

Sustainability Committee

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Written evidence from the Minister for the Environment Sustainability and Housing to the Welsh Assembly Government's Sustainability committee on the UK governments draft National Policy Statements (NPSs)

Introduction

1. The Planning Act 2008 made provision for a reform of the Planning system for nationally significant infrastructure projects by the UK Government.

2. From 01 April 2010, development consent for Nationally Significant Infrastructure Projects (NSIP) will be administered by a new body, the Infrastructure Planning Commission (IPC) which in England will have the power to grant ancillary consents in order to expedite NSIPs.

3. In Wales, ancillary consents will continue to be a matter for determination by the appropriate body designated prior to the 2008 Act.

4. National Policy Statements (NPSs) will provide the policy context and justification for major infrastructure projects. The UK Government proposes that there will be 12 NPSs, covering major infrastructure for energy, transport, waste, water and waste water. The NPSs will be the primary consideration for the IPC when it makes decisions on applications for development consent.

5. On 9TH November, the department of Energy and Climate Change (DECC) issued a 12 week public consultation on behalf of the UK Government on the six draft National Policy Statements for energy infrastructure:

- The draft Overarching National Policy Statement for Energy (EN-1)
- The draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)
- The draft National Policy Statement for Renewable Energy Infrastructure (EN-3)
- The draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)
- The draft National Policy Statement for Electricity Networks Infrastructure (EN-5)
- The draft National Policy Statement for Nuclear Power Generation (EN-6)

6. Assembly Government officials are currently considering the detailed technical content of the consultation package with relevant Assembly Government Sponsored Bodies such as the Countryside Council for Wales and the Environment Agency. A draft response to the UK Government's consultation is currently being prepared for consideration by the Assembly Government's Cabinet, prior to the consultation's deadline on the 22 February.

Energy consent powers

7. Existing energy policy is largely a reserved matter. Annex 1 to this paper sets out the current consent framework for the granting of energy consents in relation to Wales.

8. From April 2010, consents in Wales for large power stations (above 50 MW on land and 100 MW at sea) and large power infrastructure (including gas pipelines and electricity grid) projects, but not on land gas terminals, will normally be a matter for the independent Infrastructure Planning Committee's determination.

9. The Welsh Assembly Government considers that executive powers to grant consent for large power stations under Section 36 (s36) of the Electricity Act, should be a matter for the Welsh Ministers in relation to Wales

10. While continuing to press the UK Government for the transfer of consent powers for large infrastructure to the Welsh Ministers, the Assembly Government broadly supports the policy aims of the NPS process, to provide for a more efficient, transparent and accessible planning system.

11. The Assembly Government wishes to ensure that relevant Wales policy guidance including planning guidance such as TAN 8 and TAN 12 is reflected in the final NPSs to provide a suitable framework for the IPC to make decisions on applications for development consent for nationally significant energy infrastructure in Wales.

12. The Assembly Government consider it vital to ensure the final NPSs reflect the role of the environment regulators in ensuring that all relevant environmental permitting requirements are met and seek to encourage developers to hold early discussions with the regulators, on or before the pre-application stage.

Overarching Energy NPS (EN-1)

13. The draft Overarching Energy NPS (EN-1) outlines the policy context for the development of nationally significant infrastructure reflecting the UK low carbon transition plan, the national strategy for climate and energy which sets out the UK's low carbon transition plan to 2020.

14. The Welsh Assembly Government's Low Carbon Energy Policy Statement for Wales, which will issue early in 2010, will set out, within the context of One Wales One Planet and the Assembly Government's overarching climate change strategy, the actions that will be

taken to accelerate the transition to an efficient, low-carbon-energy based economy in Wales.

15. There are fundamental points of agreement between UK and Welsh energy policy on the need to achieve affordable, safe, low carbon energy for our population, however there remain significant differences on the devolution of energy consenting powers and the role of nuclear power generation within the energy mix.

Technology-specific' energy NPSs (EN 2-6)

16. The overarching draft energy NPS is underpinned by draft technology specific NPS s which provide supplementary information on the consideration of specific types of infrastructure.

17. Of particular note, the draft NPS (EN-2) for fossil fuel electricity generating infrastructure accords with our commitment to carbon capture and storage through the support the requirement for all new combustion plant with a generating capacity of over 300MW to be carbon capture ready. The NPS also provides guidance on emission, landscape and visual impact, residue management and water quality resource considerations.

18. The draft Nuclear NPS (EN-6) differs from the other draft technology-specific energy NPSs in that it also lists sites that the UK Government has judged to be potentially suitable for the deployment of new nuclear power stations by the end of 2025. The list of sites in the draft Nuclear NPS is the output from the Government's Strategic Siting Assessment (SSA) process and includes sites proposed for new nuclear power stations at Wylfa on Anglesey, Oldbury and Hinkley Point on the Severn Estuary close to South Wales.

19. The Assembly Government remains of the view that the high level of interest in exploiting the huge potential for renewable energy reduces the need for other, more hazardous, form of low-carbon energy and obviates the need for new nuclear power stations.

20. The Assembly Government has responsibilities over the management of radioactive waste. The Assembly Government is concerned to ensure sufficient public consideration of the issues surrounding the management of waste from new nuclear power stations and supports calls for a public inquiry over the justification process for new nuclear power stations specifically in respect of radioactive waste management.

21. The Welsh Assembly Government continues to seek the maximum opportunity for public involvement in discussions about new nuclear power stations especially those proposed for siting in or near to Wales.

22. The Assembly Government's Low Carbon Energy Policy Statement will highlight the potential in Wales to produce more than twice as much renewable electricity as we consume as a nation by 2025, with about 40% of this sourced from marine sources. UK Government proposes to issue a Marine NSP in due course. In light of Wales' potential for marine energy the Assembly Government would wish see the Marine NPS and accompanying Strategic Environmental Assessment for Marine coastal waters developed without undue delay.

Infrastructure Planning Commission (IPC) process and Commissioners

23. Welsh Ministers will, in due course, be considering the appointment of IPC Commissioner/s as a Welsh Commissioner/s to participate in the consideration of applications in relation to Wales.

24. The IPC application process involves a series of stages, including extensive preapplication consultation, and community engagement that must be undertaken by the applicant. The Planning Act 2008 provides for the Welsh Assembly Government and the relevant Regional Planning Body (RPB) as consultees.

25. Local planning authorities will be invited to prepare a local impact report outlining the local issues of the proposed development in much the same way as they currently provide an assessment for the Secretary of State.

26. The main method of examination of an application will be by consideration of written representations, however issue related hearings may be convened by the IPC, if it considers appropriate. Any party, can demand an open floor hearing. The IPC is legally obliged to allow such a hearing but the issues raised are restricted to matters of policy.

27. The IPC will be able to receive applications from the energy and transport sectors from 1 March 2010 irrespective of whether the relevant NPS has been designated. Should the relevant designated NPS be not available when a particular application reaches decision stage, the IPC would make a recommendation to the Secretary of State.

Ancillary and Associated Consents

28. The NPSs set the context for the operation of the IPC and its role in Wales which should be confined to areas of non-devolved competence. Work is currently in hand to map out the range of consents currently determined in Wales. These ancillary consents, which include issues such as listed building consents and public rights of way, will be included on the face of secondary legislation which will serve to demarcate the boundaries of the IPC powers in Wales more clearly. Nevertheless the 2008 Planning Act gives the IPC wide ranging powers which can be used to determine applications which come before it.

Parliamentary scrutiny

29. In addition to the public consultation exercise, the Draft NPSs will be subject to Parliamentary scrutiny. The Planning Act requires the Government to lay each draft NPS before Parliament, and to respond to the recommendations of a Committee of either House or a

resolution of either House made within a specified period.

30. The UK Government have made a commitment that, where the Select Committee recommends that a debate should be held on a draft NPS, the Government will make time available for this in both Houses, ideally within six weeks of the Select Committee's report. The Assembly Government supports Parliamentary Scrutiny of the NPSs

31. Although the Select Committee is only likely to be able to take account of consultation responses that are received by the Government before 15 January 2010, the Government's consultation will remain open until 22 February 2010.

Consultation Events

32. There will be six public consultation events on the draft NPS for energy infrastructure. One will be held in Cardiff on 20 January. These events aim to raise awareness of the consultation, inform people how they can respond, allow people to understand where this consultation fits in the overall process and answer any question regarding the consultation. The events will be run by DECC. However there will also be representatives from both the IPC and Planning Aid in attendance to answer questions and provide impartial planning advice respectively.

33. In addition a series of local events will be held in the local communities near to the 10 listed nuclear sites. There will be a local exhibition running for three days near each site giving information about the draft Nuclear NPS and the assessment of each site. These exhibitions will:

- explain the purpose of the draft Nuclear NPS;
- provide clarification on any issues raised by draft Nuclear NPS and other energy NPSs; and
- provide assistance and advice to those wishing to respond to the consultation.

- An event will take place at Wylfa between 7-9 January. With regard to the two nuclear proposals near the Welsh border, an event took place at Hinkley Point between 19-21 November and one is arranged for Oldbury between 4-6 February.

34. The UK Government has provided funding for Planning Aid in England to assist in the dissemination of information to the general public. Similar centrally funded arrangements have not been established for Planning Aid Wales. Assembly officials are therefore currently discussing with CLG the role of Planning Aid England/Planning Aid Wales in relation to IPC related work in Wales.

35. A copy of the IPC Route Map, which provides information on the key steps within the NPS process and timeline, is provided at Annex B.