Executive summary

- The Wales Bill provides a major opportunity to simplify the planning process for nationally significant infrastructure projects, making it better coordinated and easier to understand. In respect of energy infrastructure, this would support the UK’s and Wales’ goals to promote renewable and low-carbon electricity generation as well as Wales’ ambition to become an attractive destination for energy investment.

- A clear and coordinated planning and consenting framework is required to facilitate the provision of secure, reliable and affordable energy supplies.

- National Grid is a strong supporter of the planning system for nationally significant infrastructure projects under the Planning Act 2008. The aim of the Planning Act was to put in place a ‘single consent’ regime, including the ability to include ‘associated development’ in the application for development consent.

- At present, the single consent concept can be applied to a far greater extent in England than in Wales, since the scope for including associated development for projects in Wales is heavily restricted.

- **Clause 18 (Alignment of associated development consent)** of the draft Wales Bill seeks to address this in relation to electricity generating stations, but all other types of major infrastructure development in Wales, including energy networks, would continue to face the limitations of the current arrangements.

- **National Grid recommends that the provisions in the Wales Bill should be extended so that the responsibilities for consents for associated development are aligned with the responsibilities for the main consent for all types of nationally significant infrastructure projects in Wales.**

- This would be in line with the conclusions of the Silk Commission as it would mean that the associated consents would be decided at the same time as the consent for the main project, so avoiding delay and uncertainty. This would have multiple benefits, including:
  - increased clarity about the consenting arrangements;
  - reduced uncertainty and risk of delay of planning decisions;
  - improved clarity for all involved, including local communities; and
  - potential to reduce the cost of consenting processes in Wales
Introduction

1. National Grid’s job is to connect people to the energy they use, safely. We own and maintain the electricity transmission network in England and Wales and operate the network across the whole of Britain. We also own and operate the gas transmission system in Britain and our four UK distribution networks deliver gas to around 11 million consumers.

2. Over the next decade, there will be a need to construct new electricity transmission infrastructure to replace and upgrade ageing energy network equipment in order to connect new energy sources, both small and large. National Grid plan to invest around £20 billion to ensure that our electricity and gas networks continue to provide safe and reliable energy supplies to customers, as well as future-proofing against significant security and weather events.

3. In view of the scale of the energy challenge, a clear, coordinated and aligned energy and planning policy context is needed to encourage the right innovation and investment. As part of this, it is important to have a planning system that facilitates the development of energy infrastructure in a timely, economical and responsible manner.

4. National Grid is conscious of the provisions in Clause 17 of the draft Wales Bill which propose the devolution to Wales of responsibility for consents for electricity generating stations of up to and including 350MW. We consider that this is a matter for the UK and Welsh Governments and we do not intend to comment on that Clause.

5. Our submission focuses on Clause 18 of the draft Wales Bill (Alignment of associated development consent). The Bill provides a key opportunity to simplify the consenting process for nationally significant infrastructure projects, making it better coordinated and easier to understand. In respect of energy network infrastructure, this would greatly assist in ensuring vital new connections and system reinforcements are facilitated in an efficient and coordinated manner, supporting the UK’s and Wales’ goals to promote renewable and low-carbon electricity generation and Wales’ ambition to become an attractive destination for energy investment.

Background: Arrangements for consents for nationally significant infrastructure projects in Wales

6. National Grid is a strong supporter of the planning system for nationally significant infrastructure projects (NSIPs) under the Planning Act 2008. The Act created a new development consent regime for NSIPs, including a clear statement of energy policy through the National Policy Statements and an improved planning process which involves clear timescales and provides for engagement with local communities from an early stage in a project.

7. In Wales, the Planning Act 2008 currently applies to the following types of NSIPs:
   - the construction or extension of a generating station¹,

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¹ Clause 17 of the draft Wales Bill would have the effect of removing development consents for electricity
the installation of an electric line above ground,

- certain development relating to underground gas storage facilities,

- the construction of a pipeline other than by a gas transporter,

- the construction or alteration of harbour facilities.

8. The aim of the Planning Act 2008 has been to put in place a single consent regime and greater certainty over application timescales for NSIPs. National Grid strongly supports the principle of a streamlined planning system where decisions about major infrastructure projects that have been developed through a process of appropriate community and consultee engagement can be taken through a single consent application.

9. A key part of the single consent approach is the ability to include ‘associated development’ in the application for development consent. This means that, in addition to the ‘principal development’ (a generating station, pipeline, electricity transmission line etc.), consent may also be granted for development that is associated with the main project. Annexes A and B of the relevant DCLG Guidance provide examples of the type of development that may qualify as associated development, including:

- **Access arrangements** such as formation of new or improved vehicular or pedestrian access (to generating stations, work sites etc.); alteration or construction of roads, footpaths and bridleways; diversion or realignment of watercourses; highway and rail route/junction improvements; temporary haul roads; vehicle-marshalling facilities and lay down areas.

- **Development undertaken for the purpose of addressing impacts** such as hard and soft landscaping, flood defences and flood mitigation measures.

- **Other works** such as temporary accommodation for staff based on site to enable the construction, operation or maintenance of the principal development.

- **Development associated with specific types of major infrastructure projects.** For example, development associated with electricity transmission lines may include substations, control buildings, sealing end compounds or converter stations, in addition to access, mitigation and other works referred to above.

10. At present, the single consent concept under the Planning Act 2008 can be applied to a far greater extent in England than in Wales. In England, the scope for including generating station projects up to and including 350MW onshore and in Welsh territorial waters from the Planning Act 2008. Projects above 350MW would continue to require development consent under the Planning Act 2008.

2 Clause 15 of the draft Wales Bill would have the effect of removing development consents for the construction or alteration of harbour facilities in Wales or in waters adjacent to Wales from the Planning Act 2008, except where the harbour facilities are, or form part of, a reserved trust port.

associated development in a Development Consent Order (DCO) is wide and can include all of the works referred to above.

11. In Wales, the power to consent associated development as part of an NSIP is heavily restricted, only covering surface works, boreholes or pipes associated with underground gas storage facilities. There is currently no provision under the Planning Act 2008 in Wales to include development associated with other major infrastructure projects such energy generation stations, cross-country pipelines or electricity networks. Any ‘associated development’ in Wales requires separate planning application(s), generally to local planning authorities.

Main issues arising from the current arrangements for major infrastructure projects in Wales

12. The very limited ability to include associated development in DCOs in Wales means that consents for works associated with major infrastructure projects need to be obtained through separate planning applications. The separation in Wales of consents for associated development from those for the main infrastructure project can cause various problems and inefficiencies, including:

(i) **Uncertainty**: The need to obtain consents through separate planning processes creates uncertainty about the timing of decisions, i.e. instead of receiving a single decision for the whole project, applicants may have to wait for a number of separate decisions to come through from different bodies to find out whether they have all the necessary consents for the project to progress;

(ii) **Risk & delay**: The separation of consents also increases the risk that one part of a project (e.g. an electricity transmission line) may obtain consent from one consenting authority, but that an associated consent (e.g. an electricity substation or access road required for the main infrastructure project) is not being granted by a different body. This increases the potential of delaying a project until all necessary consents are obtained through separate processes;

(iii) **Cost**: The need to progress individual parts of a major infrastructure project in Wales through separate consenting processes also increases the cost of the application process (e.g. preparation of documentation for different consent applications, multiple application fees, legal advice). The complexity of the consenting process also means that developers have to increase the risk management contingency for the project;

(iv) **Lack of clarity**: The splitting of individual parts of the same infrastructure project into separate consents can also make it difficult for stakeholders and local communities to understand what constitutes the project, how the individual elements fit together and when and how they can get involved and influence the proposals.

13. The issues around development associated with major infrastructure projects were recognised by the Commission on Devolution in Wales (‘Silk Commission’). The
Commission highlighted the different arrangements between England and Wales, and the very limited ability to include associated development for NSIPs in Wales. The Commission received evidence that these limitations can result in additional complexity, cost and uncertainty.

14. National Grid’s experience of developing projects within Wales supports both the evidence presented to, and the conclusions of, the Silk Commission. Discussions with customers (such as electricity generators) about potential new connections to the electricity transmission system within Wales have had to highlight the additional costs and risks of the process for NSIPs in Wales. Removing the differences in the way associated development is treated would ensure that investment in new energy infrastructure in England and Wales is supported on an equal basis. Both consumers and potential investors in Wales would benefit from this.

15. The Silk Commission’s conclusions in relation to associated development were as follows:

“In the context of giving wider consenting powers to the Welsh Government and of requiring the UK Government to take account of Welsh planning policies in considering any generating capacity above 350MW, we recommend that consenting to associated developments should be the responsibility of the body responsible for the main project (the Welsh Government or local planning authority below 350MW and the UK Government above 350MW). This will mean that the associated consents are decided at the same time as the consent for the main project, so avoiding delay and uncertainty” (Silk Commission Part 2 Report, paragraph 8.2.25).

16. Accordingly, Recommendation 15 of the Silk Commission in their final Part 2 Report of March 2014 was that:

“associated development consents should be aligned with responsibility for the main project”.

17. This recommendation was taken forward in the St David’s Day commitments by the UK Government in February 2015:

“The Commission further recommended that the body responsible for consenting to an energy project should also be responsible for any consents to associated development. Associated consents are currently decided by local planning authorities in Wales. The UK Government agrees that this would further streamline the current system. Associated consents for electricity generating stations below 350MW would continue to be decided in Wales” (paragraph 2.4.3).

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5 See, for example, paragraph 8.2.24 of the Silk Commission Part 2 Report.


Proposals in the draft Wales Bill

18. Clause 18 of the draft Wales Bill deals with the matter of associated development for NSIPs. It proposes that the responsibility for granting consent for associated development for electricity generating stations should be aligned with the responsibility for granting consent for the main project.

19. The Bill, as currently proposed, would address the issue of associated development only in relation to electricity generating stations, but the problems and inefficiencies of the current arrangements would remain for all other types of NSIPs in Wales. The different treatment of different types of NSIPs would increase the complexities of the present arrangements, making them even harder for applicants, stakeholders and local communities to understand.

20. This lack of consistency and the complexity of the proposed arrangements regarding associated development were highlighted in a recent letter from the Welsh Minister for Natural Resources to the Chair of the Welsh Assembly’s Environment and Sustainability Committee. In the letter, the Minister pointed out the different treatment of electricity generating stations and other NSIPs:

“For example, an NSIP power station over 350MW would be consented via a DCO which included consent for associated development. However, an NSIP grid transmission line would not be able to include associated developments, such as planning permission for a sub-station, within the DCO. In this case planning permission for the sub-station would need to be determined by either Welsh Ministers as part of a Development of National Significance, or on call-in, or by the relevant local planning authority”.

21. National Grid supports the recommendation of the Silk Commission regarding associated development and the general intention underlying Clause 18 which is to better align and therefore simplify the consenting arrangements for major infrastructure projects in Wales. However, we are concerned that the complexities of the current arrangements would remain for all NSIPs in Wales other than electricity generating stations.

22. For example, the separation of main and associated consents raises very significant challenges and risks for long linear infrastructure projects such as electricity transmission lines or pipeline projects, such as:

- **Large number of consents to be obtained separately**: Long linear infrastructure projects such as electricity transmission lines or pipelines usually involve a significant amount of works that are required to support the construction or operation of the principal development, or help address its impacts. This can include technology specific works such as substations, control buildings, sealing end compounds, converter stations or compressor stations as well as essential 'generic’ works such as highway access, environmental mitigation or other works such as temporary accommodation (see paragraph 9 above for further details). The number and scale of such associated works depends on the nature and size of

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the principal development, but based on our recent experience with electricity transmission projects in Wales there can easily be in excess of 60 works or groups of works which require planning consent separate from the DCO, falling within multiple local authority areas.

- **Projects spanning local authority areas within Wales**: Linear infrastructure projects often span across several local authority areas. Under the current arrangements, the consenting responsibilities are split between UK Ministers (for the principal development) and the various local authorities involved (for substations, control buildings, sealing end compounds, compressor stations, access roads etc.). Each of these bodies will consider the applications to their own timescales and there is no requirement on the local authorities to coordinate their decisions. The developer may therefore receive the planning decisions on individual parts of their project at different times, and there is a risk that a project may get delayed just because one authority fails to make a decision on one element of the project, whilst all other authorities grant consent for all other parts of the project.

- **Cross-border projects between England and Wales**: Projects that span across the border between England and Wales face additional complexity under the current arrangements. On the English side of the border, the developer is able to include associated development in their DCO. On the Welsh side, in contrast, the developer is only able to include the principal development in the DCO, whilst development associated with the project will require separate applications to local authorities.

**Recommendations**

23. The Wales Bill provides a key opportunity to address the current shortcomings and inefficiencies regarding associated development for NSIPs in Wales. The draft Bill proposes a solution in relation to electricity generating stations, but all other types of major infrastructure development, including energy networks, would continue to face the problems of the current arrangements.

24. National Grid recommends that the provisions in the Wales Bill should be extended so that the responsibilities for consents for associated development are aligned with the responsibilities for the main consent for all types of NSIPs in Wales. In our view this could be achieved through a relatively simple re-drafting of Clause 18.

25. This change would be in line with the conclusions of the Silk Commission as it would mean that the associated consents would be decided at the same time as the consent for the main project, so avoiding delay and uncertainty. This would have multiple benefits, including:

- increased clarity about the consenting arrangements;
- reduced uncertainty and risk of delay of planning decisions;

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9 See paragraph 8.2.25 of the Silk Commission Part 2 Report, as referred to above.
improved clarity for all involved, including local communities; and
potential to reduce the cost of consenting processes in Wales.

26. Whilst decisions on associated development for NSIPs in Wales would move to the Secretary of State who has responsibility for the principal development, safeguards would be in place to ensure Welsh stakeholders have a say in the process. There are several existing statutory duties under the Planning Act 2008 which would continue to apply. This includes the duty to consult Welsh Ministers, affected local authorities and local communities on all NSIP applications that are likely to affect land in Wales. In addition, local authorities in Wales will retain their power to prepare and submit Local Impact Reports which the Secretary of State must have regard to in taking a decision. Development associated with major infrastructure projects devolved to Wales, including in relation to electricity generating stations of up to 350MW, would continue to be the responsibility of local authorities or Welsh Ministers.

27. From an energy system perspective, the changes recommended above would not only benefit directly the necessary development of energy network infrastructure, but also increase the ability of Wales to attract investment in electricity generating stations by promoting the timely provision of network connections and wider system reinforcements. Efficiencies achieved through a simplified ‘one-stop-shop’ consenting regime for NSIPs in Wales have the potential to reduce the cost of infrastructure projects, thus ultimately benefiting energy bill payers.

28. National Grid therefore recommends that Clause 18 should be amended so that the responsibilities for consents for associated development are aligned with the responsibilities for the main consent for all types of NSIPs in Wales.

27 November 2015