs as technology thresholds are set in the Planning Act. However, some schemes have faced over a year of delays due to unclear wording in National Policy Statement documents about whether Section 35 schemes should be treated in the same way as schemes which exceed National Policy Statement thresholds. This can be exacerbated by delays in departments and ministers responding to Section 35 referral requests.

## **Principle 3: National Policy Statement reviews should consider whether technology types and thresholds are fit for purpose, amending legislation where necessary and be clear that Section 35 directions should be treated in the same way as above threshold schemes. Specifically, onshore wind should be included in the revised energy National Policy Statement and brought back within the scope of the Planning Act 2008.**

One reason for the expansion in developers' work on projects' pre-application is that there is no clear expectation on the time and volume of consultation required with both the public and statutory consultees. This results in an expansion in consultation, particularly for contentious schemes. For example, the Hinkley Point C nuclear power plant spent three years on pre-application consultation from October 2008 to October 2011.<sup>28</sup>

The project was then subject to judicial review by An Taisce, the National Trust for Ireland, on the grounds it had not been consulted on the scheme's potential cross border effects in the event of a nuclear accident.<sup>29</sup> While the review was ultimately dismissed, while it was ongoing it created uncertainty about whether the scheme would go ahead. Partly as a result, when the Sizewell C scheme was brought forward it spent around seven and a half years on pre-application consultation despite using the same model of reactor as Hinkley. The absence of clear guidance on who to consult and for how long has encouraged pre-application risk aversion. This challenge was compounded because the 2025 expiry date for projects within the Nuclear National Policy Statement meant that Sizewell C had to be consented without a National Policy Statement.

Different types of infrastructure will require different lengths of consultation, but the same types of infrastructure, as in the case of Hinkley and Sizewell, or two adjacent North Sea wind farms, should have similar expectations. Government can and should provide this clarity, which could be in the form of a presumption in favour of statutory consultation timelines. The government's action plan also proposes to introduce full cost recovery for statutory consultees accompanied by key performance indicators. Within this, government should set clear deadlines and consequences for failure to meet them, to provide developers and investors with certainty on consenting timetables. Developers too must demonstrate clear engagement with statutory consultees before their applications are accepted for examination. Government should also set out guidelines on the expected scope of consultation including on which areas fall within a project's boundaries for consultation. Finally, government could clarify how schemes are expected to demonstrate that they have had regard to consultations.

**Principle 4: National Policy Statements or accompanying planning guidelines should set out clear standards on expected timelines and boundaries for consultation for different kinds of infrastructure.**

**Recommendation 1: By 2025, government should introduce legislation to make at least five-yearly reviews of the National Policy Statements for Energy, Water Resources and National Networks a legal requirement. These statements should include clear tests, refer to spatial plans and set out clear timelines and standards for consultation during pre-application. Reviews should consider the appropriateness of existing and future technologies and thresholds. Government should amend legislation to bring onshore wind into the Nationally Significant Infrastructure Project system as soon as possible. By 2025, government should also set out the criteria for triggering reviews of other National Policy Statements.**

Updating National Policy Statements takes a significant amount of official and parliamentary time due to the need for parliamentary approval and public consultation. This is likely dwarfed by the costs of delay caused by dated National Policy Statements, but it does mean that advice is more likely to be refreshed if the system is more flexible. Changes in legislation and technology can outpace five-yearly review cycles, and the system should be flexible to allow for this.

New government policy can affect all infrastructure, but is only reflected in the most recent National Policy Statements. For example, the draft water resources National Policy Statement was the first to reference environmental and biodiversity net gain. As the requirement could affect other infrastructure types, but was not referenced in National Policy Statements for other sectors, this created further uncertainty.

To enable National Policy Statements to keep pace with changes in government policy, alongside reviewing the needs case at least every five years, government should have the flexibility to attach modules to National Policy Statements to reflect significant change. These modules would be included in relevant draft legislation and so would be subject to the parliamentary scrutiny normally required for full updates. This will allow government to automatically update these sections as part of legislation passing through parliament, without having to re-designate National Policy Statements. Any changes would need to clearly set out that they do not apply to schemes which have already entered the planning process pipeline through submitting an application to the Planning Inspectorate, but which have not yet been consented, to avoid adding further uncertainty into the system. Adding modules to National Policy Statements through relevant primary or secondary legislation with clear transitional arrangements for infrastructure already in the system would ensure that updates to National Policy Statements are scrutinised and that scheme developers have advanced sight of proposed changes.

**Recommendation 2: By July 2024, government should introduce a system of modular updates to National Policy Statements linked to primary or secondary legislation to ensure clarity on how future legislative change relates to National Policy Statements.**



# 3. Strategic environmental management

**Infrastructure schemes follow a clear mitigation hierarchy when considering their impact on the environment beginning with complete avoidance, then mitigation, followed by compensation.**

**If it is not possible for developments to avoid, mitigate or compensate, they offset their impacts by replacing losses either on or offsite.**

The speed and quality of the Nationally Significant Infrastructure Project planning system, and the certainty in its outcomes, can be improved by taking a more strategic approach to managing the impacts of schemes on the environment.

Currently, competent authorities including local authorities are required to consider whether a scheme, plan or programme requires a Habitat Regulations Assessment to assess its impact on Special Areas of Conservation or Special Protection Areas.<sup>30</sup> Schemes are also required to complete Environmental Impact Assessments. These include a description of the environment likely to be affected by a proposed scheme and the impacts of the development. The assessment also sets out proposed mitigation activity where harm cannot be avoided. At a higher level, there is a requirement for Strategic Environmental Assessments to be completed for plans or programmes with an impact on the environment or health.<sup>31</sup> For example, National Policy Statements are subject to these requirements and must set out measures to mitigate impacts where they are unavoidable. Environmental Impact Assessments and Strategic Environmental Assessments are derived from UN treaties and as such remain requirements despite the UK leaving the EU.<sup>32</sup> Infrastructure investors the Commission has engaged with, who invest internationally, have indicated a preference for not developing bespoke arrangements for the UK market.

The current scheme by scheme approach to environmental assessment can cause long delays to the consenting of schemes and is not the best way of ensuring environmental outcomes. Scheme level Environmental Impact Assessments require developers to gather environmental data from their proposed site, which can include up to three years of species behaviour data.<sup>33</sup> This is often duplicated by other developers gathering the same data in the same area. Once all relevant data is gathered, developers identify impacts and design mitigations. These can be disputed at the scheme examination stage and, if not properly evidenced, could be subject to judicial reviews once a Development Consent Order has been granted by the relevant Secretary of State. Because of this, developers are increasingly cautious, and designing and agreeing mitigations can take far longer than is needed to achieve their environmental objectives. As noted above, in the offshore wind sector around two and a half years of cumulative scheme delays can be attributed to developing mitigation activity.

Environmental groups also recognise that this piecemeal approach does not produce the best outcomes. Because mitigations are usually designed at scheme level, they are not always consistent and monitoring and enforcement once a scheme is complete is limited.

Government has signalled that Environmental Outcome Reports should clarify and simplify the Environmental Impact Assessment and Strategic Environmental Assessment processes and reduce risk aversion among scheme promoters.<sup>34</sup> The government is also offering more strategic support in the offshore wind sector, setting out an Offshore Wind Environmental Improvement Package as part of the Energy Security Bill.<sup>35</sup> The new legislation aims to enable the delivery of strategic compensatory measures, facilitating collaborative working between developers across offshore wind projects to compensate for negative environmental effects which cannot be avoided, reduced or mitigated.

The Commission believes that government can support the delivery of a more strategic approach beyond offshore wind through addressing the two most time consuming elements of environmental management: baseline environment data gathering and designing and agreeing mitigations. It should take a proactive approach for critical infrastructure starting with wind generation and energy transmission infrastructure, and then water resource infrastructure, by conducting baseline data gathering, accompanied by sufficient new resource for the agencies responsible, and designing and agreeing mitigations.

For other types of infrastructure government can build efficiency into the system by hosting a data sharing platform for environmental data and requiring it to be made publicly available, as enabled by the Levelling Up and Regeneration Bill.<sup>36</sup> It should also build a library of mitigations so that schemes in similar locations facing similar impacts can learn from best practice as well as saving time. The same mitigations will not always work in different places, but the library can be strengthened over time as a central repository of knowledge and a starting point for mitigation design.

It is difficult to specify what the total time saving per scheme will be because environmental data gathering runs concurrently with other aspects of scheme design. However, given the delays post the examination stage set out above, likely a fraction of the total, time savings for prioritised infrastructure types could be on average around six months in addition to reforms such as updating, clarifying and strengthening National Policy Statements.<sup>37</sup> This is because these efficiencies were not available to developers when the new planning system was introduced in 2008 and so efficiencies will be additional to reforms designed to return to 2010 consenting timeframes.

This strategic approach will also have environmental benefits because the agencies managing any recovery funds on the model of the offshore wind Marine Recovery Fund will be able to monitor the impact of mitigations, adjusting them where they do not deliver the expected benefits. This approach may also enable more capacity to be built because currently schemes set out worst case scenario impacts rather than impacts based on observation. When these impacts are added up to consider the cumulative impacts of all schemes, some schemes are ruled out because total impacts are too great even though in reality there may be available capacity.

### Case study: Avoiding delays and protecting species

With very little guidance on the use of scenarios to manage uncertain impacts of developments, developers are increasing the number of scenarios to be considered in planning applications on a precautionary principle, resulting in the use of unrealistic worst case scenarios in environmental assessments. For example, windfarm and other developers are legally required to minimise construction noise impacts to prevent population the decline of harbour porpoises, which rely on echolocation to detect predators, prey and mates. Due to the increase in development at sea, worst case construction scenarios are at risk of exceeding noise thresholds. In this situation, construction activities could be restricted or delayed adding costs and losing access to supply chains. If developers had clear guidance on the appropriate use of uncertainty scenarios, this could accelerate scheme consents, reduce project costs and delivery risks and improve outcomes for harbour porpoises. Strategic environmental management would support this by providing an agreed set of data on which worst case scenarios could be based, with monitoring to ensure that impact scenarios are accurate.

There are strategic environmental mitigation schemes covering a variety of habitats both internationally and at smaller scale in the UK that a larger scale UK scheme could learn from:

- **European Union regulations on Strategic Environmental Assessments for renewable energy:** In December 2022 the EU issued a new regulation suspending the need for Environmental Impact Assessments for net zero and energy grid infrastructure projects as long as they were in an area where a Strategic Environmental Assessment and agreed mitigation measures for environmental impacts are in place.<sup>38</sup> This proposal is temporary because it is the result of an energy emergency, and EU countries are still subject to the Espoo convention, but it has the advantage of dealing with environmental impacts at strategic level, removing these debates from planning consents for individual schemes. The proposal requires a Strategic Environmental Assessment to be in place, requiring the existence of a spatial plan for energy infrastructure and baseline environmental data covering the area of that plan.
- **Netherlands Roadmap 2030:** Before 2017 the Netherlands had less than 1 GW of offshore wind generating capacity. In 2017 the Dutch government developed 'roadmap 2023' targeting 4.5 GW of offshore wind capacity by 2023.<sup>39</sup> This goal was achieved through a new method of permitting wind schemes. Instead of scheme developers individually selecting and investigating sites, the Dutch government designated sites and undertook Environmental Impact Assessments at site level, then tendering development rights. The cost of site selection and investigation was borne by taxpayers, but this reduced project risks, timelines, financing and overall societal costs as increases in scheme development costs ultimately end up on utility bills.<sup>40</sup> This system may reduce innovation by ruling out sites outside of the government's designated zones, but it has delivered a quadrupling of wind capacity in six years and savings elsewhere in the development process.

- **South Humber Gateway:** The South Humber Gateway is the site of £2 billion in planned development schemes, including in the renewable energy sector. It is also home to the Humber Estuary, an essential link in the East Atlantic Flyway for protected migratory birds which stretches from the Arctic to Africa. As a result, the estuary is designated as a Special Area of Conservation, a Special Protection Area, a Ramsar site and a Site of Special Scientific Interest. The area's environmental status was in tension with its development potential. To resolve this the South Humber Gateway Ecology group – comprising local authorities, landowners and statutory and non-statutory nature conservation bodies – agreed a programme of strategic environmental mitigation. As it was not possible to avoid the impacts of development on migratory birds, the partnership set aside land elsewhere to replace affected areas. This means individual schemes do not have to conduct their own habitat surveys or design potentially ineffectual piecemeal mitigation schemes. The scheme therefore mitigates impacts on affected species and accelerates proposed development.<sup>41</sup> Environmental outcomes are improved because actual impacts on migratory birds will be monitored and adjusted by experts as needed.
- **Great Crested Newt Licensing Scheme:** Prior to the Great Crested Newt Licensing scheme, managing impacts on the great crested newt required gathering survey data before construction, which could only be done during the spring breeding season. A project identifying the need to survey the area for impact on the species in summer would have to wait nine months to gather survey data, and then might have to gather survey data across two springs to ensure the survey year was not anomalous. The same project would then have to design mitigation measures for identified impacts. The licensing scheme drew up maps of participating districts splitting them into red (do not license), amber and green zones (both suitable for district level licensing).<sup>42</sup> Where impacts were identified developers paid into a strategic fund to provide breeding ponds, ensuring the overall newt population was not damaged by development. When established it was estimated that the scheme would cost £16.9 million to run over ten years, but would save developers direct annual costs of £21.7 million.<sup>43</sup>

## Principles for reform

The scale of the challenge set out above demonstrates that the current approach to managing net zero and climate resilience schemes' impact on the environment cannot continue. In the time available, the Commission has not been able to design a new environmental mitigation procedure for the UK context, however it believes government should commit resource to doing this within the next year. Any scheme will take time to deliver benefits, because of the need to gather baseline environmental data for spatial plans at strategic level, but data collection can start now. The sooner the government acts, the sooner benefits can be delivered, in terms of time savings and lower costs for bill payers, for prioritised schemes. There are a series of principles any scheme should follow:

- **Open data:** Government should coordinate the sharing of data from scheme developers on a central publicly accessible database to avoid the duplication of data collection. This should be supplemented by data gathered for Local Nature Recovery Strategies introduced by the Environment Act 2021 and by citizen science data where it meets appropriate data standards.<sup>44</sup> This could mean some schemes avoid up to three year data collection processes.
- **Strategic, not scheme by scheme:** To deliver savings, by reducing the risk premium on investment and delays caused by consenting, any reform of environmental assessment should where possible be delivered at strategic rather than scheme level. Following the Dutch model, this would require a greater role for central government agencies or local planning authorities in data collection and environmental management for prioritised sectors, accompanied by resources for these new duties. Strategic management will also enable improved cross sector management of cumulative environmental impacts, because the body overseeing this will have an overview of all schemes and not just those in one sector.
- **Standards based:** For priority infrastructure – wind generation, electricity transmission and water resources – Environmental Impact Assessments, proposed mitigations and decision making mechanisms should be decided at a strategic level rather than for individual schemes. Scheme developers should be presented with a set of standards they are required to meet, in terms of specified mitigations where there are unavoidable impacts. This may be in the form of a developer contribution, as with the Offshore Wind Environmental Improvement package. A library of mitigations held centrally could illustrate best practice to schemes not in the urgent priority list.
- **Compliant with existing international commitments:** Any programme should be compliant with the Aarhus convention, requiring public consultation on environmental impacts and mitigations at strategic (but not scheme) level.<sup>45</sup> This means that spatial plans which are referenced in National Policy Statements to set out need should be subject to public consultation.
- **Effectively monitored:** A strategic approach to environmental mitigation can and should deliver better environmental outcomes. In line with government proposals for Environmental Outcome Reports, the impact of schemes and environmental mitigations should be monitored, with government intervening to adjust arrangements where scheme impacts are greater than expected or where mitigations do not deliver expected protections.

Reform to environmental management will not deliver ‘quick wins’ in all sectors of the kind being trialled in offshore wind because of the volume of baseline environmental information needed, particularly for linear infrastructure crossing multiple habitat types. However, over time there is a potentially large time saving from delivering both digital data sharing and strategic environmental mitigation of at least six months, in addition to other reforms, bringing consent times down to two years or less. Because of data gathering requirements, where the government needs to prioritise leadership on environmental management, it should start with baseline data gathering for wind generation and electricity transmission, and then water resources, working with developers to agree mitigations.

**Recommendation 3: By the end of 2024 the Department for Environment, Food and Rural Affairs should introduce a data sharing platform for environmental data with clear data standards, sharing relevant developer and local nature recovery strategy data. By the end of 2025 statutory consultees should develop a library of historic and natural environmental mitigations for different kinds of infrastructure. Statutory consultees should also receive and use new resource to gather baseline data and agree strategic mitigations for urgent infrastructure, firstly for wind generation and electricity transmission, and then water resources, by the end of 2025.**



# 4. Benefiting communities

**Building major infrastructure is often characterised as local pain for national gain. The principle that local communities which host infrastructure in the national interest should capture a share of the benefits from these schemes is not always applied.**

**This limitation has not helped with local resistance to new developments sometimes on the grounds of ‘not in my backyard’. While there are examples of infrastructure developers adopting means of delivering local benefits, there is a lack of consistency and transparency.**

Given the scale and rate of infrastructure change required, government should introduce the measures necessary to ensure local communities receive consistent, tangible and fair benefits from hosting network infrastructure that supports national objectives.

Importantly, benefit is not the same as mitigation. All nationally significant infrastructure should mitigate its adverse impacts on communities and the framework for doing this is set out in National Policy Statements. Government should consider whether more generous compensation arrangements for impacts would reduce potential local opposition. Sharing the benefits of infrastructure with local host communities is additional to mitigation.

The government’s planning action plan recognises the importance of effective local community engagement and will provide additional support for local authorities and develop guidance on community engagement. It is also currently consulting on voluntary guidelines for community benefit schemes for electricity transmission, with proposals to be brought forward by the end of 2023.<sup>46</sup>

The government, regulators and developers should consider the merit of socialising costs through utility bills or public expenditure to extend the benefits of projects which deliver national but not local benefits to local communities. Practically, incurring increased costs early in a project could avoid higher costs subsequently being incurred as a result of delays to the consenting process. This could ultimately reduce costs for all consumers through lower bills or public expenditure savings. Effective community engagement could also improve the quality of projects and reduce uncertainty during the consenting process even if it does not necessarily reduce overall consenting timelines on its own. This should be tailored to the type of infrastructure as after the construction stage some types of infrastructure, such as reservoirs and roads, can deliver local benefits and so would not require community benefit schemes in addition. Other types of infrastructure, such as electricity transmission lines, pass through local, often rural, communities but only deliver benefits at national level. This will not remove all local opposition, but it will share benefits more evenly.

Packages of community benefit alongside infrastructure development are not new. But hitherto community benefits have tended to be allocated on a voluntary basis by industry and developers and, as such, the level of funding and how it is allocated has varied. A proposal for the retention of development associated increases in business rates for local authorities around Heathrow was set out in the Airport National Policy Statement.<sup>47</sup> The Scottish government has also set out good practice guidance for community benefit for communities hosting onshore wind in Scotland.<sup>48</sup> Suggested measures include the provision of either in kind benefits or one off funding, regular payments or partial community ownership. The latter approaches provide communities with greater discretion on how money is spent. Other potential ideas include providing funds to communities hosting electricity transmission network infrastructure to support low carbon solutions, such as heat pump installations, or introducing energy bill discounts.

Less common are payments to individuals. In the UK these have usually focused on generation sites, particularly windfarms. For example, the RES local energy discount scheme offers residents living within 6.5 km of the Garreg Lwyd Hill wind farm a £170 discount on their energy bills.<sup>49</sup> Similarly, the Octopus Fan Club offers those living close to wind turbines 20 per cent off the cost of electricity they use while the turbine is generating and 50 per cent off if the turbine is generating at high capacity.<sup>50</sup> This approach has also been taken internationally. EirGrid, Ireland's transmission operator, makes a range of proximity based payments to those living near energy transmission lines.<sup>51</sup>

Given the scale of new infrastructure required to deliver net zero and enhance climate resilience, benefits to local communities for schemes that don't already deliver local benefits should be set out at national level. This would provide clarity to local communities about the types of benefits they can expect to receive in return for hosting essential infrastructure. Managing benefits entirely on a scheme by scheme basis risks communities failing to understand what they are getting in return. The government should set out a national framework for compulsory community benefit which provides a menu of possible benefits to communities, while retaining the flexibility for local communities to indicate which benefits best they prefer.

To align planning with economic regulation, these benefits should be funded through regulatory settlements such as price reviews (whereby, for example, the funding allowance for an infrastructure scheme could include a condition that community benefit is provided and the amount is calculated using an agreed methodology), or by being added to costs agreed at capacity auctions.

**Recommendation 4: By the end of 2023 government should develop a framework of direct benefits for local communities and individuals where they are hosting types of nationally significant infrastructure which deliver few local benefits.**

The government should consider the following principles in its framework:

- **early engagement** to provide the opportunity for communities to set out which types of benefit they prefer
- **engagement which continues through the development, building and operation of infrastructure** to recognise the potential long term impact of infrastructure and the commitment of developers to address concerns
- **an amount that reflects the national benefits of the scheme being delivered** which will vary between infrastructure types, while ensuring value for money for bill payers who will ultimately fund community benefits
- **transparent distribution of funds** supported by guidance on best practice to ensure they are used fairly and in line with community expectations
- **benefits that are genuinely additional** and do not replace basic local authority services
- **benefits should be compulsory** so that all communities hosting affected infrastructure receive a consistent level, if not type, of benefit.



# 5. Accountability

The Commission's recommendations if accepted should increase the speed, flexibility, quality and certainty of the system, but much will depend on how they are implemented. Lessons will need to be learnt through implementation.

Many of these lessons apply across sectors, but sectors are divided between Whitehall departments which do not necessarily learn lessons from each other. The failure to update National Policy Statements suggests that in some departments planning may have been overlooked in favour of short term concerns, ultimately resulting in costly planning delays. More projects are also requiring multiple extensions at the decision stage. All parts of the system, including ministerial decision making, must be more disciplined to meet timeframes, must engage constructively and must resolve issues at the appropriate stage in the process. Given the challenges faced, stronger accountability is needed at the centre of government to guarantee the system is substantially reformed to be faster and more flexible with better quality decisions.

A central coordination and oversight mechanism, in the form of a unit or taskforce reporting to the Chancellor or the Prime Minister, could ensure lessons are learnt across sectors, but also react in real time to delays developing in the system. Troubleshooting the system will be essential to ensure planning is not a barrier to the delivery of net zero, energy security and drought resilience infrastructure over the next decade. It will also help to avoid costs and potential lost economic growth through delays in other sectors, such as transport. This unit or taskforce should oversee and provide guidance to departments on drafting National Policy Statements because its cumulative experience with the system would mean it would be able to ensure that the principles for effective National Policy Statements set out above are observed, thereby reducing future planning delays. The unit or taskforce should have the necessary planning and administrative expertise and skills to effectively perform its functions.

**Recommendation 5: By the end of 2023 a central coordination and oversight mechanism should be developed, reporting to the Prime Minister or the Chancellor, with measurable targets for reducing consenting times for Nationally Significant Infrastructure Projects.**

Statutory consultees have a clear remit, such as protecting the natural or historic environment, but this is not always aligned to the consenting and delivery of nationally significant infrastructure. Updates to National Policy Statements should provide statutory consultees with clear guidance. But the need for national infrastructure should also be reflected in the resourcing and incentives for these bodies.

The government's action plan proposes that the Planning Inspectorate and statutory consultees should be able to recover costs of engagement on planning applications from developers. While this system is introduced, statutory consultees, the Planning Inspectorate and Local Authorities where Nationally Significant Infrastructure Projects are planned need an immediate increase in their resources from government to prepare for the increased volume of schemes going through the system. This would allow them to build up their workforce and skills to enable timely engagement with the process. The Department for Environment, Food and Rural Affairs will also need resource to support its development of an accessible data platform. The action plan also suggests resource should be accompanied by key performance indicators. The engagement of statutory consultees is critical to ensuring any areas of disagreement between developers and government agencies are resolved at the start of the process and in a timely manner. To ensure the system remains accountable, key performance indicators should form part of a compulsory service level agreement for all statutory consultees, with budgetary implications for bodies failing to meet their targets.

Similarly, to ensure issues are settled prior to examination, on the basis of clear standards, the Planning Inspectorate should not accept developers' applications for examination until they can demonstrate engagement and agreement with statutory consultees in the form of service level agreements.

**Recommendation 6: By May 2024 performance indicators for statutory consultees operating under a cost recovery model should form part of compulsory service level agreements with developers, with budget implications for failure to meet agreed service levels. Developers' applications should only be accepted for examination once a service level agreement is in place.**

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## Remit and structure of the Commission

The National Infrastructure Commission was established as an executive agency of the Treasury to provide impartial, expert advice and make independent recommendations to the government on economic infrastructure. The Commission operates independently, at arm's length from government.

The Commission's purpose, and its principal outputs, accountabilities and duties are set out in its Charter and accompanying Framework Document. The inaugural Framework Document published in 2016 committed government to reviewing the Commission's performance of its core objectives and responsibilities within five years. This review was conducted during 2021 and is reflected in a revised and enhanced set of objectives and fiscal remit for the Commission, set out below. The date of the next such review will be no later than 2026.

The Commission's remit covers all sectors of economic infrastructure: energy, transport, water and wastewater (drainage and sewerage), waste, flood risk management and digital communications. The Commission also considers potential interactions between its infrastructure recommendations and housing supply; and between its recommendations and the government's legal target to halt biodiversity loss by 2030. This explicit biodiversity consideration was added in 2021. Housing supply itself, other social infrastructure such as schools, hospitals or prisons, and agriculture and land use are all outside the remit of the Commission.

The Commission's objectives are to: 1) support sustainable economic growth across all regions of the UK, 2) improve competitiveness, 3) improve quality of life, and 4) support climate resilience and the transition to net zero carbon emissions by 2050. The latter objective was added in 2021.

In fulfilling its purpose and objectives, the Commission seeks to:

- set a long term agenda – identifying the UK's major economic infrastructure needs, and the pathways to address them
- develop fresh approaches and ideas – basing our independent policy recommendations on rigorous analysis, and
- focus on driving change – building consensus on our policy recommendations, and monitoring government progress on their delivery.

The Commission delivers the following products and services:

- a National Infrastructure Assessment once in every Parliament, setting out the Commission's assessment of long term infrastructure needs with recommendations to the Government
- specific studies on pressing infrastructure challenges as set by the government, taking into account the views of the Commission and stakeholders; these studies will include recommendations to government
- an Annual Monitoring Report (styled as an Infrastructure Progress Review), taking stock of the government's progress in areas where it has committed to taking forward recommendations of the Commission.

The Commission’s binding fiscal remit requires it to demonstrate that all its recommendations for economic infrastructure are consistent with, and set out how they can be accommodated within, gross public investment in economic infrastructure of between 1.1 per cent and 1.3 per cent of GDP each year between 2025 and 2055. The fiscal remit was previously between 1.0 per cent and 1.2 per cent of GDP. The Commission’s reports must also include a transparent assessment of the impact on costs to businesses, consumers, government, public bodies and other end users of infrastructure that would arise from implementing its recommendations.

When making its recommendations, the Commission is required to take account of both the role of the economic regulators in regulating infrastructure providers and the government’s legal obligations, such as carbon reduction targets. The Commission’s remit letter also requires the Commission to ensure that its recommendations do not reopen decision making processes where programmes and work have been decided by the government or will be decided in the immediate future.

The Infrastructure and Projects Authority (IPA), a separate body, is responsible for ensuring the long term planning carried out by the Commission is translated into successful project delivery, once the plans have been endorsed by government.

The Commission’s remit extends to economic infrastructure within the UK government’s competence. Across much of the Commission’s remit there is currently substantial devolution to Northern Ireland, Scotland and Wales. The Commission’s role is to advise the UK government, but the Commission works with both the UK government and the devolved administrations where responsibilities interact.

**Table: Devolved administration responsibilities, by infrastructure sector**

Sector	Devolved administration responsibility		
	Northern Ireland	Scotland	Wales
Digital	Reserved	Reserved	Reserved
Energy	Devolved, except nuclear	Reserved, except energy efficiency	Reserved, except energy efficiency
Flood risk	Devolved	Devolved	Devolved
Transport	Devolved	Largely devolved	Devolved, except rail
Waste	Devolved	Devolved	Devolved
Water and sewerage	Devolved	Devolved	Devolved

## The Commission's members

The National Infrastructure Commission comprises a Chair and between four and 12 additional non-executive Commissioners.

The current members of the Commission are:



**Sir John Armitt CBE (Chair)** published an independent review on long term infrastructure planning in the UK in September 2013, which resulted in the National Infrastructure Commission. Previously Chief Executive of Railtrack (later Network Rail), Sir John sits on the boards of the Berkeley Group.



**Professor Sir Tim Besley CBE** is School Professor of Economics and Political Science and W. Arthur Lewis Professor of Development Economics at the LSE. From September 2006 to August 2009, he served as an external member of the Bank of England Monetary Policy Committee.



**Neale Coleman CBE** is a co-founder of Blackstock Partnership. He worked at the Greater London Authority from 2000-2015 leading the Mayor's work on London's Olympic bid, the delivery of the games, and their regeneration legacy. Neale has also served as Policy Director for the Labour Party.



**Andy Green CBE** holds several Chairman, Non-Executive Director and advisory roles, linked by his passion for how technology transforms business and our daily lives. He chairs Lowell, a major European credit management company and has served as Chair for the Digital Catapult, an initiative to help grow the UK digital economy.



**Professor Jim Hall FrEng** is Professor of Climate and Environmental Risks in the University of Oxford and Director of the University's Environmental Change Institute. He is internationally recognised for his research on risk analysis and decision making under uncertainty for water resource systems, flood and coastal risk management, infrastructure systems and adaptation to climate change.



**Professor Sadie Morgan OBE** is a founding director of the Stirling Prize winning architectural practice dRMM. She is also Chair of the Independent Panel for High Speed Two and is a Mayor's design advocate for the Greater London Authority. She sits on the boards of the Major Projects Association and Homes England.



**Julia Prescott** holds several board and advisory roles. She is a co-founder and Chief Strategy Officer of Meridiam and sits on the Executive Committee of Meridiam SAS. She has been involved in long term infrastructure development and investment in the UK, Europe, North America and Africa. She is an Honorary Professor at the Bartlett School of Construction and Project Management, University College London. Since 2019 she has sat on the board of the Port of Tyne.



**Kate Willard OBE** is the Thames Estuary Envoy and chairs the Thames Estuary Growth Board. Since 2017 she has served as Chair for the Arts Council England's Area Council North. In addition, she is an independent consultant working on a diverse portfolio of infrastructure and growth projects. In March 2022 she was appointed Chair of Teesside International Airport.



**Nick Winser CBE** has had a 30-year career in the energy sector, including serving as UK and European CEO of the Board of National Grid and President of the European Network of Transmission System Operators for Electricity. He currently serves as Chair of the Energy Systems Catapult.

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