



House of Commons  
Energy and Climate Change  
Committee

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# The proposals for national policy statements on energy

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## The Energy and Climate Change Committee

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## Summary

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A long-standing criticism of the planning regime has been that national policy and, in particular, the need for major infrastructure, is not clearly set out. The Government has sought to address this issue through the setting of national policy statements (NPSs), which will form the primary basis for decisions on planning applications for nationally significant infrastructure considered by a new body—the Infrastructure Planning Commission (IPC). This Report examines the Government’s proposals for six NPSs on energy. We believe there are a number of ways in which the statements must be improved if they are to serve their purpose successfully.

A key question is the extent to which the NPSs reflect existing Government policy. They should take a more holistic view of the energy sector, giving greater consideration to transport and heating. The analysis underpinning the Government’s case for the need for new conventional electricity generating capacity in the light of the large amount of gas-fired capacity already in development is questionable. At present, the case put forward suggests the Government believes it will not meet its renewable energy targets, or that nuclear or CCS infrastructure will not come forward in sufficient quantities. Because the draft NPSs do not set out a hierarchy of technologies, there is also a risk of locking the UK into a high-carbon energy mix. In addition to addressing policy levers, such as the operation of the EU Emissions Trading Scheme, the Government should place additional safeguards within the NPSs, including the requirement for applicants to conduct a full life-cycle carbon assessment of their proposals, and require the Committee on Climate Change (CCC) to report annually on the cumulative emissions arising from developments consented by the IPC as part of its overall monitoring of progress against the carbon budgets. Furthermore, the Government should adopt the CCC’s proposal that the electricity sector be fully decarbonised by 2030 as this would better inform the IPC’s long-term decision-making.

On technology specific issues the Government should review the guidance set out in the draft NPSs on carbon capture readiness and combined heat and power, and amend the Statements so they consider the future need for carbon dioxide transportation networks. The renewables NPS should also direct the IPC to assess the sustainability of the fuel sources for new biomass power plant.

On nuclear power, we agree with the Government’s approach of identifying 10 sites potentially suitable for development, though this should not preclude the possibility of some of these being refused planning permission. We also accept the Government’s assertion that it is not for the IPC to consider the arrangements for the long-term repository-based storage of radioactive waste, though we do not accept this argument for on-site interim storage. Additionally, the Government should set key milestones for the delivery of a geological disposal facility and report annual progress to Parliament.

The status of the NPSs within the wider planning system is ambiguous, and the Government should consult on, and publish, definitive guidance for decision-makers at all levels. There is also greater scope for the non-nuclear NPSs to take account of spatial issues,

and this could be assisted by the development of some form of English national spatial strategy.

We note significant concerns about the Government's consultation process and its conduct of the appraisals of sustainability for the draft NPSs. The Government must learn from this experience and use it to inform the preparation of future NPSs. Overall, given the importance of the energy NPSs in delivering our energy and climate change objectives, we recommend that they are subject to a debate in the main Chamber on an amendable motion, offering the possibility of a vote, either in the current Parliament or at the earliest opportunity in the next Parliament.

# 1 Introduction

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1. A long-standing criticism of the planning system has been that national policy and, in particular, the national need for major infrastructure, is not always clearly set out. In the past this has caused significant delays at the public inquiry and ministerial decision stages for individual applications. The oft-quoted example is that of Sizewell B, the last nuclear power station built in the UK, which took six years to secure planning consent but only 30 of the 340 days of the public inquiry addressed local issues, with, we were told, an estimated cost for the whole process of £300 million.<sup>1</sup> The *Planning Act 2008* was intended to reform the system by streamlining decision-making and reducing the risk of unnecessary delay. Under the new system, planning consent for nationally significant infrastructure projects (NSIPs) will be administered by a new body—the Infrastructure Planning Commission (IPC). National Policy Statements (NPSs) will provide the primary basis on which the IPC will reach decisions on planning applications. The intention is that the NPSs should give clarity and a higher degree of predictability to the planning system by informing applicants and others of some of the main issues the IPC will take into account in its decision-making.

2. On 9 November 2009 the Government published seven draft NPSs, six of which are on energy and one covering ports. The six energy NPSs are:

- Overarching energy policy (EN-1);
- Fossil fuel electricity generating infrastructure (EN-2);
- Renewable energy infrastructure (EN-3);
- Gas supply infrastructure and gas and oil pipelines (EN-4);
- Electricity networks (EN-5); and
- Nuclear power generation (EN-6).

EN-1 sets out the Government's energy and climate change policy framework and its analysis of the need for new energy infrastructure. It provides guidance to the IPC on its assessment of applications, including generic impacts that it believes will be common to all types of application. The remaining draft NPSs are designed to be read in conjunction with EN-1 and provide technology-specific information. EN-6 differs from the other draft technology-specific energy NPSs because it sets out 10 potential sites the Government believes are suitable for the deployment of new nuclear power stations by the end of 2025. Further NPSs on national networks, airports, waste water, water supply, and hazardous waste are expected at later dates. The IPC became open to receive planning applications from 1 March 2010. Its initial programme of anticipated projects for consideration include nuclear power stations at Sizewell, Hinkley Point, Oldbury and Wylfa, as well as associated power lines; a biomass power station in Northumberland; and five new wind farms. Until the NPSs are finalised, the IPC will be able to consider applications, but will make recommendations to the Secretary of State who will decide whether to grant consent.

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1 Ev 421 (Nuclear Industry Association)

## Our inquiry

3. Before the IPC can use the energy NPSs to determine applications, they must be designated by the Secretary of State for Energy and Climate Change. Prior to designation the *Planning Act 2008* states they should first be subject to:

- Public consultation—the Department undertook this between 9 November 2009 and 22 February 2010;<sup>2</sup>
- An appraisal of sustainability—a process not defined by legislation, but guided by the principles of Strategic Environmental Assessment (SEA). The Department conducted this alongside its preparation of the draft energy NPSs so that they could be informed by the appraisal;<sup>3</sup> and
- Parliamentary scrutiny.<sup>4</sup>

4. The Secretary of State has stated that these three processes should be completed by 6 May 2010—referred to in the legislation as the relevant period. On 10 November 2009 the Liaison Committee National Policy Statements Sub-Committee designated the Energy and Climate Change Committee to consider the draft energy NPSs as the main element of the parliamentary scrutiny stage in the House of Commons. Standing Order 152H stipulates that we must report to the House at least 39 days before the end of the relevant period, in this case by 28 March 2010, thus enabling time for a debate on the draft NPSs should the Committee recommend it. In addition to the parliamentary scrutiny conducted by this House, the House of Lords has held three debates on the draft energy NPSs.<sup>5</sup>

**5. This Report makes a number of recommendations, which we expect the Government to take account of before designating the energy NPSs. Given the importance of the Statements in delivering our energy and climate change objectives, we recommend that they be subject to a debate in the main Chamber on an amendable motion, offering the possibility of a vote. If there is not time to schedule a debate before the dissolution, it is imperative that this take place at the earliest opportunity in the next Parliament.**

**6. Because of the short timescale for our work, we have not been able to consider in detail each of the sites proposed for new nuclear development. It would, therefore, be inappropriate for us to form a judgement on their suitability. However, our inquiry has accumulated a significant body of evidence, particularly in relation to individual sites, which we hope the Department will take account of in addition to its own consultation responses.**

7. We received a very large number of written submissions to our inquiry, and took oral evidence from a wide range of organisations. A full list of witnesses and written submissions can be found on pages 58 and 60 respectively. We are very grateful to all those who contributed to our evidence-gathering. We thank particularly Mike Ash CBE and

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2 Planning Act 2008, Section 7

3 Planning Act 2008, Section 5(3)

4 Planning Act 2008, Section 9

5 House of Lords, *Official Report*, GC 247, 23 February 2010; GC 45, 4 March 2010; and GC 135, 11 March 2010

Kelvin MacDonald, who were specialist advisers to the inquiry, although we emphasise that the conclusions and recommendations of this Report are the Committee's own.

8. In the next Chapter we examine the draft overarching energy NPS and in particular the Government's assessment of the need for new energy infrastructure. In Chapter 3 we consider some technology-specific matters raised in the course of our inquiry that relate to EN-2 to 6, focusing especially on issues relating to new nuclear build. In Chapter 4 we analyse the suitability of the draft NPSs as planning documents and their role in relation to the wider planning system. Finally, in Chapter 5 we examine the effectiveness of the Government's consultation on the draft NPSs and its conduct of the appraisal of sustainability—both of which are requirements, alongside the parliamentary scrutiny, before designation of the Statements can take place.

## 2 Government policy and the need for new energy infrastructure

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9. The overarching energy NPS (EN-1) sets out national policy on, and seeks to establish the need for, new energy infrastructure. Together with the relevant technology-specific NPS, it will provide the primary basis for decisions taken by the Infrastructure Planning Commission (IPC). By establishing Government policy and the need for new infrastructure in advance, the intention is that the IPC should be able to focus on the details of individual planning applications thus reducing the time required to reach a decision. It is, therefore, important that the NPS is clear and unambiguous in its guidance. In this Chapter we first examine the statement of Government policy within EN-1. We then analyse the case for need for new energy infrastructure, and in particular the IPC's role in influencing the future electricity mix and hence the sector's carbon profile.

### Government policy on energy and climate change

10. Part 2 of EN-1 provides a summary of the Government's energy and climate change objectives for the power sector. It highlights the UK's obligation to reduce greenhouse gas emissions by 80% by 2050, and the need to work within the carbon budgets arising from the *Climate Change Act 2008*. Alongside this is the objective to ensure investment provides "security of supply through a diverse and reliable mix of fuels and low carbon technologies".<sup>6</sup> There are also objectives on ensuring timely development of the electricity grid; minimising the impact on fuel poverty through cost-effective investment in infrastructure; and contributing to sustainable development by minimising negative impacts on the local environment.

11. We received both specific and general concerns about the expression of Government policy in EN-1. Specific concerns related to the current text in the draft NPS. For example, Prof Dieter Helm highlighted the assertion on electricity generation that "we need sufficient capacity [...] to meet demand at all times".<sup>7</sup> He noted that no energy system was capable of providing 100% reliability, and to try to do so would necessitate considerable over-investment. Rather, it would be more sensible to refer to a desirable security of supply margin. He told us: "That is the sort of incoherence [...] which has to be sorted out in the drafting if it is to give a clear instruction to the IPC".<sup>8</sup> Elsewhere in Part 2 of EN-1, there is reference to the UK facing security of supply challenges as a result of increasing reliance on imports of oil and gas as North Sea reserves decline. However, in para 3.9.3 the NPS states that net gas imports will remain broadly constant over the next 10 years. We return to the issue of gas supply infrastructure later in this Chapter. We were also told by the IPC that, while policy is set out in the draft NPSs, it is not always as clearly highlighted as it could be. The Commission thought that distinguishing statements of policy from contextual

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6 EN-1, para 2.1

7 EN-1, para 2.1.14

8 Q 390 (Prof Dieter Helm, University of Oxford)

discussion, perhaps by means of a highlighted text box in each chapter or major section, would aid the accessibility of the NPSs for all users.<sup>9</sup>

**12. The Government’s energy and climate change targets and objectives influence crucially the level of need for new energy infrastructure. It is therefore vital that the overarching energy NPS states clearly what those objectives are, especially with regard to carbon emission reductions, energy security and affordability; how performance against those objectives is to be measured; and that it sets out more explicitly the link between those objectives and the need for new infrastructure. We recommend the Government reconsiders the current expression of policy in the draft NPS with this concern in mind. It would be wholly undesirable for sloppy or unclear drafting to result in unintended outcomes.**

13. A number of witnesses raised more general criticisms with regard to the current statement of energy policy within Part 2 of EN-1. One such concern was that it focuses on the power generating sector and makes little reference to the contribution that transport and heating will need to make in achieving the Government’s 2050 target for carbon dioxide emissions.<sup>10</sup> The Institution of Civil Engineers (ICE) noted that heating accounts for almost half of primary energy consumption in the UK.<sup>11</sup> Indeed, electricity currently accounts for only a fifth of the UK’s emissions.<sup>12</sup> Electrification of the heating and transport sectors is seen as a necessary part of the transition to a low-carbon economy. This is acknowledged in Chapter 3 of EN-1 under the conclusions on alternatives to new large-scale electricity generation. ICE believed this long-term objective could be reflected better in the overarching NPS, thus taking a more holistic view of the energy sector.<sup>13</sup>

14. A linked concern was the absence of a longer-term view on how the Government expects the energy sector to develop beyond the next decade. EN-1 refers to the *UK Low Carbon Transition Plan*, which sets out the Government’s energy and climate change strategy for the next decade, but it does not look beyond this. The UK Business Council for Sustainable Energy (UKBCSE) told us the NPSs needed to recognise that investment will be required beyond the Statements’ current time horizon of 2020.<sup>14</sup> RWE Npower, for example, said: “the NPS should be looking to go beyond 2020/25 [...] towards 2050”.<sup>15</sup> E.ON UK suggested one response to this concern would be for the Government to adopt formally the Committee on Climate Change’s recommendation that the power sector should be fully decarbonised by 2030.<sup>16</sup> It said this would provide “a clearer framework

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9 Ev 373 (Infrastructure Planning Commission)

10 For example, DECC consultation response 0281 (DONG Energy)

11 Ev 375 (Institution of Civil Engineers)

12 HM Government, *Meeting the Energy Challenge—White Paper on Energy*, May 2007

13 Q 38 (Institution of Civil Engineers)

14 Ev 538 (UK Business Council for Sustainable Energy)

15 Q 445 (RWE Npower)

16 Ev 312 (E.ON UK)

within which the IPC could consider projects”.<sup>17</sup> The Environment Agency also took this view, noting that at present “there is not a sufficiently strong long-term vision”.<sup>18</sup>

**15. The Government’s draft overarching energy NPS focuses primarily on power generation and does not take a sufficiently holistic view of the energy sector. We believe the statement of policy in EN-1 should make more explicit reference to transport and heating, especially as the electrification of these sectors will be crucial in achieving a low-carbon economy and will impact on the need for new generating capacity. Furthermore, although this would constitute an addition to Government policy, we recommend the incorporation of the Committee on Climate Change’s proposal that the electricity sector should be fully decarbonised by 2030 if the UK is to be on course to meet its 2050 target for greenhouse gas emissions. This would provide a long-term view of the UK’s energy requirements that would better inform the IPC’s decision-making on new generating capacity.**

### Establishing the need for new energy infrastructure

16. Part 3 of the draft overarching energy NPS seeks to establish the need for new energy infrastructure. It focuses both on the need for new generating capacity as well as new oil and gas supply infrastructure. The Planning and Environment Bar Association emphasised the importance of a robust evidence base to support the Government’s conclusions on need to reduce the risk of subsequent legal challenge.<sup>19</sup> We heard a range of views on whether EN-1 adequately expresses need. For example, the Town and Country Planning Association (TCPA) believed the need for new large-scale infrastructure may be exaggerated.<sup>20</sup> WWF were critical of the lack of quantification of the potential for demand management through energy efficiency measures, which could further reduce the need for new generating capacity.<sup>21</sup> The Association of Electricity Producers (AEP), on the other hand, argued that the wording of the need case should be further strengthened, “emphasising the critical importance of investment in all new energy technologies”.<sup>22</sup> The UK Business Council for Sustainable Energy also took this view, though National Grid told us the current expression of need in EN-1 was “appropriate”.<sup>23</sup> The following three sections examine in more depth the need case for renewables, conventional generation, and gas supply infrastructure as set out in the draft overarching energy NPS.

### Renewables

17. EN-1 highlights the UK’s obligation under the European Directive on renewable energy (EU/2009/28) to source 15% of total energy from renewable sources, such as wind and biomass, by 2020. To meet this target the Government’s lead scenario suggests

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17 Q 446 (E.ON UK)

18 Q 619 (Environment Agency)

19 Qq 593 and 594 (Planning and Environment Bar Association)

20 Ev 529 (Town and Country Planning Association)

21 Ev 574 (WWF)

22 Ev 172 (Association of Electricity Producers)

23 Qq 305 (National Grid) and 478 (UK Business Council for Sustainable Energy)

renewables could contribute 30% of the electricity mix by the end of the decade, compared to 5.5% today.<sup>24</sup> Paragraph 3.3.14 sets out a potential scenario for new generating capacity over the next 10 and 15 years. This is summarised in Figure 1, below. It assumes a broadly constant level of demand over time. The large requirement for new generating capacity reflects the expected closure of a number of nuclear and coal-fired power stations over the next decade. A large proportion of the capacity built to replace this will need to be renewables if the Government is to meet its 2020 target.

**Figure 1: Generating capacity requirements in the next 10 and 15 years**

	By 2020	By 2025
<b>Total generating capacity required</b>	100 GW	110 GW
<b>Total new capacity required</b>	43 GW	60 GW
<b>Of which renewables</b>	26 GW	35 GW
<b>Of which other generating capacity</b>	17 GW	25 GW

Source: Draft Overarching National Policy Statement for Energy (EN-1)

18. From these figures, the Government concludes that: “there is a significant need for new major energy infrastructure” and that “the IPC should start its assessment of applications [...] on the basis that need has been demonstrated”.<sup>25</sup> Given the requirement for a large amount of new renewable capacity to meet the 2020 target, it is clear that the case for need is demonstrated in EN-1. However, both the Renewable Energy Association (REA) and the British Wind Energy Association (BWEA) believed the need case should be strengthened further.<sup>26</sup> BWEA told us: “the detail of the Government’s ambitions on renewable energy might be better expressed”, whilst the REA said: “It should be far more robustly expressed”.<sup>27</sup> Ways in which the associations suggested EN-1 could be improved included: referring to the consequences of the UK failing to deliver new renewable capacity; contrasting the UK’s proportion of renewables in the electricity mix with that of other EU Member States; and acknowledging that in the past the UK has struggled to meet its renewables targets. BWEA summarised the situation, stating: “We do not feel that all existing policy that is out there is currently within these documents”.<sup>28</sup> Some of the large energy companies also shared this view.<sup>29</sup> E.ON UK told us: “the need for new coal and CCS capacity and for renewable energy sources should be given more emphasis”.<sup>30</sup>

19. Some witnesses sought to qualify the need case for new large-scale renewable generating capacity presented in EN-1. Friends of the Earth and the TCPA both criticised the Department’s current assumption under the lead scenario for the *UK Renewable Energy Strategy* that small-scale renewable generation will only contribute 4 GW to the

24 EN-1, para 3.4.1

25 EN-1, page 14

26 Ev 224 (British Wind Energy Association) and Ev 468 (Renewable Energy Association)

27 Q 256 (British Wind Energy Association) and (Renewable Energy Association)

28 Q 267 (British Wind Energy Association)

29 Ev 538 (UK Business Council for Sustainable Energy) and Ev 498 (Scottish Power)

30 Ev 312 (E.ON UK)

electricity mix in the next decade.<sup>31</sup> They highlighted analysis conducted by the energy consultants Poyry for the Department in 2009 that suggested a sufficiently strong incentive through the Government's new feed-in tariffs (FITs) for small-scale renewables under 5 MW could result in almost four times more generating capacity than the current proposals. At this stage, it is not possible to say how successful the FITs will be, though the level of take-up will to some extent impact on the need case for larger-scale renewables.

20. Prof Dieter Helm raised a more fundamental concern by questioning the credibility of the Government's legally binding target for 15% renewable energy by 2020, and its belief that this will require 30% of electricity from renewables. He noted that the joined-up development of new energy infrastructure required the Government to have in place targets that were achievable and a framework in which they could be met. However, he told us the sheer scale of the challenge meant: "most of the key players do not in their heart of hearts think that the outcome is going to be delivered".<sup>32</sup>

**21. The 2020 target for renewable energy means there is a clear and unambiguous need for new large-scale renewable generating capacity in the next decade, regardless of the level of expansion in small-scale renewables. The Department should examine whether this need is expressed adequately in EN-1. Moreover, we are concerned that there are perceived doubts over the credibility of the target for renewable generation. In the next Parliament the Government should evaluate whether its policy levers are commensurate with its stated objectives. A lack of buy-in to the achievability of the Government's targets will otherwise undermine the role of the NPS.**

### **Other generating capacity**

22. Other generating capacity includes nuclear, gas and coal-fired power generation. In 2009 the Government announced that all new gas plant (300 MW or above) would need to be built ready to install carbon capture and storage (CCS). No new coal plant will be permitted unless at least 300 MW of the proposed capacity has CCS installed. We discuss this further in Chapter 3. As noted in the previous section, the Government's analysis suggests 17 GW of other new generating capacity could be necessary by 2020 and a further 8 GW by 2025. National Grid supported the view that EN-1 demonstrated the need for new non-renewable as well as renewable capacity, stating: "the answer very clearly in the analysis is that we need every bit of nuclear that can come forward in the next decade or so and every bit of offshore wind [...]".<sup>33</sup> However, the Nuclear Industry Association told us the draft overarching NPS could be "more emphatic" on the need for new nuclear.<sup>34</sup>

23. Other organisations were more sceptical of the analysis presented in EN-1. Friends of the Earth, for example, highlighted the fact that in paragraph 3.3.12 of EN-1 the Department quotes National Grid's projection that over 20 GW of new investment is already in the pipeline—2 GW of recently completed construction; 8 GW of capacity currently under construction; and an additional 10.5 GW that already has planning

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31 Ev 334 (Friends of the Earth) and Ev 529 (Town and Country Planning Association)

32 Q 392 (Prof Dieter Helm, University of Oxford)

33 Q 305 (National Grid)

34 Q 329 (Nuclear Industry Association)

consent and an agreement to connect to the grid, but which has not yet started construction. Indeed, figures released by the Department since publication of the draft NPSs suggest 21.6 GW of new generating capacity is now in development.<sup>35</sup> 7.3 GW of this is renewables. The TCPA told us it believed the remaining 14.3 GW was predominantly gas-fired.<sup>36</sup> Furthermore, Friends of the Earth noted there is a further 7 GW of gas-fired capacity already in the planning system that will be dealt with under the old planning regime.<sup>37</sup> These figures contrast with the assertion in EN-1 that 17 GW of non-renewable capacity will be necessary by 2020 and a further 8 GW by 2025. Therefore, if all the plant that is under construction or has received planning consent is built, the level of further need could be just 2.7 GW in the next decade. If all the new capacity currently in the planning system is built this would more than meet the need up to 2020, and contribute significantly to the need to 2025.

24. The TCPA told us: “there could in fact be very little ‘need’ for non renewables to be consented by the IPC”.<sup>38</sup> Friends of the Earth noted: “the Government’s argument for need seems to be at variance with its figures”.<sup>39</sup> Indeed, WWF highlighted a recent report conducted by Poyry last year which showed that if the Government met its targets for renewable energy and energy efficiency, this in itself would be sufficient to “keep the lights on until the mid 2020s”.<sup>40</sup> However, in evidence one of the ‘Big 6’ energy companies cautioned that consented generating capacity did not necessarily equate to built capacity—planning permission was not a guarantee that projects would be built.<sup>41</sup>

25. It is worth noting that while EN-1 sets out the Government’s analysis of the level of renewable and non-renewable capacity commensurate with meeting its 2020 targets and ensuring security of supply, DECC does not intend for these to act as quotas for the IPC. In other words, a greater level of non-renewable capacity could be developed than the current draft NPS suggests is needed.

**26. The draft overarching energy NPS states: “there is a significant need for new major energy infrastructure”. However, the Government’s own analysis for non-renewable generating capacity suggests the anticipated need over the next decade could be largely met already through projects that are either under construction or have received planning consent under the existing regime. If the Government accepts this, but maintains there is still a need for significant levels of non-renewable capacity, the implication is that it either believes its targets for renewable energy will be missed, or that nuclear or CCS infrastructure will not come forward in sufficient quantities to meet requirements. The Department should look again at the evidence put forward in EN-1. Furthermore, the current assertion of the need for new conventional generating capacity reduces the likelihood that the renewables target will be met.**

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35 House of Commons, *Official Report*, Col 1335W, 16 December 2009

36 Ev 529 (Town and Country Planning Association)

37 Q 220 (Friends of the Earth)

38 Ev 529 (Town and Country Planning Association)

39 Q 226 (Friends of the Earth)

40 Q 220 (WWF); Poyry Energy Consulting, *Implications of the UK meeting its 2020 renewable energy target*, July 2008

41 Q 430 (RWE Npower)

### **Gas supply infrastructure and pipelines**

27. EN-1 notes that in 2009 Britain imported around 30% of its annual gas demand. It suggests that the *Low Carbon Transition Plan* will bring about a 30% reduction in gas demand by 2020 and that this means the absolute level of net gas imports will remain broadly constant during the next decade.<sup>42</sup> However, the draft NPS states an increasingly diverse range of gas sources is desirable to enhance security of supply, and that meeting peak gas demand can be more challenging than meeting average annual demand. On this basis, EN-1 concludes: “the IPC should expect to receive a small number of significant applications for supply, storage and transmission of gas and start its assessment from the basis that as the North Sea supplies decline there is a significant need for this infrastructure to be provided”.<sup>43</sup>

28. The Department’s analysis of gas demand over the next decade contrasts with evidence we received from National Grid. Its projections suggest net gas imports will more than double by 2020, reflecting the fact that the proportion of gas in the electricity mix is likely to increase significantly as nuclear and coal-fired power stations close in the next few years. The firm, therefore, concludes that: “the ‘need’ for new gas infrastructure is much stronger than the case currently presented in the NPS”.<sup>44</sup> Its Executive Director described the discrepancy between his company’s estimates and the Department’s as “puzzling”.<sup>45</sup> Furthermore, both Centrica and E.ON UK argued that the draft overarching energy NPS should be strengthened regarding the future need for gas storage.<sup>46</sup>

**29. National Grid believes gas imports will be much greater in the next 10 years than the Department’s own analysis in EN-1 suggests. We recommend the Government looks again at its predictions for gas demand and adjusts its assessment of the need for new gas supply infrastructure accordingly. If it remains content with its assessment, it should explain why it differs so substantially to National Grid’s analysis.**

### **Cumulative carbon emissions**

30. The decisions taken by the IPC on planning applications will have a crucial impact on the future carbon profile of the electricity sector. However, EN-1 states that: “Given that the Government policies that underlie NPSs have been set in accordance with the Transition Plan and carbon budgets, the IPC does not need to assess individual applications in terms of carbon emissions against the budgets”.<sup>47</sup> Various witnesses, including the Sustainable Development Commission (SDC), expressed concern that the absence of any consideration of cumulative impacts could lead to the IPC giving planning consent to a number of gas-fired power stations in the future that would potentially lock the UK into a high-carbon electricity infrastructure and lead to a future breach in the

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42 EN-1, para 3.9.3

43 EN-1, para 3.9.8

44 Ev 392 (National Grid)

45 Q 308 (National Grid)

46 Qq 435 (E.ON UK) and 489 (Centrica)

47 EN-1, para 2.1.5

carbon budgets.<sup>48</sup> This is primarily because there is little faith in the ability of the EU Emissions Trading Scheme (ETS) as the main policy driver for achieving long-term carbon reductions.<sup>49</sup> For example, Friends of the Earth highlighted recent findings by the Committee on Climate Change, which show the EU ETS 2020 cap could be met simply through coal to gas switching without any significant investment in low-carbon plant. Under this scenario, however, the long-term nature of investment in new gas-fired plant would make further decarbonisation of the electricity sector beyond 2020 much more difficult.<sup>50</sup>

31. Several witnesses argued that, in the first instance, the Government's energy and climate change policy should be strengthened to ensure the UK remains on course to achieve its long-term carbon reduction targets. Friends of the Earth were in favour of the overarching energy NPS setting out a range of acceptable electricity mixes for 2020, 2030 and 2050 that would guide the IPC's decision-making. This could be combined with safeguards such as a limit on the quantity of new gas-fired capacity.<sup>51</sup> Natural England also argued for the IPC to be given a greater steer on the desired energy mix.<sup>52</sup> Elsewhere, the Institution of Civil Engineers and the TCPA supported the idea of a hierarchy of preferred technologies in the NPS that could inform the IPC.<sup>53</sup> However, those likely to be building new generating capacity expressed concern at any potential move away from the current market-led approach. Even the British Wind Energy Association (BWEA), whose sector would be most likely to benefit from a hierarchy of technologies, believed: "it is not the role of the IPC to pick technologies".<sup>54</sup> Elsewhere, Scottish and Southern Energy said it did "not think [...] that the planning process is the right way for Government to have policy determined on what the mix should be".<sup>55</sup> The Minister also indicated his wariness of such an approach: "The IPC has to take each planning application on its merits and not [...] make value judgements about whether a particular energy technology is deemed to be better than another".<sup>56</sup>

32. In addition to criticism of the effectiveness of the policy levers for delivering low-carbon infrastructure, witnesses were also concerned generally that EN-1 directs the IPC not to consider carbon impacts. The SDC noted there is no requirement for individual projects to carry out life-cycle carbon assessments and that the IPC would be effectively "carbon blind".<sup>57</sup> Greenpeace believed this created a disconnect between the Government's carbon reduction targets and the decision-making of the Commission.<sup>58</sup> As the TCPA put

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48 Ev 334 (Friends of the Earth), Ev 529 (Town and Country Planning Association) and Ev 524 (Sustainable Development Commission)

49 For example, House of Commons Environmental Audit Committee, *Fourth Report of Session 2009-10, The role of carbon markets in preventing dangerous climate change*, HC 290

50 Ev 334 (Friends of the Earth)

51 Ev 334 (Friends of the Earth); DECC consultation response 0261 (David Childs)

52 Q 618 (Natural England)

53 Qq 31 (Town and Country Planning Association) and 46 (Institution of Civil Engineers)

54 Q 266 (British Wind Energy Association)

55 Q 479 (Scottish and Southern Energy)

56 Q 750 (Minister for Energy)

57 Q 76 (Sustainable Development Commission)

58 Q 202 (Greenpeace)

it: “The assessment principles section of the draft overarching energy NPS includes insect infestation but not carbon or other greenhouse gas emissions”.<sup>59</sup>

33. Few witnesses advocated an explicit responsibility for the IPC to monitor the cumulative carbon emissions arising from its decisions and to ensure they were consistent with the carbon budgets. The Association of Electricity Producers, for example, told us: “The IPC’s role in the new Planning Act process is clear and should not be extended to cover climate change policy and analysis”.<sup>60</sup> However, organisations including the Sustainable Development Commission, Friends of the Earth and the WWF argued there should be a requirement for planning applicants to conduct an assessment of the life-cycle carbon emissions of their proposals.<sup>61</sup> They also argued for a more explicit role for the Committee on Climate Change (CCC), which is responsible for assessing progress against the carbon budgets. This could entail the CCC monitoring the carbon emissions arising from the IPC’s planning decisions on an annual basis and, taking account of progress across the economy in reducing emissions, making recommendations to the Commission on whether it should give consent to future carbon-intensive infrastructure.<sup>62</sup>

34. Despite the current drafting of EN-1, in its written evidence the IPC said: “Consideration of climate change impacts is likely to form an important part of the IPC’s examination of proposed energy Nationally Significant Infrastructure Projects (NSIPs), and Commissioners must consider all relevant evidence submitted”. It goes on to say: “it is assumed that the wider carbon footprint of an NSIP, including impacts along the supply chain and over the whole life of the installation, would be a relevant factor in IPC decision making. Further clarification in the NPSs, on this area would be welcome”.<sup>63</sup> In oral evidence, the Commission confirmed that it could not be “the book-keepers in terms of the carbon budgets”, but that it would nevertheless be “taking account of commentary [...] about the question of carbon budgets in relation to individual projects”.<sup>64</sup> Its Chair told us: “We will take each application on its merits individually and if one of our statutory consultees changes their advice [...] because perhaps there are changes in their own assessments, then that [...] will be material to the applications in front of us at that time”.<sup>65</sup> Although the CCC is not a statutory consultee for individual planning applications, it told us it: “would be well placed to advise periodically on the consistency of decisions with the required path for power sector decarbonisation. This would relate very closely to our ongoing work assessing progress in reducing emissions on the basis of leading indicators including planning decisions for major infrastructure projects”.<sup>66</sup>

35. The IPC also noted that over time it could envisage a situation where there was a conflict between Government policy regarding its carbon targets, and the expression of

59 Ev 529 (Town and Country Planning Association)

60 Ev 172 (Association of Electricity Producers)

61 Ev 334 (Friends of the Earth), Ev 524 (Sustainable Development Commission) and Ev 574 (WWF)

62 Qq 212 (Friends of the Earth) and 215 (WWF)

63 Ev 373 (Infrastructure Planning Commission)

64 Q 652 (Infrastructure Planning Commission)

65 Q 656 (Infrastructure Planning Commission)

66 Ev 254 (Committee on Climate Change)

policy within the NPS. Its Chair told us the Commission would not hesitate to highlight any such issues in its annual report to Parliament and to the relevant secretaries of state.<sup>67</sup>

**36. There is significant concern that decision-making by the IPC could give rise to an energy infrastructure that risks breaching the UK's carbon budgets, making it more difficult to decarbonise the electricity sector in the longer term. In the first instance, the Government must look again at the policy levers that give rise to this concern—particularly its reliance on the EU Emissions Trading Scheme as the main means of delivering low-carbon infrastructure. The Government's policy must ensure that projects would not come forward that threatened the achievability of its carbon reduction targets—otherwise this undermines the credibility of these targets.**

**37. In the event that planning applications may still come forward that threaten a breach of the carbon budgets, we believe there should be a role for the IPC in acting as a safeguard by considering the life-cycle carbon emissions of proposed new plant. However, we accept it is not the role of the IPC to monitor whether its decisions are in accordance with the carbon budgets. Accordingly, we recommend:**

- **The inclusion of a specific requirement within the overarching energy NPS on applicants to conduct a full life-cycle carbon assessment of their proposals, including that of the supply chain;**
- **The Committee on Climate Change be made a statutory consultee for planning applications. To avoid delaying the application process, we would expect it to take a risk-based approach in determining which applications to comment on—for example, further new gas-fired power stations. The CCC and the IPC should then agree a memorandum of understanding that would set out a protocol covering the sharing of information on applicants' carbon assessments;**
- **The IPC should take account of any evidence the CCC chooses to submit with respect to particular applications; and**
- **The CCC should be required to report annually on the cumulative emissions arising from developments consented by the IPC as part of its overall monitoring of progress against the carbon budgets, which would flag up to Ministers the need for action if the Commission was at risk of locking the UK into a high-carbon energy mix.**

**38. These measures would exist as safeguards, though we believe an intervention by the CCC would constitute a failure of Government policy. In this instance the Government should consider revising the NPS better to enable the achievement of its long-term targets. A potential future option could be the introduction of a hierarchy of preferred generation technologies to guide more directly the IPC's decision-making.**

## Weighing need against impacts

39. As noted earlier in this Chapter the establishment of the need for new energy infrastructure is the *raison d'être* for the overarching NPS—the objective being to obviate the need to discuss whether a proposal is necessary and to focus attention on the detail of a planning application. Part 4 of EN-1 outlines the assessment principles and generic impacts that the IPC will have to consider. These range from landscape and visual impacts to the ability of a developer to manage the impacts of climate change on a site, such as greater flood risk. For each of these EN-1 provides guidance for the IPC.

40. There was unease among many of our witnesses as to what role the question of need would play in determining planning applications. For example, the Sustainable Development Commission said there was “a lack of clarity over the weighting of different impacts and objectives”.<sup>68</sup> E.ON UK also expressed concern that EN-1, whilst making the case for need, does not give the IPC sufficient guidance on the weighting this should be given against potential adverse impacts.<sup>69</sup> Indeed, the Planning and Environment Bar Association believed it would be difficult for the IPC to avoid considering the need case, for example, when confronted by a proposal that would have significant detrimental impacts on a site protected by European habitat regulations.<sup>70</sup> In evidence, the IPC appeared to agree with this view, noting that it could not rule out evidence and submissions made to it, although the Commission would still have regard to the overarching NPS as the primary statement on need.<sup>71</sup>

41. In evidence, the IPC also raised concerns about the inconsistent use of language in the draft overarching NPS. Examples it gave of complex forms of words in EN-1 included: “the IPC should have regard to the possibility that [...]”; “it should/may be reasonable for the IPC to”; and “these [considerations] should not be used in themselves to refuse consent”.<sup>72</sup> The Commission told us that while this did not render the draft NPS unfit for purpose, “it may help to limit unproductive debate about the nuances of meaning in different turns of phrase if [DECC] was able to introduce a greater degree of consistency”.<sup>73</sup>

**42. The IPC’s decision-making will be informed by weighing the assessment of need set out in the NPSs against the potential impacts of developments. It is important, therefore, that the NPSs provide sufficient guidance to inform this balancing of factors. We recommend the Department reviews the draft NPSs to ensure consistency of language throughout the six main Statements and their supporting documents. We note too that, although a key role of the overarching energy NPS is to establish the case for need, the IPC should still expect to receive evidence on this issue in particular cases, for example when a proposal presents significant potential adverse impacts.**

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68 Ev 524 (Sustainable Development Commission)

69 Q 428 (E.ON UK)

70 Q 590 (Planning and Environment Bar Association)

71 Q 663 (Infrastructure Planning Commission)

72 EN-1, para 4.1.1, 4.4.3, 4.18.13, 4.24.10, 4.24.11 and 4.28.9

73 Ev 373 (Infrastructure Planning Commission)

## 3 Technology specific issues

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43. The five draft NPSs that sit under the overarching energy NPS, EN-1, contain additional information on specific types of energy infrastructure, which provides further direction to the IPC on the factors it will need to take into account when considering planning applications. They are meant to be read in conjunction with EN-1, which contains guidance on generic impacts and assessment principles that apply across various types of energy infrastructure. We heard a range of views on different aspects of EN-2 to 6. Though not exhaustive, this Chapter examines the main specific issues raised during our inquiry.

### Carbon capture and storage

44. The Government's policy on carbon capture and storage (CCS) is set out in EN-1 with further guidance in EN-2, the *Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure*. We took evidence on two specific issues relating to CCS. First, the criteria for demonstrating carbon capture readiness (CCR); and second, the need for guidance on future carbon dioxide transportation networks.

### Carbon capture readiness

45. The draft NPS requires that all combustion-powered generating plants over 300 MW that are subject to the EU's Large Combustion Plant Directive (LCPD) will need to demonstrate 'carbon capture readiness' (CCR). This includes coal, oil, gas and biomass-fired plant. The draft NPS states that, among other criteria, the IPC will have to assess the technical and economic feasibility of retrofitting the developer's chosen CCS technology at some point in the future. If the IPC is not satisfied that it will be technically and economically feasible to retrofit CCS, the Commission should reject the application.<sup>74</sup> The requirements reflect the Department's recently published guidance on CCR, which is meant to implement one aspect of the EU Directive on the Geological Storage of Carbon Dioxide.<sup>75</sup>

46. Some witnesses expressed concern at the need to demonstrate CCR.<sup>76</sup> Scottish and Southern Energy, for example, argued that given CCS is still at the pre-demonstration phase it would not be possible to conduct a meaningful technical and economic CCR assessment, and that the effect of the requirements would be equivalent to a "moratorium" on all fossil fuel-based generating capacity other than the four plants to be developed under the Government's CCS demonstration programme.<sup>77</sup> Scottish Power agreed, noting that the requirement to show economic feasibility was "an over-implementation of the directive and [...] should be struck out".<sup>78</sup> The UK Business Council for Sustainable Energy argued

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74 EN-1, para 4.7.3

75 Department of Energy and Climate Change, *Carbon capture readiness—A guidance note for Section 36 Electricity Act 1989 consent applications*, November 2009

76 Q 450 (RWE Npower); also DECC consultation responses 0042 (Mersea Island Society), 0063 (John McGough) and 0247 (Ian McFarlane)

77 Q 500 (Scottish and Southern Energy)

78 Q 501 (Scottish Power)

for a phased approach, stating: “Until you can prove that it can work at commercial scale, then the industry is just not in a position to comply”.<sup>79</sup> Elsewhere, RWE Npower told us: “The Government’s intended light touch approach, in that developers should demonstrate no barriers exist to an eventual CCS retrofit, must be retained and requirements must reflect the early stage of CCS technology development”.<sup>80</sup> On the other hand, the Institute for Environmental Management and Assessment (IMEA) pointed out that: “there is no certainty that CCS will prove to be technically and financially feasible at the scale required to mitigate emissions on the scale of fossil fuel generating stations” and that a failure to deliver “would lead to significant problems in achieving the UK’s long-term legally binding carbon reduction commitments”.<sup>81</sup>

47. In evidence, the Department noted that the requirement to demonstrate CCR had already been in place for a year and that it did not seem to have deterred applications from coming forward under the old planning regime.<sup>82</sup> Officials told us the criteria were more about ensuring that applications were not submitted where it was clear it would never be feasible to retrofit CCS.<sup>83</sup> This was the view of the Environment Agency whose responsibility under the guidance is to assess technical feasibility.<sup>84</sup> The IPC also told us: “it is not for us to consider the economic viability of the individual project; that is a matter for the promoter”.<sup>85</sup>

**48. We recommend the Department looks again at its criteria for assessing carbon capture readiness (CCR) as set out in the draft NPS to examine whether they reflect sufficiently the EU Directive on the Geological Storage of Carbon Dioxide. The IPC’s interpretation of the criteria will be crucial in determining the success of applications before it. We therefore also recommend the Government provides further clarification in the NPS on how it expects the IPC to assess applicants against the CCR requirements, having regard to the risks this might pose for the Government’s carbon reduction targets. Clarity is also required about the necessity for the IPC to assess the economic feasibility of CCR, given the Commission’s assertion to us that it is primarily a matter for the developer. This appears to contradict the draft NPS and the Government should settle the matter conclusively. We also recommend that the Government looks again at the wording of the NPS in relation to gas CCS, as concerns have been raised that the need to demonstrate economic feasibility could prevent its development.**

### **Carbon dioxide networks**

49. A further CCR requirement is that applicants must demonstrate the technical feasibility of transporting the captured carbon dioxide to the proposed storage area.<sup>86</sup> The

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79 Q 504 (UK Business Council for Sustainable Energy)

80 Ev 491 (RWE Npower)

81 Ev 378 (Institute of Environmental Management and Assessment)

82 Q 812 (Department of Energy and Climate Change)

83 *Ibid.*

84 Q 637 (Environment Agency)

85 Q 658 (Infrastructure Planning Commission)

86 EN-1, para 4.7.1

Government has also said that at present only storage projects offshore are to be considered.<sup>87</sup> Apart from these references, though, there is relatively little discussion of the future development of carbon dioxide networks in either EN-1 or EN-2. For example, there is no reference to carbon dioxide transportation in section 2.2 of EN-2, which considers the factors influencing site selection by developers.

50. In evidence to the Committee several witnesses highlighted the lack of attention given to carbon dioxide networks.<sup>88</sup> For example, the Energy Networks Association told us: “carbon dioxide pipelines are not included in the NPSs, and these are [...] vital to carry carbon dioxide from power stations to a secure underground storage place”.<sup>89</sup> Prof Dieter Helm emphasised the fact that the market would not be able to deliver a carbon dioxide network in an efficient and integrated way, which therefore made the role of the NPSs particularly important in providing a strategic overview.<sup>90</sup> Elsewhere, the Environment Agency said “it was an omission that should be rectified”.<sup>91</sup> Some argued that “a separate NPS should be developed that addresses the carbon transport infrastructure and carbon storage infrastructure, to allow effective planning of these strategic resources, and for the right market signals to be sent for power plant siting decisions”.<sup>92</sup> In response, the Department accepted this broad criticism, noting it did not think that at present there was sufficient guidance in the draft NPSs, for example, on the consenting of the pipelines.<sup>93</sup>

**51. The development of a future carbon dioxide network will be integral to the future deployment of carbon capture and storage. It is at present a glaring omission from the draft energy NPSs, which we recommend the Department rectifies.**

## Biofuels and energy from waste

52. The *Draft National Policy Statement for Renewable Energy Infrastructure*, EN-3, sets out the specific assessment criteria for biomass and energy from waste. In evidence, some witnesses raised concern at the current treatment of the fuel source for both these technologies. For biomass, EN-3 stipulates: “the IPC does not need to consider the source or sustainability of the proposed biomass fuel to be used within the proposed plant”.<sup>94</sup> It states this is because operators of biomass plants already have an obligation to report annually on the sustainability of their fuel sources, including the volume, type of biomass used, country of origin and previous land use. However, under the *UK Low Carbon Transition Plan* the Government expects a large increase in the level of biomass generation, and the Environment Agency told us the majority of the fuel source for this would be from North and South America or Indonesia.<sup>95</sup> The Agency said it did not believe the provisions

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87 EN-1, para 4.7.8

88 Q 507 (UK Business Council for Sustainable Energy)

89 Q 478 (Energy Networks Association)

90 Q 409 (Prof Dieter Helm, University of Oxford)

91 Q 635 (Environment Agency)

92 Ev 473 (Institution of Chemical Engineers, Institution of Civil Engineers, Institution of Engineering and Technology, Institution of Mechanical Engineers, and Royal Academy of Engineering)

93 Q 816 (Department of Energy and Climate Change)

94 EN-3, para 2.5.10

95 Q 644 (Environment Agency)

were in place to ensure that, for example, imported wood-chip for biomass plant use would be sourced from Forestry Stewardship Council-certified wood. The Agency described the current requirements as “weak” and “essentially [...] voluntary”.<sup>96</sup> The Royal Institution of Chartered Surveyors (RICS) shared this concern, stating the origin of the fuel source for biomass should be a factor the IPC considered.<sup>97</sup>

53. In response, the Renewable Energy Association countered that the emissions arising from the ocean transport of biomass did not significantly increase the carbon footprint of the technology when comparing against coal.<sup>98</sup> It is worth noting, though, that transportation is just one aspect of the sustainability of an imported fuel source. As the Minister noted, the general principles on this should be “first of all, that it delivers carbon dioxide savings, second, that it uses land responsibly, third, that it does not undermine global food supplies or inflate prices, and overall [...] that it is sustainable”.<sup>99</sup> Officials also told us that although EN-3 currently reflected Government policy on biomass fuel sources, the Department was negotiating at a European level with the aim of agreeing a set of standards, which they hoped could be incorporated into the designated NPS.<sup>100</sup>

54. On energy from waste, Friends of the Earth argued that this technology should not be included in EN-3 because a large proportion of its fuel source was non-renewable. Instead, it should be part of the fossil fuel NPS.<sup>101</sup> A further concern from the NGO was that greater development of energy from waste would result in direct competition with recycling and re-use as alternative waste options. In support of this argument, the organisation noted that while total waste arisings had now either stabilised or begun to fall, recycling rates were still increasing.<sup>102</sup> This could therefore create a problem over time as energy from waste plants would wish to have long-term contracts with local authorities for their fuel source. In response, the Renewable Energy Association told us the fuel feedstock for energy from waste would be of too low a quality to be available for recycling.<sup>103</sup> Nevertheless, the Environment Agency told us the NPS should “identify [...] that waste is not diverted from re-use or recycling where those are feasible options”.<sup>104</sup> In evidence, the Minister agreed that energy recovery was near the bottom of the Government’s hierarchy of preferred approaches to dealing with waste.<sup>105</sup> EN-3 does draw the IPC’s attention to the waste hierarchy, and requires: “the proposed waste combustion plant is of an appropriate type and scale so as not to prejudice the achievement of local, regional or national waste

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96 *Ibid.*

97 Q 68 (Royal Institution of Chartered Surveyors)

98 Q 295 (Renewable Energy Association)

99 Q 807 (Minister for Energy)

100 Q 806 (Department of Energy and Climate Change)

101 Ev 334 (Friends of the Earth)

102 *Ibid.*

103 Q 296 (Renewable Energy Association)

104 Ev 300 (Environment Agency)

105 Q 805 (Minister for Energy)

management targets”.<sup>106</sup> However, the Department acknowledged that it may need to re-consider the issue to ensure it had said what it intended in the draft NPS.<sup>107</sup>

**55. The current draft NPS on renewables, EN-3, reflects the Government’s current policy on the fuel sources for biomass and energy from waste power plant. However, we are concerned that the IPC is directed not to consider the sustainability of biomass fuel. Although to do this would require a change of policy, we believe the existing draft guidance would mean the IPC would not be able to examine fully all adverse environmental, social and economic impacts as it is required to do in paragraph 4.1.1 of EN-1. We therefore recommend the Department revises EN-3 to require all biomass power station applicants to make a full assessment of the sustainability of their fuel sources. We also recommend that the Department re-assesses whether its current guidance on energy from waste ensures that only waste that cannot otherwise be economically recycled or reused is sourced as feedstock for energy from waste production.**

### Other renewables

56. EN-3 provides guidance for the IPC’s consideration of biomass and waste combustion projects, as well as onshore and offshore wind. It does not include other renewables such as wave, tidal, and solar power because no onshore projects over 50 MW or offshore projects over 100 MW are expected in the near future that do not use any of the technologies already dealt with in EN-3. This could change later in 2010 if the Government decides to pursue one of the proposed Severn tidal projects. The British Wind Energy Association (BWEA) told us it was happy with the exclusion of wave and tidal power from the current draft renewables NPS, although it believed a section dealing with these technologies would need to be added at an appropriate time.<sup>108</sup> In contrast, the Renewable Energy Association felt wave and tidal power had been “dealt with poorly” in EN-3, and argued the current guidance was not sufficient.<sup>109</sup> Any wave and tidal projects under 100 MW will be consented by the Marine Management Organisation (MMO). The BWEA also emphasised the need for consistency between the approaches taken by the MMO and the IPC for different sized projects, in the same way that this will be important for the two onshore consenting regimes, which we discuss later in this Report.<sup>110</sup>

**57. We agree that at this stage there is no urgency to include technologies such as wave and tidal in the renewables NPS. Nevertheless, EN-3 should set out the Government’s intentions for how these technologies will be dealt with in future versions of the NPS. We note too that a decision over whether to pursue one of the proposed Severn tidal projects will require a substantial revision of EN-3, if not a new NPS in its own right.**

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106 EN-3, para 2.5.59

107 Q 807 (Department of Energy and Climate Change)

108 Q 297 (British Wind Energy Association)

109 Q 298 (Renewable Energy Association)

110 Q 299 (British Wind Energy Association)

## Combined heat and power

58. EN-1 states that: “In developing proposals for new thermal generating stations, developers should consider the opportunities for combined heat and power (CHP) from the very earliest point and it should be adopted as a locational criterion”.<sup>111</sup> The IPC is also told to give “substantial additional positive weight” to applications that incorporate CHP.<sup>112</sup> Applicants not proposing to use CHP will be expected to show: why it is not economically feasible or practical; potential future demand sources for the heat load; and demonstrate provisions within the proposed scheme for exploiting any such demand should it arise.

59. We heard evidence from the Institution of Civil Engineers (ICE) and the Environment Agency (EA) that argued strongly for the NPS to give greater direction to the IPC to favour planning applications that proposed CHP.<sup>113</sup> The EA told us: “We see an absence of any strong statement on the priority of energy policy being about energy efficiency and using energy well”.<sup>114</sup> The ICE went so far as to suggest the Commission should not consent new infrastructure unless it made use of the waste heat produced.<sup>115</sup> Both organisations acknowledged that to do so would introduce a spatial element in guiding developers’ decisions on where to locate plant because they would need to find a suitable demand load.

**60. We accept that, in the absence of a targeted policy to encourage combined heat and power, it is difficult for the NPSs to indicate a greater preference for CHP than that which is already present in the current draft. If in the future, the Government decides to introduce a more spatial approach to the non-site specific NPSs, we recommend it considers whether it could use this to promote further deployment of CHP where it is cost-effective to do so.**

## New nuclear build

61. The *Draft National Policy Statement on Nuclear Power Generation*, EN-6, is arguably the most controversial part of the proposed NPS framework and the area on which the Committee received most evidence. As noted in Chapter 1, we have not examined in depth each of the sites proposed for potential nuclear development. However, several issues emerged, which we believe merited particular comment. In this section we consider the treatment of radioactive waste management in the draft nuclear NPS, and the relationship between the IPC regime and the other regulatory processes that will take place alongside future planning applications. We also examine the Department’s decision to exclude Dungeness from the draft NPS.

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111 EN-1, para 4.6.6

112 EN-1, para 4.6.7

113 Also DECC consultation responses 0206 (Swindon Borough Council) and 326 (Richard Bull)

114 Q 619 (Environment Agency)

115 Q 61 (Institution of Civil Engineers)

## Radioactive waste

62. EN-6 states that: “Having considered this issue, the Government is satisfied that effective arrangements will exist to manage and dispose of the waste that will be produced from new nuclear power stations. As a result the IPC need not consider the question”.<sup>116</sup> It bases this conclusion on the consideration of three factors. First, it believes that deep geological disposal will be technically feasible. Four years ago, the Committee on Radioactive Waste Management (CoRWM) reported that: “within the present state of knowledge, geological disposal is the best available approach for the long-term management of all the material categorised as waste”.<sup>117</sup> EN-6 also quotes a finding by the British Geological Survey that up to 30% of the UK has suitable geology for such a facility. Although the Government already requires a solution to the UK’s existing radioactive waste legacy, it believes the waste arising from a new generation of nuclear power stations will not present significant new issues in terms of its disposability. This approach has also been adopted in Finland and Sweden, which are already developing geological disposal facilities that are expected to begin operation by 2020.

63. A second factor is that the Government believes a suitable site can be found to host the facility. In 2008 it published a White Paper on *Managing Radioactive Waste Safely*, which set out the framework for site selection. The process is based on the principle of voluntarism and partnership between the project and the local community as recommended by CoRWM. Because of this, there is no fixed timetable for delivery. EN-6 notes the Nuclear Decommissioning Authority’s (NDA) assessment that a facility could begin operation around 2040, although it might not start to receive high-level waste until 2075.<sup>118</sup> The third factor underlying the Government’s conclusion on waste is that “geological disposal will be preceded by safe and secure interim storage”.<sup>119</sup> The NDA told us new nuclear power stations would have a higher rate of fuel burn-up that would give rise to waste that was hotter and more radioactive. This would require on-site storage until it had cooled sufficiently to be moved to a long-term disposal facility.<sup>120</sup> EN-6 states that interim storage on-site may be required for up to 160 years from the commencement of the power station’s operation, although the NDA told us this was a conservative estimate and that the actual time required may be some years less.<sup>121</sup> Overall, the Minister told us: “I am confident we have the right policies for dealing with waste, both in terms of interim storage and eventual disposal in a geological disposal facility”.<sup>122</sup>

64. The NDA strongly supported the Government’s assertion that effective arrangements will exist to manage future radioactive waste.<sup>123</sup> The Nuclear Industry Association also said: “We are confident that the arrangements are now in place for a satisfactory resolution to

116 EN-6, para 3.8.20

117 EN-6, para 3.8.7

118 EN-6, para 3.8.11-12

119 EN-6, para 3.8.16

120 Qq 347 and 348 (Nuclear Decommissioning Authority)

121 Q 346 (Nuclear Decommissioning Authority)

122 Q 795 (Minister for Energy)

123 Q 345 (Nuclear Decommissioning Authority)

the waste issue”.<sup>124</sup> Yet in evidence a large number of organisations and individuals questioned both the Government’s conclusion and its underpinning evidence.<sup>125</sup> For example, Prof Blowers, who was previously a member of CoRWM, told us he believed the Government had misrepresented the Committee’s conclusions on the feasibility of deep geological storage, stating: “in fact it is unknowable whether effective arrangements will be in place”.<sup>126</sup> He said there had not yet been sufficient research to conclude definitively that geological disposal would work. Others raised concerns over the cost of a facility, which is as yet unknown. The Sustainable Development Commission noted, for example, that the complexity of dealing with high-level radioactive waste could prove so expensive that it undermined the commercial viability of new nuclear build.<sup>127</sup> The Government has already set out that the developers of new nuclear power stations will have to pay the full cost of dealing with the waste they produce.<sup>128</sup>

65. Witnesses also questioned whether the Government had made sufficient progress in identifying a site. The NDA told us it was at the first stage of the process set out in the 2008 White Paper. To date three communities have expressed an interest in hosting the facility—Copeland Borough Council, Allerdale Borough Council and Cumbria County Council.<sup>129</sup> The British Geological Survey would now look at the areas proposed to determine their suitability. The NDA also said it was not possible to define the timeline for delivery because this would depend on the local community.<sup>130</sup> However, the Sustainable Development Commission told us it did not believe there had been much tangible progress since 2008, stating: “we do not think that just having the documentation in a White Paper [...] really cuts the mustard”.<sup>131</sup> Prof Blowers argued there was no guarantee that a community would be willing to host a facility, despite the current expressions of interest.<sup>132</sup> Greenpeace noted too that even if communities did come forward, their geology may prove unsuitable.<sup>133</sup> Both the SDC and the Environment Agency believed that as a minimum the Government should establish a timetable with milestones for the various stages required for the delivery of a geological disposal facility.<sup>134</sup>

66. Witnesses also criticised the treatment of interim storage in EN-6. As noted already, high-level radioactive waste could remain on-site for up to 160 years from the commencement of a power station’s operation. Nuclear Waste Advisory Associates argued that the draft nuclear NPS provided little information on how spent fuel would be stored and managed at the reactor sites, and whether a spent fuel packaging plant would need to

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124 Q 361 (Nuclear Industry Association)

125 For example, Qq 157 (Sustainable Development Commission), 255 (Friends of the Earth, Greenpeace and WWF), 511 (Pobl Atal Wylfa B), and 553 (Blackwater Against New Nuclear Group); Ev 396 (Natural England); DECC consultation responses 0085 (Barbara Fairbairn) and 0259 (Catherine Goss)

126 Q 252 (Nuclear Consultation Group); DECC consultation response 0314 (Hull City Council)

127 Q 154 (Sustainable Development Commission)

128 Department for Business, Enterprise and Regulatory Reform, *A White Paper on Nuclear Power*, January 2008

129 Q 356 (Nuclear Decommissioning Authority)

130 Q 346 (Nuclear Decommissioning Authority)

131 Q 135 (Sustainable Development Commission)

132 Q 254 (Nuclear Consultation Group)

133 Q 251 (Greenpeace)

134 Q 140 (Sustainable Development Commission); Ev 300 (Environment Agency)

be built on-site at some point in the future.<sup>135</sup> This concern was also shared by Prof Blowers, who contrasted the Government’s voluntary approach for a geological disposal facility with that for nuclear new build sites, noting that the latter would still be hosting high-level waste for many generations. He highlighted CoRWM’s original recommendation that voluntarism should “be applied to new central or major regional stores at new locations if they are to inspire public confidence”.<sup>136</sup> However, he told us: “communities hosting spent fuel stores will be given no opportunity to consider whether they wish to volunteer to host a long-term radioactive waste facility”.<sup>137</sup>

67. One issue underlying the concern over the length of time for interim storage was the potential risk of flooding due to rising sea levels. The Nuclear Consultation Group noted it was almost impossible to predict what the impact of climate change would be across the period when nuclear sites would be active, and that the draft nuclear NPS did not consider adequately the risks over the likely lifetime of a project.<sup>138</sup> In evidence, however, the Minister said he did not believe that the length of time nuclear sites would have to provide interim storage of high-level waste should be a relevant consideration for the IPC.<sup>139</sup> Greenpeace told us: “It is almost as if somebody outside Hinkley Point could have a discussion in front of the IPC about whether they wanted the gates painted blue, green, or yellow, or the reactor dome pink, but these major issues around nuclear spent fuel [...] would be outside of its remit”.<sup>140</sup>

68. In 2006, the then Trade and Industry Committee was told by the chief executives of E.ON UK and EDF Energy that achieving a long-term solution to the UK’s existing radioactive waste legacy was vital, not only from the perspective of helping gain public acceptance of new build, but also to reassure potential investors and operators in the sector.<sup>141</sup> In evidence to this Committee those companies supported the Government’s position in EN-6, stating there were “no apparent technical show-stoppers” to delivering deep geological storage, and highlighting their existing experience of managing on-site interim storage.<sup>142</sup> EDF Energy also said that there had been sufficient progress towards developing a long-term facility to give them confidence to move ahead with the company’s plans, although it would want to ensure the Government was still making progress at the time it submitted a planning application for a new nuclear power station.<sup>143</sup>

69. Finally, we received conflicting evidence on the question of whether the planning application for a geological disposal facility would be dealt with by the IPC or by the Local Planning Authority for the community that would be hosting the depository. The Nuclear Decommissioning Authority told us it believed the decision would be made by local

135 Ev 428 (Nuclear Waste Advisory Associates)

136 Ev 400 (Nuclear Consultation Group)

137 *Ibid.*

138 Q 245 (Nuclear Consultation Group)

139 Q 798 (Minister for Energy)

140 Q 245 (Greenpeace)

141 House of Commons Trade and Industry Committee, *Fourth Report of Session 2005-06, Nuclear new build—Examining the issues*, HC 1122, July 2006

142 Qq 468 and 469 (EDF Energy)

143 Q 472 (EDF Energy)

communities as this would be in line with the voluntarism approach used to identify the site.<sup>144</sup> However, the Minister said he was minded for the consenting process to be the IPC's responsibility. He told us, though: "we have not made a firm decision, and, frankly, we are not really anywhere near having to make a decision".<sup>145</sup>

**70. Planning consent from the IPC for new nuclear power stations will entail the storage of high-level radioactive waste on-site for up to 160 years. From the perspective of the community affected, it is a misnomer to describe this as interim storage as it will be several lifetimes between the commencement of a power station's operation and the eventual removal of waste from that site. A key objective of the new NPS framework is to focus discussion on planning applications on site-specific issues. As such, we believe on-site storage cannot be ruled out from the IPC's deliberations and that the nuclear NPS should contain significantly more detail on what interim storage will entail for local communities and for the integrity of any site chosen.**

**71. We do not dissent from the process adopted by the Government for identifying a site for the eventual storage of radioactive waste deep underground. However, we received conflicting evidence over whether this process would yield a suitable site and if the proposed approach of geological disposal was technically feasible. We are not convinced that the progress to date supports the Government's robust assertion that suitable arrangements will be in place to manage the UK's waste legacy. However, we note too that the Government has no choice but to find a solution, regardless of a decision on nuclear new build. Furthermore, we agree that the waste arising from new nuclear power stations will not pose a significant additional challenge in terms of finding a permanent storage solution. Therefore, as this is an issue of national policy, the political and ethical elements of which have been debated widely over the past five years, we agree that this should not be a consideration for the IPC with regard to individual applications.**

**72. Nevertheless, we believe the Government must continue to demonstrate progress in delivering a geological disposal facility for radioactive waste. Accordingly, we recommend the Department now sets out key milestones in EN-6 and reports progress against these to Parliament on an annual basis. This should include establishing which body will be responsible for consenting the site.**

### ***Parallel regulatory processes***

**73. EN-6 states that: "the IPC should make its decisions in relation to a development consent application on the basis that: the relevant licensing and permitting regimes will be properly applied and enforced; it does not need to consider matters that are within the remit of the nuclear regulators; and that it should not delay a decision on whether to grant consent until completion of the licensing or permitting process".<sup>146</sup> For example, alongside the consultation on the draft NPSs, DECC has also been consulting on the Regulatory**

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144 Q 357 (Nuclear Decommissioning Authority)

145 Q 803 (Minister for Energy)

146 EN-6, para 3.4.2

Justification of new nuclear power stations, which is required under EU law.<sup>147</sup> Elsewhere, the Environment Agency and Health and Safety Executive are conducting a generic design assessment of the two reactor types proposed for use in the UK. Greenpeace, however, expressed concern that the IPC might begin to consider a planning application for a new nuclear power station while these and other processes had not yet completed.<sup>148</sup>

**74. We believe it is not the role of the IPC to concern itself with the regulatory processes relating to new nuclear build that may be conducted in parallel to its own decision-making on planning consents, and which might otherwise lead to confusion and a duplication of efforts. However, the Commission should at least have cognisance of the wider regulatory framework as it is likely that it will receive submissions on issues outside of its remit when considering applications. We would therefore expect regular and open communication between the IPC, the Environment Agency, the Health and Safety Executive and other relevant bodies on these matters.**

### **Dungeness**

75. The sites proposed as suitable for nuclear development in EN-6 represent the outcome of a strategic siting assessment (SSA), which took place in 2009. Out of the 11 sites nominated by developers, one failed the assessment—Dungeness. This was on the basis that it would be unlikely to be possible to mitigate the adverse effects on a Natura 2000 (N2K) site, which overlaps with the footprint of the proposed site.<sup>149</sup> N2K sites are designated because of their importance to habitats and species of importance to European conservation.

76. Several witnesses voiced concern at the exclusion of Dungeness from EN-6. The Nuclear Industry Association (NIA) argued that a new power station would not pose substantially different impacts to those already created by the existing two power stations at the site. The NIA also noted that most of the sites included in EN-6 posed potential adverse effects on adjacent N2K sites, stating: “it is not clear why the Dungeness site alone should be excluded on this criterion”.<sup>150</sup> EDF Energy and Scottish Power also questioned the ruling-out of the site. Both believed the list of sites available for the IPC to consider should not be constrained at this stage, with Scottish Power noting that: “the issues around the sites of special interest can be adequately addressed”.<sup>151</sup> The site’s exclusion has also disappointed representatives of the local community. Both Shepway District Council and Hastings Borough Council provided extensive arguments as to why it would be wrong, at this stage, to reject any new nuclear build at Dungeness: “[...] there are good reasons to believe that any environmental impacts at Dungeness can be mitigated and managed successfully. The Infrastructure Planning Commission (IPC) could take any site-specific decision on the suitability of Dungeness for nuclear build, based on a full project-level

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147 Department of Energy and Climate Change, *The Justification of practices Involving Ionising Radiation Regulations 2004*, November 2009

148 Qq 200 and 238 (Greenpeace)

149 EN-6, Annex A, A2

150 Ev 421 (Nuclear Industry Association)

151 Qq 437 (EDF Energy), 487 and 490 (Scottish Power)

application for development consent [...] Dungeness should be reinstated as a nuclear build site within the finalised nuclear NPS for approval by the Secretary of State”.<sup>152</sup>

77. Natural England, whose evidence influenced significantly DECC’s decision not to pursue Dungeness, told us that for all the other sites there was some potential either to mitigate or compensate for the likely environmental impacts. The organisation said, however: “Dungeness is a very special place and is the result of 5,000 years’ worth of interaction between the sea and land and it is simply not possible to recreate it anywhere else”.<sup>153</sup> The proposed site, along with the existing power stations, are on the largest example of a shingle beach in Europe.<sup>154</sup> The SSA had also highlighted concern regarding flood risk, although this on its own was not felt to be sufficient to rule out the site. Acknowledging that the decision was controversial, the Department defended its position, citing the unique nature of the shingle beach, and the fact that given the potential availability of 10 more preferable sites, there was not an Imperative Reason of Overriding Public Interest (IROPI) for developing there.<sup>155</sup> The Minister told us: “I certainly do not have a closed mind to this issue, but equally the advice I received [...] would suggest that development in Dungeness would be very, very difficult indeed”.<sup>156</sup>

**78. We note the reasons for the Government’s exclusion of Dungeness from the draft nuclear NPS and the arguments against this decision put by the industry and the local community. We recommend the Department maintains an open mind throughout the current consultation, that it considers carefully the evidence submitted to the Committee by Shepway District Council and any other evidence submitted during the consultation and, if necessary, reconsiders its position.**

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152 Ev 502 (Shepway District Council)

153 Q 612 (Natural England)

154 British Energy, *Proposed Nuclear Development at Dungeness Environmental Scoping Report*, November 2008

155 Q 747 (Minister for Energy); EN-6, Annex A

156 *Ibid.*

## 4 The NPSs as planning documents

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79. The primary role of the energy NPS series is to set out Government policy so as to provide a clear basis for the decisions on planning applications for major infrastructure developments taken by the IPC. However, they may also be material considerations in decision-making on applications that fall under the Town and Country Planning Act regime. Accordingly, this Chapter considers whether the draft NPSs are fit for purpose as planning documents. First, we contrast the site-specific nature of EN-6 with the non-spatial approach taken in EN-2 to 5. We then examine the relationship between the energy NPSs and the rest of the town and country planning system, including the treatment of infrastructure that is associated with energy proposals.

### The draft nuclear NPS

80. EN-6 identifies 10 sites as suitable for potential nuclear development. These are at Bradwell in Essex; Braystones, Kirksanton and Sellafield in Cumbria; Hartlepool in Cleveland; Heysham in Lancashire; Hinkley Point in Somerset; Oldbury in Gloucestershire; Sizewell in Suffolk; and Wylfa in Anglesey. With the exception of Braystones and Kirksanton, all of the sites are adjacent to existing nuclear power stations that are either still in operation or have closed and are being decommissioned.

81. In evidence, one area of concern in relation to the proposed sites was the Government's assertion that all them will be needed. EN-6 states that: "the Government believes that only a limited number of sites are potentially suitable for the deployment of new nuclear power stations by the end of 2025. The Government has therefore concluded that it is necessary to include all 10 sites in this NPS to ensure that sufficient sites are available for development [...]".<sup>157</sup> The Planning and Environment Bar Association (PEBA) told us the effect of identifying a site in the NPS as potentially suitable would be to set a strong presumption in favour of consent that would be hard for the IPC to resist.<sup>158</sup> The Law Society agreed, stating: "The government says that it has put forward only 10 sites and it needs every single one [...] to ask [the IPC] to say it believes it has found a really important adverse effect and one of the 10 cannot go ahead is a major decision for that body".<sup>159</sup> We note that the Government's assertion in the nuclear NPS that all 10 sites are needed could also be taken to mean there is an expectation that some will not get planning permission from the IPC. The Commission emphasised its process would not be a rubber-stamping exercise.<sup>160</sup> It told us: "The public position of the IPC is that clearly the NPS is a very significant document but it does not mean to say that Commissioners would ultimately agree all 10 sites. If it is the view of the panel [...] that the adverse impact locally of a particular individual nuclear power station was so great that it overruled the national benefits of that energy then that panel would have the right to turn down that application".<sup>161</sup>

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<sup>157</sup> EN-6, para 2.5.3-4

<sup>158</sup> Ev 459 (Planning and Environment Bar Association)

<sup>159</sup> Q 584 (Law Society)

<sup>160</sup> Q 683 (Infrastructure Planning Commission)

<sup>161</sup> Q 664 (Infrastructure Planning Commission)

82. EN-6 also states that:

The Government [...] has concluded that it cannot rule out the potential for adverse effects on the integrity of designated European sites adjacent to or at a distance from each site listed in this NPS. In line with the requirements set out in [...] the Habitats Directive the Government [...] concluded that there were no alternatives that would better respect the integrity of European sites and deliver the objectives of this plan. Accordingly the Government has presented a case for Imperative Reasons of Overriding Public Interest (IROPI) which sets out the rationale for why the plan should proceed [...].<sup>162</sup>

A number of witnesses questioned the assertion of IROPI. The Nuclear Consultation Group told us: “every effort is expended to get the IPC to basically allow those sites because of overriding national interest [...]”.<sup>163</sup> The Sustainable Development Commission believed this may need to be tested in the courts, noting: “That is quite a dangerous statement to make [...] and a robust case to meet that statement is not made in the NPS at the moment”.<sup>164</sup> There was also concern over the status of the declaration of IROPI in Annex A to EN-6. Natural England told us: “[...] it is not clear from the drafting whether the intention is for that test to apply to the NPS as a whole or to individual sites [...] as it is drafted now it meets the criteria for the overall NPS but that test will need to be applied to individual site decisions”.<sup>165</sup>

**83. We understand the necessity for making the nuclear NPS site-specific as to do otherwise would be less than open in a situation where there are so few alternatives. We are concerned, however, that the inclusion of 10 sites coupled with the statements that all are needed and the Government can find no alternatives that would better respect the integrity of designated European sites may place undue pressure on the IPC to permit developments on those sites. We are reassured by the IPC’s statement that if local impacts did outweigh national benefits on these sites then it would refuse the application. However, we feel that the independence of the IPC could be more clearly expressed in the NPS in terms of its ability to refuse consent for any of the 10 nuclear sites. The Department should also clarify whether its opinion on Imperative Reasons of Overriding Public Interest (IROPI) refers to the nuclear NPS as a whole or to the selection of individual sites.**

## The non-nuclear NPSs

84. Whether the suite of non-nuclear NPSs should be more locationally specific was an issue raised by witnesses from across different sectors. For example, WWF said “It is clear that the NPSs are not spatial plans or policies [...] They do not include any vision or sense of place, no indication of where national infrastructure should be or can be suitably located (apart from nuclear), no aspirational policies to achieve decarbonisation of the energy

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<sup>162</sup> EN-6, para 1.6.2

<sup>163</sup> Q 250 (Nuclear Consultation Group)

<sup>164</sup> Q 115 (Sustainable Development Commission)

<sup>165</sup> Q 630 (Natural England)

sector whilst protecting the environment, and they fail to adequately address two essential elements of spatial planning—(a) the management of the competing uses for space; and (b) the making of places that are valued and have identity”.<sup>166</sup> Accordingly, in this section we examine the issues of whether the non-nuclear NPSs should be more locationally specific, and if they should be linked to some form of national spatial framework.

### **Areas of search and corridors**

85. Two potential ways in which witnesses suggested the non-nuclear NPSs could be more locationally specific was through some form of “areas of search” approach for particular types of energy generation, or defined “corridors” for electricity transmission. The Campaign to Protect Rural England (CPRE) told us: “there need to be more criteria to guide the decision-makers in ensuring that development is located in the most appropriate locations that are beneficial for economic, social and environmental reasons and away from areas that are seen and are judged to be likely to be most damaging”.<sup>167</sup> The Sustainable Development Commission echoed this view, stating: “there are certain areas where it would be inappropriate to put onshore wind [...] It would just give people a clearer idea of what the national Government policy was, and it would also help developers”.<sup>168</sup> This latter point was reinforced by the RSPB which told us that, “[...] having a greater spatial expression in the plan gives developers a degree of certainty about what is going to be appropriate and [...] would be very helpful”.<sup>169</sup> The Local Government Association said too: “the NPSs could give more of a strategic steer [...] about the kinds of places where it would be appropriate to bring forward proposals for energy infrastructure [...]”.<sup>170</sup>

86. One specific example given by the SBGI’s Gas Storage Operators Group (GSOG) was that EN-4 on gas supply infrastructure could recognise the geological constraints affecting the location of underground gas storage: “There are two forms of underground gas storage which are in use in the UK [...] Both types of storage require very specific geological conditions and the locations available for development of storage are very limited”.<sup>171</sup> More generally, it is worth noting that the Welsh Assembly Government has already adopted an approach of identifying ‘Strategic Search Areas’ for major wind farm proposals and that the Crown Estate has recently announced the areas for the third round of licences for offshore wind farm development.<sup>172</sup> On this point, we were told by the UK Business Council for Sustainable Energy that: “We suggest that the spatial nature of the Crown Estate’s leasing process could also helpfully have been included in the renewables NPS and referenced in the overarching NPS”.<sup>173</sup> Elsewhere, the Environment Agency told us about work led by

166 Ev 574 (WWF)

167 Q 163 (Campaign to Protect Rural England)

168 Q 84 (Sustainable Development Commission)

169 Q 165 (RSPB)

170 Q 707 (Local Government Association)

171 Ev 494 (SBGI’s Gas Storage Operators Group)

172 Welsh Assembly Government, *Technical Advice Note 8: Planning for Renewable Energy*, 2005

173 Q 487 (UK Business Council for Sustainable Energy)

DCLG and DECC that is looking at capacity assessments for each English region to deliver a variety of renewable and low-carbon forms of energy.<sup>174</sup>

87. The energy generation industry, however, did not believe the identification of broad areas of search would create benefits. For example, the British Wind Energy Association said: “[...] this would be a significant departure from existing government policy on energy. It would result in a significant increase in costs all around [...] and particularly to the industry in having to reassess all its current projects in the planning system”.<sup>175</sup> RWE Npower supported this view, stating: “the resource intensity and time involved in undertaking that exercise, both in central and local government [...] will only serve to delay the NPSs and have a knock-on effect in terms of bringing new projects forward”.<sup>176</sup> The Renewable Energy Association also noted that: “[...] however you word a spatial policy to say that this is the preferred area or an area of search, it does immediately [...] demote all other areas to a lesser status. There are many examples of projects which have been promoted in areas which might not have been immediately obvious [...]”.<sup>177</sup>

88. A related issue is whether, for example, EN-5 on electricity networks could identify the main transmission ‘corridors’ that will require future construction or reinforcement. Some witnesses pointed to the fact that corridors had already been identified in the work of the Electricity Networks Strategy Group in their 2009 report, *A Vision for 2020*, which identifies where grid upgrades are most likely to be required in the next decade. Some witnesses were surprised that this approach had not been carried forward into the draft NPS. Scottish and Southern Energy told us: “If you look at the example of the Scottish National Planning Framework, they have adopted within that a representation of the areas where the lines may need to be developed [...] There are only limited spatial areas where those can and will be sensibly developed, and that is sensible then to specify in the NPS”.<sup>178</sup> However, National Grid were sceptical of this approach, noting: “the number of permutations for the start and finish points and the number of permutations in between all of those start and finish points” meant it would be difficult to make this approach work within the NPS.<sup>179</sup>

89. Several witnesses suggested that the more locationally specific an NPS was, the easier it would be to engage the public in the planning process. It is worth noting that we received a large volume of submissions on nuclear power in comparison to other issues. For example, the Sustainable Development Commission told us: “[...] without having any spatial element, it is very hard to engage people in this whole process and that is one of the critical weaknesses [...] in the National Policy Statements”.<sup>180</sup> We examine this issue more closely in the next Chapter.

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174 Q 607 (Environment Agency)

175 Q 271 (British Wind Energy Association)

176 Q 455 (RWE Npower)

177 Q 272 (Renewable Energy Association)

178 Q 488 (Scottish and Southern Energy)

179 Q 311 (National Grid)

180 Q 83 (Sustainable Development Commission)

90. Whilst we accept EN-1 to 5 should not be as specific on the location of energy infrastructure developments as the nuclear NPS, we believe there are ways in which the non-nuclear NPSs could take greater account of spatial issues. Possible examples include: those areas of the transmission network requiring reinforcement to meet the UK's renewable energy targets; the Welsh Assembly Government's strategic search areas; the DCLG/DECC work on regional capacities for renewable generation; and areas with suitable geology for gas storage. Such an approach would not constrain the choice of sites for developers but would provide valuable guidance and an incentive to bring applications forward in the most appropriate locations. Nor would it constrain the decision-making of the IPC, which should treat all applications on their merits. It could also facilitate greater public engagement in the NPS process.

### **A national spatial strategy**

91. Some witnesses raised the issue of having some form of overarching statement of national spatial priorities to which all the NPSs on energy, transport, waste and water could relate.<sup>181</sup> For example, the Sustainable Development Commission told us it had consistently supported the idea of a national spatial strategy.<sup>182</sup> Elsewhere, the Institution of Civil Engineers noted the lack of a spatial link between the draft energy NPSs and the draft ports NPS.<sup>183</sup> One benefit of such an expression of spatial impacts and priorities could be that it would provide a means of linking together all the NPSs. For energy developments it could facilitate the location of new infrastructure nearer to sources of demand. In considering this issue, it is worth noting the recommendation of the then Transport, Local Government and the Regions Select Committee in its Report on the 2001 Planning Green Paper which argued that policy statements should relate to the national spatial strategy, and that Wales already has a Spatial Plan and Scotland a National Planning Framework.<sup>184</sup>

92. We believe the Government has not fully explored the potential for some form of English national spatial strategy. Such a document could provide the means of drawing together the many spatial aspects and implications of not only the energy NPSs, but all the NPSs. It could also provide the means of relating policies in the NPSs more clearly to the range of existing national spatial policies and environmental designations. However, we do not believe such a strategy should be a pre-requisite of designation of the energy NPSs.

### **The relationship between the energy NPSs and the overall planning system**

93. The *Planning Act 2008* states that the IPC will make decisions on development consent for the following types of nationally significant energy infrastructure:

- Onshore electricity generation stations with a capacity of over 50 MW;

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181 For example, DECC consultation response 0206 (Swindon Borough Council)

182 Q 85 (Sustainable Development Commission)

183 Q 47 (Institution of Civil Engineers)

184 House of Commons Transport, Local Government and the Regions Committee, *Thirteenth Report of Session 2001-02, The Planning Green Paper*, July 2002, HC 476

- Offshore electricity generation stations with a capacity of over 100 MW;
- Certain underground facilities for the storage of gas in natural porous strata by a gas transporter;
- Certain cross-country pipelines of the kind previously covered in the *Pipelines Act 1962* and certain gas transporter pipelines; and
- Overhead electricity lines of 132 kV and above.

94. The energy NPSs will not only form the basis for decision-making by the IPC, but are also meant to form a key part of the wider policy context for decisions on energy proposals that fall below these thresholds. Although this is not spelt out clearly in the draft NPSs, these decision-makers will include: local planning authorities; the new Marine Management Organisation; the Planning Inspectorate, when dealing with any appeals; and the Secretary of State for Communities and Local Government if dealing with ‘called-in’ planning applications or ‘recovered’ appeals. One example of the importance of the NPSs within the overall planning system concerns renewable energy. The British Wind Energy Association told us around 70% of onshore projects in England and Wales will go through the town and country planning regime rather than being dealt with by the IPC.<sup>185</sup> It is, therefore, vital that the energy NPSs are fit for purpose in fulfilling their wider role. In the next few sections we consider a number of aspects relating to the relationship between the energy NPSs and the rest of the planning system.

### ***NPSs and the town and country planning regime***

95. A key issue raised in evidence was whether the draft energy NPSs provided adequate guidance for those authorities and bodies that are required to take decisions on energy infrastructure that falls below the thresholds set out in the *Planning Act 2008*. The draft overarching energy NPS states that: “In England and Wales this NPS may [...] be a material consideration in decision-making on applications that fall under the Town and Country Planning Act 1990 (as amended). Where relevant, decision-makers of such applications in England should apply the policy and guidance in this NPS as far as practicable”.<sup>186</sup> In November 2009, the Chief Planner at the Department for Communities and Local Government (DCLG) wrote to Local Planning Authorities (LPAs) in England, stating: “NPSs may specifically set out policies which will need to be taken into account by decision-makers other than the IPC [...] LPAs and other decision-makers should therefore take account of those policies when determining applications for consent for below-threshold infrastructure applications made under the town and country planning regime”.<sup>187</sup> This letter appeared to strengthen the extent to which the NPSs are meant to guide LPAs’ decision-making on applications that fall to them.

96. Our evidence raised concerns that the role of the energy NPSs in providing guidance for other parts of the planning system has not been clearly established. For example, the

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185 Q 281 (British Wind Energy Association)

186 EN-1, para 1.2.1

187 Letter from the DCLG Chief Planner to Local Authority Chief Planning Officers, 9 November 2009

Energy Networks Association told us: “We need to make sure that the difference between what happens on DECC consents, the Town and Country Planning Act and the IPC is absolutely seamless, and that there is not one going off in one direction and another going off in another direction”.<sup>188</sup> The UK Business Council for Sustainable Energy highlighted the potential risk of perverse incentives if developers favoured one system of decision-making over another. It said: “The reason you need consistency both in terms of the process and the efficiency of the two regimes is that you do not want to skew the market so that developers bring forward very many more large projects and no smaller scale projects”.<sup>189</sup>

### ***NPSs and regional and local plans***

97. A second and related aspect is the relationship between NPSs and regional and local plans. The DCLG Chief Planner’s letter stated that: “Regional planning bodies and local planning authorities must [...] have regard to NPSs when preparing their plans at regional and local level”.<sup>190</sup> The Town and Country Planning Association expressed concern at this statement, noting that the development of the NPSs by different government departments outside of DCLG created a risk that there would not be proper integration between the policy content of the Statements and regional local planning frameworks.<sup>191</sup> RWE Npower told us, however: “our expectation is that the development plans will in time be aligned with the NPSs [...] Clearly there is that opportunity for conflict. At the end of the day, a dispute is resolved ultimately through the law [...]”.<sup>192</sup>

98. It is worth noting that the 2007 Planning White Paper, which introduced the new system, envisaged a symbiotic relationship between different levels of policy. It stated that: “Where national policy statements are more locationally specific, they would need to set out clearly how national interests and local impacts had been considered and balanced in setting the policy. This would include taking into account relevant national planning policy and the development plan for the locations being considered”.<sup>193</sup>

### ***NPSs and other national planning policy***

99. There are two aspects to integrating planning policy at a national level—the relationship between the energy NPSs and other NPSs and that between the NPSs and existing guidance used by Local Planning Authorities, such as Planning Policy Statements (PPSs). On the first of these, the Royal Institute of Chartered Surveyors (RICS) expressed concern that consideration of the draft energy NPSs would be in isolation to other NPSs on issues such as roads, rail and airports, despite the fact that much of the energy infrastructure in the draft NPS would be reliant on locating near to good road or rail links. RICS felt this made it difficult to have a joined-up approach to strategic planning in the

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188 Q 303 (Energy Networks Association)

189 Q 493 (UK Business Council for Sustainable Energy)

190 Letter from the DCLG Chief Planner to Local Authority Chief Planning Officers, 9 November 2009

191 Q 35 (Town and Country Planning Association)

192 Q 460 (RWE Npower)

193 HM Government, *Planning for a Sustainable Future*, Cm 7120, para 3.19, 2007

UK.<sup>194</sup> We note too that the Transport Committee, following its consideration of the draft ports NPS, has recommended delaying designation until the Department for Transport has produced the national networks NPS.<sup>195</sup>

100. We also received evidence suggesting a lack of clarity on the relationship between the policy statements contained in EN-1 to 6 and those in existing Government planning guidance. The BWEA believed central Government departments had not yet decided the relationship the NPSs would have to PPSs. The Association told us: “it makes no sense to have two policies that have the same weight when one is saying something slightly different potentially in emphasis to the other, and they both claim to deal with renewable energy”.<sup>196</sup> For example, the Campaign for National Parks pointed out that the guidance on development within nationally designated landscapes in para 4.24.7 of EN-1 is at odds with current Government policy for assessing major development proposals within National Parks, as set out in Planning Policy Statement 7. Whereas EN-1 attempts to define exceptional circumstances as those where development can be demonstrated to be in the public interest, PPS7 states that both exceptional circumstances and public interest must be demonstrated, as the two are not always necessarily equivalent.<sup>197</sup> Overall, the Sustainable Development Commission summed up the situation thus: “At the moment, it is very unclear how these things all fit together [...] what Government needs to do is very clearly set out that relationship”.<sup>198</sup>

**101. We are concerned that the current status of the NPSs within the wider planning system is, at best, ambiguous. Whilst the NPSs’ role in relation to the IPC is embodied in statute, their important role in relation to Local Planning Authorities (LPAs) and other bodies has not been addressed with sufficient thoroughness. For example, it is not clear what weight LPAs should give to NPSs in their decision-making. Nor is it clear what happens in cases of conflict between an NPS and other Government statements of planning policy. This ambiguity risks creating perverse incentives for developers within the planning regime.**

**102. We note the Chief Planner has attempted to provide some clarity on the role of the NPSs within the planning system. However, this intervention has raised more questions than it has answers. We recommend the DCLG should first consult on, and then issue, definitive guidance on the role that all NPSs will play in the preparation of plans at the regional and local levels and in informing and guiding decision-makers other than the IPC in considering applications for relevant infrastructure projects. This guidance should clarify whether there is a hierarchy of planning documents, for example in relation to NPSs and Planning Policy Statements, and how decision-makers are to deal with conflicts between different policy statements when they arise. We do not believe the Government should designate the energy NPSs until this guidance is in place.**

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194 Ev 475 (Royal Institution of Chartered Surveyors)

195 House of Commons Transport Committee, *Fifth Report of Session 2009-10, The proposal for a National Policy Statement on Ports*, March 2010, HC 217

196 Q 284 (British Wind Energy Association)

197 Ev 238 (Campaign for National Parks)

198 Q 91 (Sustainable Development Commission)

## Associated infrastructure

103. The *Planning Act 2008* allows the IPC to deal with development that is *associated* with a main proposal in a single application.<sup>199</sup> Associated infrastructure includes a variety of developments, such as: fuel depots; measures to prevent coastal erosion; substations; distribution lines; security measures; and waste heat plant and pipe work. DCLG has published guidance stating: “Associated development should not be an aim in itself but should be subordinate to and necessary for the development and effective operation [...] of the NSIP that is the subject of the application”. Furthermore “The IPC can only consider associated development in conjunction with the main application and has no power to consider a separate application unless this is an NSIP in its own right”.<sup>200</sup> An applicant can still apply for permission for associated development through the town and country planning regime.

104. The associated infrastructure provision was widely welcomed in the evidence we received. The UK Business Council for Sustainable Energy told us: “One of the key benefits of the new regime is the opportunity for developers to bundle up all the different associated developments in one application [...]”.<sup>201</sup> Equally, National Grid said: “the flexibility built in to enable us to bring an integrated application or to bring applications that will be considered in different timescales is very important”.<sup>202</sup>

105. We also received evidence of a degree of concern about the possibility of delay in gaining consent for associated development that was not included in a main ‘bundled’ application.<sup>203</sup> National Grid, for example, told us: “We must [...] make sure that we do not build a process where we consent the main plant items through IPC and then we are frustrated by having got [...] permission for the power station, the line, the sub-station, but we cannot get the equipment to the sub-station site because we cannot get access roads”.<sup>204</sup> Elsewhere, the Royal Institute of Chartered Surveyors (RICS) said: “If a developer is looking at proposals for a particular large power plant development [...] it will want to know that that proposal is going to be able to go into operation—not just receive consent for the proposal on site, but also that the remaining infrastructure which is necessary will be provided”.<sup>205</sup>

**106. We support the flexibility within the overarching NPS for applicants to decide whether to include associated development within an application to the IPC for consent for the main NSIP development or to apply for consent for it via other routes. However, we are concerned that there are potential risks of delay where associated infrastructure falls under a different planning regime. This opportunity for delay strengthens the case we have already made for a clearer statement of the relationship between an NPS and the rest of the planning system.**

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199 Planning Act 2008, Section 115(1)(b)

200 DCLG, *Guidance on associated development applications to the IPC*, para 11, September 2009

201 Q 494 (UK Business Council for Sustainable Energy)

202 Q 307 (National Grid)

203 For example, Q 52 (Institution of Civil Engineers)

204 Q 317 (National Grid)

205 Q 55 (Royal Institute of Chartered Surveyors)

## 5 Other requirements under the Planning Act 2008

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107. In addition to parliamentary scrutiny of the draft NPSs, the *Planning Act 2008* states they must also be subject to public consultation and an appraisal of sustainability before they can be designated by the Secretary of State. In this Chapter we consider the Government's conduct of both these requirements. We also examine briefly a general requirement within the Act that NPSs should have regard to the desirability of achieving good design.

### The Department's consultation

108. DECC launched its consultation alongside the publication of the draft energy NPSs on 9 November 2009 and it closed on 22 February 2010. In addition to seeking written and online responses, the Department held a number of local events near the sites proposed for potential nuclear development and several more general national events on the suite of draft NPSs. There were also a number of technology-specific stakeholder meetings with environmental NGOs and industry. The Energy Networks Association told us it believed “the draft NPSs should be subject to the deepest and widest consultation process to ensure they have got the widest agreement and legitimacy [...]”.<sup>206</sup> A number of witnesses, however, were critical of the consultation process. For example, WWF said the Government had taken “the bare minimum approach”.<sup>207</sup> Another group remarked: “[...] the consultation process is fundamental and I think it is very flawed”.<sup>208</sup> Both the Environmental Law Foundation and the Sustainable Development Commission suggested that the consultation process was not compliant with the Aarhus Convention,<sup>209</sup> which has been ratified by the UK.<sup>210</sup> This “obliges the Government to make appropriate practical and other provisions for public participation [...] within a transparent and fair framework. There must be sufficient time for the public to prepare and participate effectively during the decision-making process [...]”.<sup>211</sup> The following sections examine more closely the process adopted by the Government and the difficulties faced in seeking to engage the public in these issues.

### Local events

109. The *Planning Act 2008* requires the Secretary of State to: “ensure that appropriate steps are taken to publicise the proposal” where it relates to specific sites.<sup>212</sup> Over the course of the consultation period the Department held local events at each of the proposed sites

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206 Q 300 (Energy Networks Association)

207 Q 192 (WWF)

208 Q 240 (Nuclear Consultation Group)

209 UN Convention on Access to Information, *Public Participation in Decision Making and Access to Justice in Environmental Matters 1998*

210 Ev 524 (Sustainable Development Commission)

211 Ev 303 (Environmental Law Foundation)

212 Planning Act 2008, Section 7(5)

for potential nuclear development. The purpose of these was to: raise awareness of the consultation; encourage people to take part; and allow them to discuss issues with senior policy officials. Venues for the events were suggested by local authorities and energy companies. Each comprised an exhibition that ran for three days, with a two-hour public meeting on the morning of the third day.

110. In evidence, witnesses raised a number of criticisms concerning the conduct of the local events. One concern was the short notice of their time and location.<sup>213</sup> The Hartlepool event began on Thursday 12 November—three days after the publication of the draft NPSs. As a consequence, just 63 people attended the exhibition with 34 at the public meeting. The Hinkley Point event that followed the week after had a similarly poor attendance. One group opposed to the development told us the event had been poorly advertised, was difficult to find, and was poorly attended.<sup>214</sup> The Department subsequently responded to these criticisms by holding additional public meetings at Hartlepool, Hinkley Point and also Dungeness, where there was significant local concern that the site had been excluded from the draft nuclear NPS.<sup>215</sup> Witnesses also highlighted the remoteness of some of the venues, poor publicity and the cold weather as having contributed to the poor turnout for several of the events.<sup>216</sup> Figure 2 gives a summary of the attendance at each of the local events, as well as the number of people potentially reached through leafleting and newspaper advertising.

111. In general, there was frustration among many of those we heard from that local concerns were not being taken into account. The Town and Country Planning Association told us: “the real issue is whether or not communities have had a proper voice, and it seems very obvious that they have not [...]”.<sup>217</sup> One witness described the process as “unresponsive [...] We have made a myriad of comments. Many of them ignored and they come back in a sort of vague and bland document [...]”.<sup>218</sup> Another said: “The general local opinion is that the whole thing is a done deal already. They will not take any notice of us, so why bother?”.<sup>219</sup> Elsewhere, one local group said: “The format of the meetings was not conducive to proper public engagement”.<sup>220</sup> Finally, the Law Society told us it believed, on the face of it, that the statutory requirements on consultation under the *Planning Act 2008* had not been met.<sup>221</sup>

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213 Qq 174 (Friends of the Earth), 551 (Shut Down Sizewell Campaign), 516 (Stop Hinkley) and 558 (Blackwater Against New Nuclear Group); Ev 529 (Town and Country Planning Association)

214 Q 513 (Stop Hinkley)

215 Q 738 (Minister for Energy)

216 Qq525 (Radiation Free Lakeland), 529 (Braystones Residents), 551 (Shut Down Sizewell Campaign), 553 (Blackwater Against New Nuclear Group) 559 (Lanyon); (Town and Country Planning Association)

217 Q 4 (Town and Country Planning Association)

218 Q 240 (Nuclear Consultation Group)

219 Q 551 (Shut Down Sizewell Campaign)

220 Q 553 (Blackwater Against New Nuclear Group)

221 Q 602 (Law Society)

Figure 2: Attendance and advertising for local events

Event	Date	Exhibition attendance	Public meeting attendance	Households leafleted	Businesses leafleted	Newspaper advertising readership
Hartlepool	12-13 Nov	63	34	5,040	1,335	331,000
Hinkley Point	19-21 Nov	67	35	5,000	92	391,000
Heysham	26-28 Nov	257	71	13,788	98	242,000*
Sizewell	3-5 Dec	142	64	11,000	100	330,000*
Bradwell	10-12 Dec	142	52/28**	10,000	30	317,000*
Wylfa	7-9 Jan	173	80	12,300	95	256,000*
Braystones	11-13 Jan	133	99	6,789	38	124,000*
Sellafield	14-16 Jan	165	96	6,789	38	124,000*
Kirksanton	21-23 Jan	385	207	2,088	296	187,000*
Hartlepool***	26 Jan	-	72	-	-	-
Hinkley Point	27 Jan	-	96	3,914	92	391,000*
Oldbury	4-6 Feb	633	216	3,562	87	478,000*

Source: Department of Energy and Climate Change (\*there were two rounds of newspaper advertising for these sites; \*\*there were two public meetings at different venues for the Bradwell site; \*\*\*The local authority also contacted 1,000 people through its stakeholder database)

112. However, the Minister told us he was satisfied their process had been “thorough and effective”, noting that there had been a significant amount of local media attention surrounding each of the events.<sup>222</sup> He also said there had been “good acknowledgement of the openness in the way in which officials had been prepared to discuss with people [...]”.<sup>223</sup> One attendee of the local events described the staff at the exhibition as “charming, polite and amiable”.<sup>224</sup> It is worth noting too that DECC’s engagement with the potential nuclear sites is not in isolation. EDF Energy told us, for example, that at the time it had identified Hinkley Point as a site for development, the company held nine exhibitions, receiving 1,100 visitors; 22 meetings attended by 600 people; and received around 150 written submissions.<sup>225</sup> The firm said it believed DECC had also made significant effort to engage with communities near to the proposed sites.<sup>226</sup>

222 Q 738 (Minister for Energy)

223 *Ibid.*

224 Q 551 (Shut Down Sizewell Campaign)

225 Q 457 (EDF Energy)

226 Q 458 (EDF Energy)

## Greenfield sites

113. One issue raised in evidence by the residents of Braystones and Kirksanton was the treatment of greenfield sites in the consultation process. Whereas most of the sites in EN-6 may have expected the possibility of development adjacent to their existing nuclear power stations ever since the first indication of a programme of new nuclear build in 2005, this would not have been the case for greenfield sites. These would have first become aware of their nomination in early 2009. The residents of Kirksanton told us that initially there had been an expectation that nuclear new build would take place only on existing brownfield sites. They could find no evidence of the point at which the Government had indicated that greenfield development was possible as well. Their representative told us: “We and Braystones could never have been part of the early [...] process because no one was looking for us—we were only nominated in March 2009”.<sup>227</sup> The Planning and Environment Bar Association also highlighted the differences between the greenfield and brownfield sites, and argued for “a process of consultation in relation to each site being considered, which is appropriate to the characteristics of the site [...]”.<sup>228</sup> However, the Minister told us there had been a strong response to the consultation from the greenfield sites, noting: “I do not think there should be any issue of people [...] not feeling that they had the opportunity to input”.<sup>229</sup>

114. In relation to the level of local engagement for all the proposed nuclear sites, it is worth noting that while a large proportion of the evidence we received from local groups was opposed to nuclear development, this does not mean there was not also local support as well. One of the main reasons for the original choice of sites was that there already existed a local skilled workforce and there was a greater degree of local public acceptance of nuclear power than in the wider population. Although we received little evidence from nominated communities in favour of new build, we note that the majority of the evidence we took in relation to Dungeness, which has not been selected, was in favour of development there.

## Timing and documentation

115. The amount of documentation that formed part of the consultation on the draft energy NPSs ran into many hundreds of pages. This was a significant concern to several of our witnesses.<sup>230</sup> One told us: “the impression one gets from below it that this tonne-weight of stuff is being thrust upon people, almost saying to them, “You can’t possibly respond to this, can you?” It’s just too unmanageable”.<sup>231</sup> Others noted that without access to a computer and the Internet it was difficult to get hold of the relevant documentation or respond to the consultation.<sup>232</sup> Planning Aid said that to make the draft NPSs more

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227 Q 533 (Kirksanton Residents)

228 Ev 459 (Planning and Environment Bar Association)

229 Q 746 (Minister for Energy)

230 Qq 129 (Sustainable Development Commission), 240 (Nuclear Consultation Group) and 551 (Shut Down Sizewell Campaign)

231 Q 240 (Nuclear Consultation Group)

232 Q 516 (Radiation Free Lakeland); DECC consultation response 0319 (Keith E H Woolley)

accessible it had produced two-page leaflets summarising them. It made these available through its network of regional offices and online, and told us several thousand copies had been downloaded during the first few weeks of the consultation.<sup>233</sup>

116. Linked to criticism over the size of the documents were complaints about the length of time for the consultation—in particular because it overlapped with our own scrutiny of the draft NPSs.<sup>234</sup> In order to produce our Report before the General Election we had to begin taking oral evidence seven weeks before the close of the Department’s consultation, and have a substantially earlier deadline for written evidence in order for it to inform our questioning of witnesses. The RSPB told us: “given the timing of the consultation period, and the squeeze on the Parliamentary process [...] we have concerns about how robust the consultation and scrutiny process will be”.<sup>235</sup> Indeed, an Early Day Motion put down by Paul Truswell MP that voices the same concerns has received 67 signatures from Members of Parliament.<sup>236</sup> The Department’s consultation closed on 22 February. It received 3,120 responses from organisations and members of the public and around 43,600 hits on its dedicated website.

### Public engagement

117. Overall, various witnesses were critical of the approach taken by the Government for its consultation.<sup>237</sup> The Sustainable Development Commission described it as “a very traditional approach to community engagement”.<sup>238</sup> The Town and Country Planning Association also believed there had been very little public engagement or expenditure on public awareness. Its planning spokesperson, Dr Hugh Ellis, told us: “I can find no one who is aware that we are about to approve one of the most significant programmes of new infrastructure that the country has seen in 40 years. It [...] will pass through the public without any proper consultation”.<sup>239</sup> Elsewhere, the Law Society stated: “[...] we suspect that much of the general public has not engaged with the NPSs and their decisive nature”.<sup>240</sup> As the Environmental Law Foundation concluded: “It is a false economy to attempt to make the decision-making process more efficient by seeking to remove important elements of public participation [...] While the government is concerned to provide a process that reduces delay, uncertainty and upfront cost [...] this may result in a system that is less fair and transparent, especially for communities who will bear the impacts of those decisions”.<sup>241</sup>

118. However, there was also acknowledgement of the difficulty of attracting public interest in planning policy. As one witness put it: “I do not think the man in the street [...]

233 Ev 456 (Planning Aid)

234 Q 174 (Friends of the Earth); Ev 524 (Sustainable Development Commission), Ev 574 (WWF)

235 Ev 477 (RSPB)

236 House of Commons, *Early Day Motion 545*, as at 17 March 2010

237 For example, Qq 192 (WWF), 240 (Nuclear Consultation Group); DECC consultation response 0018 (Richard Lewis) and 0270 (Wildlife and Countryside Link)

238 Q 124 (Sustainable Development Commission)

239 Q 7 (Town and Country Planning Association)

240 Ev 385 (Law Society)

241 Ev 303 (Environmental Law Foundation)

really wants to look at the spatial strategy for energy”.<sup>242</sup> The Campaign to Protect Rural England noted, though, that there had been examples of regional spatial strategy consultations that had received a much larger number of responses than that which the draft energy NPSs managed.<sup>243</sup> The CPRE argued that achieving local ‘buy-in’ to the NPSs early on could potentially reduce the risk of delay later when planning applications for particular sites came forward. Friends of the Earth also pointed to the Government’s engagement with the public on its environmental policy for genetically modified crops as an example of where it had adopted creative means of bringing people into the debate.<sup>244</sup> The Minister, however, argued: “You can always find different ways to consult”, but that the Department’s consultation had been “thorough and effective”.<sup>245</sup> He also noted that developers would have to conduct further local consultation at the time of their applications to the IPC, as required under the *Planning Act 2008*.

119. Local authorities will provide an important means of representing local concerns to the IPC at the time of planning applications. However, we heard evidence from the Local Government Association, raising concerns that many authorities would not have the resources to carry out the work required of them. It told us: “whether it is a small council or a big council [...] we will be quite hamstrung unless we find additional sources of finance”.<sup>246</sup> The IPC agreed with this, stating that local authorities: “will need professional and technical expertise to come to their own conclusions about what is in the interests of their local communities and I think they do need to have the resources to do that effectively [...] I think there is a potential issue there”.<sup>247</sup>

**120. The energy NPSs will play a key role in determining our future energy mix. It is clear that the Government’s consultation has not gone far enough in engaging the public. It is unfortunate too that the publication of the draft NPSs has come so late in the current Parliament, thus constraining the time available for consultation and parliamentary scrutiny. We recommend the Government learns from this experience and for future NPSs considers more innovative ways, particularly with regard to greenfield sites, in which it can engage the public in these important documents. We were particularly concerned that the late inclusion of greenfield sites into the consideration process leading towards the site-specific NPS effectively prevented either a clear comparison between possible greenfield sites or effective consultation on those sites proposed. The Government should also ensure it provides adequate time for Parliament to complete its scrutiny, preferably after its own consultation. The Government will also need to review the resources available to local authorities to ensure they are able fully to undertake their role in the planning process.**

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242 Q 702 (Local Government Association)

243 Q 175 (Campaign to Protect Rural England)

244 Q 181 (Friends of the Earth)

245 Q 744 (Minister for Energy)

246 Q 699 (Local Government Association)

247 Q 696 (Infrastructure Planning Commission)

## Appraisal of sustainability

121. The *Planning Act 2008* requires that the “Secretary of State must carry out an appraisal of sustainability of the policy set out in the statement”.<sup>248</sup> Accordingly, alongside the draft energy NPSs, the Government has published separate appraisals for each statement. For the draft nuclear NPS there is a main report appraisal and 14 site-specific appraisals covering each of the sites nominated into the Strategic Siting Assessment process or considered through the Department’s Alternative Sites Study. There is little statutory guidance on what these appraisals should contain. The Government, however, has stated that their role is to: “help ensure that the NPSs take account of environmental, social and economic considerations with the objective of contributing to the achievement of sustainable development”.<sup>249</sup> They have also been undertaken in such a way that incorporates requirements from the European Directive on Strategic Environmental Assessment. This requires environmental effects to be taken into account by authorities during the preparation of plans and programmes in areas such as land-use, transport, waste and water management, and energy.<sup>250</sup>

122. The environmental NGOs and regulators both expressed varying degrees of concern at the Government’s conduct of the appraisals of sustainability. A criticism raised by the Sustainable Development Commission and others was on the consideration of reasonable alternatives within the appraisals for the non-nuclear NPSs. This considers four strategic level alternatives, including the option of there being no NPS. The Government’s preferred approach is an NPS that: “a) set out high level Government energy policy, b) defined through generic criteria, types of location which were unlikely (and/or likely) to be suitable for energy developments and c) set out guidance on how impacts of energy developments could be avoided or mitigated”.<sup>251</sup> Of the two other options, one included only (a) above, and the other included (a) and (b). The appraisal justifies its choice on the basis that it “enables the clearest guidance to be given to the IPC on the circumstances in which different forms of energy development will be acceptable [...]”.<sup>252</sup> The approach contrasts with that taken for the draft nuclear NPS, which considers a range of alternatives, including the possibility of not establishing a list of sites, as well as that of having a prohibition on new build.

123. Many of the bodies submitting evidence, including the Sustainable Development Commission, WWF and the Institute of Environmental Management and Assessment, criticised the appraisal for EN-1 to 5 for failing to consider alternative ways of delivering the need set out in the NPS, such as reduced energy demand.<sup>253</sup> The RSPB also raised this concern, stating: “What the Government has done is, rather than looking at alternative ways of meeting our energy requirements, it has simply looked at alternative ways of doing

248 *Planning Act 2008*, Section (3)

249 Department of Energy and Climate Change, *Consultation on draft National Policy Statements for Energy Infrastructure*, para 4.3, November 2009

250 Parliamentary Office of Science and Technology, *Strategic Environmental Assessment*, July 2004

251 Department of Energy and Climate Change, *Appraisal of Sustainability for EN-1 to 5*, November 2009

252 *Ibid.*

253 Q 104 (Sustainable Development Commission); Ev 378 (Institute of Environmental Management and Assessment) and Ev 574 (WWF)

an NPS [...] which completely misses the point”.<sup>254</sup> Friends of the Earth highlighted the fact that the Department’s consultants, Entec, had posited a range of alternative approaches, but that DECC had ruled these out as unreasonable.<sup>255</sup> The NGO also criticised the Department’s evaluation of the alternatives, noting it is: “neither quantitative nor qualitative but impressionistic”.<sup>256</sup> In response the Department reiterated that the purpose of the NPSs was not to create new energy policy, but to set out existing policy. It was for this reason that it ruled out consideration of alternatives such as defining the energy mix within the NPS or setting quotas for different technologies.<sup>257</sup>

124. The WWF took the view that: “the environmental assessments undertaken are fundamentally flawed [...] it could be argued that the way in which the assessments have been carried out is nothing less than a case study on how to circumvent the spirit of the SEA and Habitats Directives”.<sup>258</sup> Elsewhere, the Environment Agency and Natural England told us that, while the appraisals were broadly fit for purpose, there were still ways in which they could be improved.<sup>259</sup> One concern was that the appraisals did not at present make an assessment of the cumulative environmental impacts of new generating capacity. The Agency believed these effects could be significant, depending on the location of future developments and the eventual energy mix.<sup>260</sup> The Campaign for National Parks made the same point in relation to Cumbria: “Significant cumulative impacts would arise if a number of different installations came forward in the same general area [...] with proposals and possibilities of nuclear, wind (onshore and offshore), tidal developments and their associated infrastructure. At which point will the potential cumulative impacts of these separate developments be considered [...]?”<sup>261</sup> The Environment Agency also argued there should be more guidance for the IPC on the expectations on developers to monitor the environmental impacts of their developments. Finally, the Agency told us the NPSs should draw from the appraisals more explicitly—at present there was a lack of transparency as to how the two documents were linked.<sup>262</sup>

**125. The lack of guidance on the conduct of an appraisal of sustainability for an NPS means it is difficult to determine whether the Department has fulfilled its requirements under the *Planning Act 2008*. We recommend the Government produces such guidance to assist departments in the future production of NPSs. We note the concerns raised by the environmental NGOs over the lack of consideration of policy alternatives within the appraisals for EN-1 to 5, particularly regarding the possibility of energy demand reduction. This contrasts with the approach taken in EN-6, which considers explicitly the “realistic option” of a nuclear NPS that prohibits new build, despite this being counter to Government policy. The Government must ensure consistency of approach**

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254 Q 195 (RSPB)

255 Ev 334 (Friends of the Earth)

256 *Ibid.*

257 Q 764 (Department of Energy and Climate Change)

258 Ev 574 (WWF)

259 Q 629 (Environment Agency) and (Natural England)

260 Also for example, DECC consultation response 0358 (Sedgemoor District Council)

261 Ev 238 (Campaign for National Parks)

262 Q 623 (Environment Agency) and (Natural England)

across its appraisals of sustainability. It should also make a better assessment of the cumulative environmental impacts of new generating capacity; provide more guidance for the IPC on the expectations on developers to monitor the environmental impacts of their developments; and link more explicitly the appraisals to the NPSs.

## The importance of good design

126. The *Planning Act 2008* requires that: “If a national policy statement sets out policy in relation to a particular description of development, the statement must set out criteria to be taken into account in the design of that description of development”.<sup>263</sup> Accordingly, EN-1 states that: “The expectation should be that good aesthetic and functional design can go together although the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area”.<sup>264</sup> This somewhat uninspiring exhortation to achieve good design is in contrast with the Government’s existing advice to Local Planning Authorities which states clearly that: “Good design is indivisible from good planning [...] High quality and inclusive design should be the aim of all those involved in the development process”.<sup>265</sup>

127. The IPC itself stated that: “[...] it would be helpful for the NPSs to set out a clearer high-level framework for the consideration of design issues, indicating more explicitly what components of good design the Government considers applicants should be incorporating into their proposals [...]”.<sup>266</sup> We questioned the Minister on this issue and, whilst he followed the sentiment in the NPS, he did commit to looking again at this. He told us: “I [...] am committed to good design in public buildings [...] Obviously, energy infrastructure sometimes does not lend itself to beautiful buildings, but we will do our best, [...] It is an open invitation for us to look at what we say on design, and I am certainly very positive about doing that”.<sup>267</sup>

**128. We do not consider the issue of good design is treated with sufficient rigour in the draft NPSs. We would look for a much stronger message on design that is more in line with the Government’s existing stated policies expressed, for example, in Planning Policy Statement 1 and, in this, we are heartened by the Minister’s commitment to look again at the current wording in the NPSs.**

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263 Planning Act 2008, Section 5(6)

264 EN-1, para 4.5.1

265 Office of the Deputy Prime Minister, *Planning Policy Statement 1, Delivering Sustainable Development*, 2005

266 Ev 373 (Infrastructure Planning Commission)

267 Qq 793-4 (Minister for Energy)

## Conclusions and recommendations

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### Our inquiry

1. This Report makes a number of recommendations, which we expect the Government to take account of before designating the energy NPSs. Given the importance of the Statements in delivering our energy and climate change objectives, we recommend that they be subject to a debate in the main Chamber on an amendable motion, offering the possibility of a vote. If there is not time to schedule a debate before the dissolution, it is imperative that this take place at the earliest opportunity in the next Parliament. (Paragraph 5)
2. Because of the short timescale for our work, we have not been able to consider in detail each of the sites proposed for new nuclear development. It would, therefore, be inappropriate for us to form a judgement on their suitability. However, our inquiry has accumulated a significant body of evidence, particularly in relation to individual sites, which we hope the Department will take account of in addition to its own consultation responses. (Paragraph 6)

### Government policy on energy and climate change

3. The Government's energy and climate change targets and objectives influence crucially the level of need for new energy infrastructure. It is therefore vital that the overarching energy NPS states clearly what those objectives are, especially with regard to carbon emission reductions, energy security and affordability; how performance against those objectives is to be measured; and that it sets out more explicitly the link between those objectives and the need for new infrastructure. We recommend the Government reconsiders the current expression of policy in the draft NPS with this concern in mind. It would be wholly undesirable for sloppy or unclear drafting to result in unintended outcomes. (Paragraph 12)
4. The Government's draft overarching energy NPS focuses primarily on power generation and does not take a sufficiently holistic view of the energy sector. We believe the statement of policy in EN-1 should make more explicit reference to transport and heating, especially as the electrification of these sectors will be crucial in achieving a low-carbon economy and will impact on the need for new generating capacity. Furthermore, although this would constitute an addition to Government policy, we recommend the incorporation of the Committee on Climate Change's proposal that the electricity sector should be fully decarbonised by 2030 if the UK is to be on course to meet its 2050 target for greenhouse gas emissions. This would provide a long-term view of the UK's energy requirements that would better inform the IPC's decision-making on new generating capacity. (Paragraph 15)

### Establishing the need for new energy infrastructure

5. The 2020 target for renewable energy means there is a clear and unambiguous need for new large-scale renewable generating capacity in the next decade, regardless of the level of expansion in small-scale renewables. The Department should examine

whether this need is expressed adequately in EN-1. Moreover, we are concerned that there are perceived doubts over the credibility of the target for renewable generation. In the next Parliament the Government should evaluate whether its policy levers are commensurate with its stated objectives. A lack of buy-in to the achievability of the Government's targets will otherwise undermine the role of the NPS. (Paragraph 21)

6. The draft overarching energy NPS states: "there is a significant need for new major energy infrastructure". However, the Government's own analysis for non-renewable generating capacity suggests the anticipated need over the next decade could be largely met already through projects that are either under construction or have received planning consent under the existing regime. If the Government accepts this, but maintains there is still a need for significant levels of non-renewable capacity, the implication is that it either believes its targets for renewable energy will be missed, or that nuclear or CCS infrastructure will not come forward in sufficient quantities to meet requirements. The Department should look again at the evidence put forward in EN-1. Furthermore, the current assertion of the need for new conventional generating capacity reduces the likelihood that the renewables target will be met. (Paragraph 26)
7. National Grid believes gas imports will be much greater in the next 10 years than the Department's own analysis in EN-1 suggests. We recommend the Government looks again at its predictions for gas demand and adjusts its assessment of the need for new gas supply infrastructure accordingly. If it remains content with its assessment, it should explain why it differs so substantially to National Grid's analysis. (Paragraph 29)

### Cumulative carbon emissions

8. There is significant concern that decision-making by the IPC could give rise to an energy infrastructure that risks breaching the UK's carbon budgets, making it more difficult to decarbonise the electricity sector in the longer term. In the first instance, the Government must look again at the policy levers that give rise to this concern—particularly its reliance on the EU Emissions Trading Scheme as the main means of delivering low-carbon infrastructure. The Government's policy must ensure that projects would not come forward that threatened the achievability of its carbon reduction targets—otherwise this undermines the credibility of these targets. (Paragraph 36)
9. In the event that planning applications may still come forward that threaten a breach of the carbon budgets, we believe there should be a role for the IPC in acting as a safeguard by considering the life-cycle carbon emissions of proposed new plant. However, we accept it is not the role of the IPC to monitor whether its decisions are in accordance with the carbon budgets. Accordingly, we recommend: (Paragraph 37)
  - The inclusion of a specific requirement within the overarching energy NPS on applicants to conduct a full life-cycle carbon assessment of their proposals, including that of the supply chain;

- The Committee on Climate Change be made a statutory consultee for planning applications. To avoid delaying the application process, we would expect it to take a risk-based approach in determining which applications to comment on—for example, further new gas-fired power stations. The CCC and the IPC should then agree a memorandum of understanding that would set out a protocol covering the sharing of information on applicants’ carbon assessments;
  - The IPC should take account of any evidence the CCC chooses to submit with respect to particular applications; and
  - The CCC should be required to report annually on the cumulative emissions arising from developments consented by the IPC as part of its overall monitoring of progress against the carbon budgets, which would flag up to Ministers the need for action if the Commission was at risk of locking the UK into a high-carbon energy mix.
- 10.** These measures would exist as safeguards, though we believe an intervention by the CCC would constitute a failure of Government policy. In this instance the Government should consider revising the NPS better to enable the achievement of its long-term targets. A potential future option could be the introduction of a hierarchy of preferred generation technologies to guide more directly the IPC’s decision-making. (Paragraph 38)

### **Weighing need against impacts**

- 11.** The IPC’s decision-making will be informed by weighing the assessment of need set out in the NPSs against the potential impacts of developments. It is important, therefore, that the NPSs provide sufficient guidance to inform this balancing of factors. We recommend the Department reviews the draft NPSs to ensure consistency of language throughout the six main Statements and their supporting documents. We note too that, although a key role of the overarching energy NPS is to establish the case for need, the IPC should still expect to receive evidence on this issue in particular cases, for example when a proposal presents significant potential adverse impacts. (Paragraph 42)

### **Carbon capture and storage**

- 12.** We recommend the Department looks again at its criteria for assessing carbon capture readiness (CCR) as set out in the draft NPS to examine whether they reflect sufficiently the EU Directive on the Geological Storage of Carbon Dioxide. The IPC’s interpretation of the criteria will be crucial in determining the success of applications before it. We therefore also recommend the Government provides further clarification in the NPS on how it expects the IPC to assess applicants against the CCR requirements, having regard to the risks this might pose for the Government’s carbon reduction targets. Clarity is also required about the necessity for the IPC to assess the economic feasibility of CCR, given the Commission’s assertion to us that it is primarily a matter for the developer. This appears to contradict the draft NPS and the Government should settle the matter conclusively. We also recommend that the Government looks again at the wording of the NPS in relation to gas CCS, as

concerns have been raised that the need to demonstrate economic feasibility could prevent its development. (Paragraph 48)

13. The development of a future carbon dioxide network will be integral to the future deployment of carbon capture and storage. It is at present a glaring omission from the draft energy NPSs, which we recommend the Department rectifies. (Paragraph 51)

### **Biofuels and energy from waste**

14. The current draft NPS on renewables, EN-3, reflects the Government's current policy on the fuel sources for biomass and energy from waste power plant. However, we are concerned that the IPC is directed not to consider the sustainability of biomass fuel. Although to do this would require a change of policy, we believe the existing draft guidance would mean the IPC would not be able to examine fully all adverse environmental, social and economic impacts as it is required to do in paragraph 4.1.1 of EN-1. We therefore recommend the Department revises EN-3 to require all biomass power station applicants to make a full assessment of the sustainability of their fuel sources. We also recommend that the Department reassesses whether its current guidance on energy from waste ensures that only waste that cannot otherwise be economically recycled or reused is sourced as feedstock for energy from waste production. (Paragraph 55)

### **Other renewables**

15. We agree that at this stage there is no urgency to include technologies such as wave and tidal in the renewables NPS. Nevertheless, EN-3 should set out the Government's intentions for how these technologies will be dealt with in future versions of the NPS. We note too that a decision over whether to pursue one of the proposed Severn tidal projects will require a substantial revision of EN-3, if not a new NPS in its own right. (Paragraph 57)

### **Combined heat and power**

16. We accept that, in the absence of a targeted policy to encourage combined heat and power, it is difficult for the NPSs to indicate a greater preference for CHP than that which is already present in the current draft. If in the future, the Government decides to introduce a more spatial approach to the non-site specific NPSs, we recommend it considers whether it could use this to promote further deployment of CHP where it is cost-effective to do so. (Paragraph 60)

### **Nuclear new build**

17. Planning consent from the IPC for new nuclear power stations will entail the storage of high-level radioactive waste on-site for up to 160 years. From the perspective of the community affected, it is a misnomer to describe this as interim storage as it will be several lifetimes between the commencement of a power station's operation and the eventual removal of waste from that site. A key objective of the new NPS

framework is to focus discussion on planning applications on site-specific issues. As such, we believe on-site storage cannot be ruled out from the IPC's deliberations and that the nuclear NPS should contain significantly more detail on what interim storage will entail for local communities and for the integrity of any site chosen. (Paragraph 70)

18. We do not dissent from the process adopted by the Government for identifying a site for the eventual storage of radioactive waste deep underground. However, we received conflicting evidence over whether this process would yield a suitable site and if the proposed approach of geological disposal was technically feasible. We are not convinced that the progress to date supports the Government's robust assertion that suitable arrangements will be in place to manage the UK's waste legacy. However, we note too that the Government has no choice but to find a solution, regardless of a decision on nuclear new build. Furthermore, we agree that the waste arising from new nuclear power stations will not pose a significant additional challenge in terms of finding a permanent storage solution. Therefore, as this is an issue of national policy, the political and ethical elements of which have been debated widely over the past five years, we agree that this should not be a consideration for the IPC with regard to individual applications. (Paragraph 71)
19. Nevertheless, we believe the Government must continue to demonstrate progress in delivering a geological disposal facility for radioactive waste. Accordingly, we recommend the Department now sets out key milestones in EN-6 and reports progress against these to Parliament on an annual basis. This should include establishing which body will be responsible for consenting the site. (Paragraph 72)
20. We believe it is not the role of the IPC to concern itself with the regulatory processes relating to new nuclear build that may be conducted in parallel to its own decision-making on planning consents, and which might otherwise lead to confusion and a duplication of efforts. However, the Commission should at least have cognisance of the wider regulatory framework as it is likely that it will receive submissions on issues outside of its remit when considering applications. We would therefore expect regular and open communication between the IPC, the Environment Agency, the Health and Safety Executive and other relevant bodies on these matters. (Paragraph 74)
21. We note the reasons for the Government's exclusion of Dungeness from the draft nuclear NPS and the arguments against this decision put by the industry and the local community. We recommend the Department maintains an open mind throughout the current consultation, that it considers carefully the evidence submitted to the Committee by Shepway District Council and any other evidence submitted during the consultation and, if necessary, reconsiders its position. (Paragraph 78)

### **The NPSs as planning documents: the draft nuclear NPS**

22. We understand the necessity for making the nuclear NPS site-specific as to do otherwise would be less than open in a situation where there are so few alternatives. We are concerned, however, that the inclusion of 10 sites coupled with the

statements that all are needed and the Government can find no alternatives that would better respect the integrity of designated European sites may place undue pressure on the IPC to permit developments on those sites. We are reassured by the IPC's statement that if local impacts did outweigh national benefits on these sites then it would refuse the application. However, we feel that the independence of the IPC could be more clearly expressed in the NPS in terms of its ability to refuse consent for any of the 10 nuclear sites. The Department should also clarify whether its opinion on Imperative Reasons of Overriding Public Interest (IROPI) refers to the nuclear NPS as a whole or to the selection of individual sites. (Paragraph 83)

### **The NPSs as planning documents: the non-nuclear NPSs**

23. Whilst we accept EN-1 to 5 should not be as specific on the location of energy infrastructure developments as the nuclear NPS, we believe there are ways in which the non-nuclear NPSs could take greater account of spatial issues. Possible examples include: those areas of the transmission network requiring reinforcement to meet the UK's renewable energy targets; the Welsh Assembly Government's strategic search areas; the DCLG/DECC work on regional capacities for renewable generation; and areas with suitable geology for gas storage. Such an approach would not constrain the choice of sites for developers but would provide valuable guidance and an incentive to bring applications forward in the most appropriate locations. Nor would it constrain the decision-making of the IPC, which should treat all applications on their merits. It could also facilitate greater public engagement in the NPS process. (Paragraph 90)
24. We believe the Government has not fully explored the potential for some form of English national spatial strategy. Such a document could provide the means of drawing together the many spatial aspects and implications of not only the energy NPSs, but all the NPSs. It could also provide the means of relating policies in the NPSs more clearly to the range of existing national spatial policies and environmental designations. However, we do not believe such a strategy should be a pre-requisite of designation of the energy NPSs. (Paragraph 92)

### **The relationship between the energy NPSs and the overall planning system**

25. We are concerned that the current status of the NPSs within the wider planning system is, at best, ambiguous. Whilst the NPSs' role in relation to the IPC is embodied in statute, their important role in relation to Local Planning Authorities (LPAs) and other bodies has not been addressed with sufficient thoroughness. For example, it is not clear what weight LPAs should give to NPSs in their decision-making. Nor is it clear what happens in cases of conflict between an NPS and other Government statements of planning policy. This ambiguity risks creating perverse incentives for developers within the planning regime. (Paragraph 101)
26. We note the Chief Planner has attempted to provide some clarity on the role of the NPSs within the planning system. However, this intervention has raised more questions than it has answers. We recommend the DCLG should first consult on, and then issue, definitive guidance on the role that all NPSs will play in the preparation of plans at the regional and local levels and in informing and guiding

decision-makers other than the IPC in considering applications for relevant infrastructure projects. This guidance should clarify whether there is a hierarchy of planning documents, for example in relation to NPSs and Planning Policy Statements, and how decision-makers are to deal with conflicts between different policy statements when they arise. We do not believe the Government should designate the energy NPSs until this guidance is in place. (Paragraph 102)

### Associated infrastructure

27. We support the flexibility within the overarching NPS for applicants to decide whether to include associated development within an application to the IPC for consent for the main NSIP development or to apply for consent for it via other routes. However, we are concerned that there are potential risks of delay where associated infrastructure falls under a different planning regime. This opportunity for delay strengthens the case we have already made for a clearer statement of the relationship between an NPS and the rest of the planning system. (Paragraph 106)

### The Department's consultation

28. The energy NPSs will play a key role in determining our future energy mix. It is clear that the Government's consultation has not gone far enough in engaging the public. It is unfortunate too that the publication of the draft NPSs has come so late in the current Parliament, thus constraining the time available for consultation and parliamentary scrutiny. We recommend the Government learns from this experience and for future NPSs considers more innovative ways, particularly with regard to greenfield sites, in which it can engage the public in these important documents. We were particularly concerned that the late inclusion of greenfield sites into the consideration process leading towards the site-specific NPS effectively prevented either a clear comparison between possible greenfield sites or effective consultation on those sites proposed. The Government should also ensure it provides adequate time for Parliament to complete its scrutiny, preferably after its own consultation. The Government will also need to review the resources available to local authorities to ensure they are able fully to undertake their role in the planning process. (Paragraph 120)

### Appraisal of sustainability

29. The lack of guidance on the conduct of an appraisal of sustainability for an NPS means it is difficult to determine whether the Department has fulfilled its requirements under the Planning Act 2008. We recommend the Government produces such guidance to assist departments in the future production of NPSs. We note the concerns raised by the environmental NGOs over the lack of consideration of policy alternatives within the appraisals for EN-1 to 5, particularly regarding the possibility of energy demand reduction. This contrasts with the approach taken in EN-6, which considers explicitly the "realistic option" of a nuclear NPS that prohibits new build, despite this being counter to Government policy. The Government must ensure consistency of approach across its appraisals of sustainability. It should also make a better assessment of the cumulative environmental impacts of new

generating capacity; provide more guidance for the IPC on the expectations on developers to monitor the environmental impacts of their developments; and link more explicitly the appraisals to the NPSs. (Paragraph 125)

### **The importance of good design**

30. We do not consider the issue of good design is treated with sufficient rigour in the draft NPSs. We would look for a much stronger message on design that is more in line with the Government's existing stated policies expressed, for example, in Planning Policy Statement 1 and, in this, we are heartened by the Minister's commitment to look again at the current wording in the NPSs. (Paragraph 128)

# Formal Minutes

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**Wednesday 17 March 2010**

Members present:

Mr David Anderson	Paddy Tipping
Colin Challen	Dr Desmond Turner
Charles Hendry	Mr Mike Weir
Judy Mallaber	Dr Alan Whitehead
Sir Robert Smith	

In the absence of the Chair, Paddy Tipping was called to the Chair in accordance with the resolution of 20 May 2009.

Draft Report (*The proposals for national policy statements on energy*), proposed by the Chair, brought up and read.

*Ordered*, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 128 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 27th January 2010.

[Adjourned till Wednesday 24 March at 9.00 am

## Witnesses

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### Wednesday 6 January 2009

Page

Mr Hugh Ellis, Chief Planner, **Town and Country Planning Association**

Ev 1

Mr Graham Bocking, **Royal Institution of Chartered Surveyors**, and Mr Richard Coakley, Vice-President, **Institution of Civil Engineers**

Ev 11

### Wednesday 13 January 2010 (morning)

Ms Jayne Ashley, Head of Sustainable Places, and Mr James Greenleaf, Senior Policy Analyst, **Sustainable Development Commission**

Ev 18

Ms Fiona Howie, Head of Planning and Regions, **Campaign to Protect Rural England**, Mr Phil Michaels, Head of Legal, and Ms Naomi Luhde-Thompson, Planning Co-ordinator, **Friends of the Earth**, Mr Simon Marsh, Head of Planning and Regional Policy, **RSPB**, and Ms Emmalene Gottwald, Senior Planning Adviser, **WWF**

Ev 30

### Wednesday 13 January 2010 (afternoon)

Mr Simon Bullock, Economy Campaigner, **Friends of the Earth**, Mr Ben Ayliffe, Senior Climate and Energy Campaigner, and Ms Jean McSorley, Senior Nuclear Consultant, **Greenpeace**, Mr Keith Allott, Head of Climate Change, **WWF**, and Professor Andrew Blowers, **Nuclear Consultation Group**

Ev 40

### Wednesday 20 January 2010 (morning)

Mr Robert Asquith, Planning Director of New Earth Energy, and Ms Gaynor Hartnell, Director of Policy, **Renewable Energy Association**, and Ms Gemma Grimes, Planning Advisor, and Mr Peter Madigan, Head of Offshore Renewables, **British Wind Energy Association**

Ev 57

Mr Nick Winser, Executive Director, **National Grid**, and Mr David Smith, Chief Executive, **Energy Networks Association**

Ev 65

### Wednesday 20 January 2010 (afternoon)

Mr Keith Parker, Chief Executive, and Mr Simon James, Head of Public Affairs, **Nuclear Industry Association**, and Mr Richard Waite, Executive Director, and Mr Bruce McKirdy, Repository Technical Director, **Nuclear Decommissioning Authority**

Ev 72

### Wednesday 27 January 2010 (morning)

Mr Brian Seabourne, Head of Regulation and Government Affairs, **E.ON UK**, Mr Paul Spence, Director of Strategy and Regulation, **EDF Energy**, Mr Simon Wells, Head of Planning and Environmental Law, **RWE Npower**, and Mr David Porter, Chief Executive, **Association of Electricity Producers** Ev 91

Mr Sarwjit Sambhi, Director of the Power business Unit, **Centrica**, Dr Keith MacLean, **Scottish and Southern Energy**, Mr Rupert Steele, Director of Regulation, **Scottish Power**, and Ms Jane Smith, Planning Consultant, **UK Business Council for Sustainable Energy** Ev 98

### Wednesday 27 January 2010 (afternoon)

Dr Carl Clowes, **Pobl Atal Wylfa B**, and Mr Jim Duffy, **Stop Hinkley** Ev 107

Ms Marianne Birkby, **Radiation Free Lakeland**, Ms Pauline Preston and Mr Imitaz Mohamed, **Kirksanton Residents**, and Ms Jenny Hawkes, **Braystones Residents** Ev 112

Mr Peter Lanyon, **Shut Down Sizewell Campaign** and **Communities Against Nuclear Expansion**, and Ms Varrie Blowers and Mr Barry Turner, **Blackwater Against New Nuclear Group** Ev 118

### Wednesday 3 February 2010 (morning)

Mr David Brock, Chair, Planning and Environmental Law Committee, **Law Society**, and Mr Timothy Corner QC, Chair, **Planning and Environment Bar Association** Ev 125

Dr Tony Grayling, Head of Climate Change and Sustainable Communities, and Dr Joe McHugh, Head of Radioactive Substances Regulation, **Environment Agency**, and Mr Rob Cooke, Director of Environmental Advice and Analysis, and Ms Rosie Manise, Principal Specialist, Energy & Climate Change, **Natural England** Ev 132

### Wednesday 3 February 2010 (afternoon)

Sir Michael Pitt, Chair, Dr Ian Gambles, Director of Strategy, and Dr Pauleen Lane CBE, Deputy Chair, **Infrastructure Planning Commission** Ev 139

Mr Richard Kemp, Deputy Chair and Mr Phillip Mind, Senior Policy Consultant, **Local Government Association** Ev 146

### Wednesday 10 February 2010

Lord Hunt of Kings Heath OBE, Minister of State, Mr Adam Dawson, Head of New Nuclear, and Ms Anne Stuart, Head of Energy Planning Reform, **Department of Energy and Climate Change** Ev 152

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