

Appendix B

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**Infrastructure Planning  
Commission Note**

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## **B1 Infrastructure Planning Commission**

### **B1.1 Introduction**

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Given the time taken to consent major projects and the need to renew energy generation capability to avert an energy crisis in the UK, proposals for an independent planning commission to take forward major infrastructure projects from Part 1 of the new Planning Act 2008 has been introduced.

The IPC would be supported by national policy statements for the relevant infrastructure sectors as a major plank of reform to ensure a consistent national policy framework and speed up the development of new power infrastructure.

### **B1.2 National Policy Statements**

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The Government's policy on infrastructure will be set out in National Policy Statements (NPSs). Under the new regime this is separated from the decision making for applications, which will be done independently by the IPC. Twelve National Policy Statements are being prepared by the relevant Government departments, based on existing government policy. Before being finalised, they will each be subject to public consultation and scrutiny by parliament. They will set out, among other things:

- Set out the Government's objectives for the development of nationally significant infrastructure in a particular sector and say how this will contribute to sustainable development.
- Indicate how the Government's objectives for development in a particular infrastructure sector have been integrated with other Government policies.
- Show how actual and projected capacity and demand have been taken into account in setting the overall policy for infrastructure development.
- Consider relevant issues in relation to safety or technology.
- Indicate any circumstances where it is particularly important to address adverse impacts of development.
- Be as location-specific as appropriate in order to provide a clear framework for investment and planning decisions.
- Include any other policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development.

An NPS must give reasons for the policy set out in the statement, and these reasons must include an explanation of how the policy takes account of Government policy relating to the mitigation of, and adaptation to, climate change.

In the field of Energy, there are six National Policy Statements which were produced and consulted on by the Department for Energy and Climate Change at the end of 2009. The first of these will provide the context for energy policy and a further five will define the national infrastructure needs for; Renewable Energy (onshore and offshore wind, biomass, etc), Fossil Fuels, Oil and Gas Supply and Storage, Electricity Networks (power lines) and Nuclear Power.

### **B1.3 Structure and remit**

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The IPC would be an independent body made up of commissioners being experts in fields such as planning, law, environment, engineering, economics and heritage. The government anticipates particular applications being determined by a panel of commissioners or, for simple cases, to a single commissioner. Aside from describing safeguards as the independence and impartiality of the IPC, there is no significant detail on how the IPC would function.

The White Paper suggests, on an illustrative basis, the relevant infrastructure projects that would fall within the Infrastructure Planning Commission's remit and, by implication that would be covered by National Policy Statements. These are subject to the consultation and include:

- In England and Wales: Major power stations over 50MW onshore and over 100 MW offshore; nationally significant gas and electricity infrastructure;
- In England only: major road, runway and port projects, various significant water, waste (Including waste to energy) projects. Interestingly, rail projects are not currently included as the Government believes that foreseeable projects can be carried out either under permitted development rights or are too small scale to warrant IPC involvement;
- Specific projects identified in an NPS or directed by a minister.

#### **B1.4 Preparation of Applications**

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"Defined standards" will be prescribed for applications for relevant infrastructure projects along with guidance for best practice. The White Paper proposes that the IPC should be involved at an early stage in development of projects proposals. Whilst initially general guidance on applications would be provided by the government, it is suggested that the IPC would amend, and then take over responsibility for guidance in the long run. In addition, the IPC would take an advisory role at this stage for example:

- Giving guidance on whether a project is a relevant infrastructure project; and
- Advising on the information necessary to be contained in an application including any environmental impact assessment.

Promoters would need to carry out extensive pre-application consultation in an effort to deal with as many stakeholder concerns as possible before submitting the application to the IPC.

#### **B1.5 Determining Applications**

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The process for determination would contain a number of elements subject to a statutory time limit of nine months from start to finish:

- Consultation with affected parties, pre-meetings to facilitate consensus and submission of written evidence by all parties;
- There would be no standard "Public Inquiry" - determination would be on the basis of written submissions subject to the hearing of oral evidence at the discretion of the Commission and an "open floor" stage of a defined period of time where anybody can appear and give representations; and
- Any oral evidence would be led by questions from the commissioners rather than in the current adversarial style of Inquiries.

#### **B1.6 Decisions**

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Crucially, the IPC would need to approve any application whose aims were consistent with the relevant NPS unless "adverse local consequences incompatible with relevant EC and domestic law outweighed the benefits". It is unclear how far there will be a general balancing exercise of the different competing considerations as the paper suggests that only if it would otherwise be unlawful to implement the scheme would it be possible to reject it.

Examples of unlawfulness are given and include:

- Where human rights would be infringed;
- Where mandatory environmental standards would not be met (e.g. air quality limit values); or

- Where a project would be in contravention of the Habitats or Birds Directives.

The IPC would be able to apply mitigation measures through the imposition of conditions which would subsequently be enforced by local authorities.