



## Planning White Paper

### **Analysis of Consultation Responses Background Report A**





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Analysis of Consultation Responses

Background Report A

Ove Arup & Partners Ltd

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This report sets out a summary and analysis of the views of respondents, and does not necessarily reflect the views of the Department or Arup.

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# Executive Summary

This report is a comprehensive analysis of the responses submitted to the consultation on the Planning White Paper, 'Planning for a Sustainable Future'. This executive summary is a self-contained synopsis of the key themes that arose in the consultation.

The Planning White Paper was published on 21 May 2007 and comments were invited on a series of questions by 17 August 2007. The responses to the Planning White Paper were sought to inform the development and implementation of policy.

Allowing a period for the receipt of late responses, Communities and Local Government asked Arup to analyse the more detailed responses received by 31 August, and to set these against the themes in the general responses. At that point, around 31,050 general responses and 1,100 more detailed responses had been received.

The messages in the responses are reported here. References to 'government bodies' include local authorities. Standard terminology has been used to describe the degree of support for the individual proposals.

## Analysis of the general responses

There were around 31,050 general responses, that is, letters that do not address the questions in the Planning White Paper. They represent the greatest volume of responses.

The main weight of the views expressed in these letters concerned two key issues regarding nationally significant infrastructure projects. The issues were:

- concerns about local democracy, public participation, and accountability, which respondents thought should be addressed by
  - ensuring national policy statements properly involve local people
  - preserving people's right to be heard in public inquiries
  - decisions being made by democratically accountable politicians, not an unelected Infrastructure Planning Commission
- adverse impact on the environment and other planning considerations, with a need to
  - avoid economic considerations being given undue weight, by considering alternatives to specific nationally significant infrastructure projects and need in the preparation of national policy statements

- protect natural and historic resources for future generations, through robust environmental assessment and stronger, not streamlined, biodiversity policy
- impose a duty on all decision makers to promote sustainable development, and thus
- avoid major carbon intensive developments (such as airports, roads, incinerators and non-renewable energy projects)

In addition, concerns were expressed about certain issues relating to the town and country planning system, in particular:

- removal of the need test in England in relation to town centre development
- removal of initial consultation stages of local plan-making in England

## Analysis of the more detailed responses

More detailed responses are ones that address some or all of the questions in the PWP, either expressly or in a way that could be clearly linked to a question.

**Improving the way nationally significant infrastructure projects are dealt with Question 1: the proposed package of reforms.** A large majority of those who answered the question thought there was a case for reform, although a third of these had comments of varying degrees of seriousness. A majority of those who answered the question considered that the proposed reforms would meet the objectives set for them, but almost as many considered they would not do so, with some making specific suggestions.

Business, government bodies and professionals and academics gave greatest support to the proposals.

Among those who supported the need for reform and/or the specific set of proposals but had reservations, and those who opposed, there was a consistent set of priority concerns (particularly expressed by the general public, government bodies and environment and community groups):

- the reforms were likely to result in reduced public involvement
- there would be a lack of democratic accountability in decision making
- local and regional government would not have clear roles in the process
- environmental and social aspects of sustainability were likely to have less weight in decision making than economic and business concerns

These key themes were similar to those expressed in the general responses.

As an alternative, the same range of respondents said that that the current system could be improved to meet some of the objectives; or that the proposals could be altered to improve performance against the objectives.

### **National policy statements**

**Question 2: national policy statements.** A large majority of those who answered the question welcomed the principle of national policy statements, although over half had comments about implementation or content. A minority of those who answered the question rejected the proposal. Support was strong among all groups except the public.

The main points were:

- support for a national focus for infrastructure provision and the separation of policy and decision making in respect of nationally significant infrastructure projects
- concern that they might not address local issues adequately, take proper account of local views expressed in the consultation process, or put weight on environmental or amenity issues
- a wide range of suggestions about
  - further classes of infrastructure that might be the subject of a national policy statement and
  - integration of national policy statements with other policy in terms of content and timing of production, to ensure that nationally significant infrastructure projects were not delayed by conflicting policy

**Question 3: content of national policy statements.** A large majority of those who answered the question agreed in principle with the proposed content of national policy statements. Support was very strong from all groups except the public.

The main points were:

- concern that economic factors might be given undue weight over environmental/sustainability and local issues
- a difference of opinion over the merits and impacts of locational specificity in national policy statements
- comprehensive suggestions on national policy statements' content, some specific to particular statements
- suggestions about how to address environment and sustainability concerns



**Question 4 and 29: status of national policy statements and decisions made on them.** The primary status of the national policy statement in policy and decision making was accepted by a majority of those who answered the questions, although half of them had comments particularly government bodies, and professionals and academics. The security of a clear policy lead on infrastructure development was welcomed by the business community. Opposition was strongest from the public and environment and community groups.

The main points were:

- concerns that the definition of ‘adverse local consequences’ was too narrow, and
- respondents suggested
  - the national policy statement should be one of many material considerations, with appropriate weight on environmental and social factors and on other relevant planning policy
  - other means of clarifying the factors that decision makers should consider when determining specific proposals

**Question 5: consultation on national policy statements.** A majority of those who answered the question agreed that the proposed consultation arrangements would ensure effective public engagement in the production of national policy statements, although many respondents were concerned that the public’s views are not always taken into account, even if robust procedures are in place. The greatest support came from business, with almost all in support of the proposals, and the least from the public.

The main points were:

- rationalise the consultation requirements
- set the right balance between quality and speed or preparation
- clarify if a timescale would be built into the proposals
- it is difficult for local people to understand the impacts of national scale proposals until it is too late
- national bodies are not good at local consultation
- there is an overarching view that people would like to be involved from the start and be better informed about new nationally significant infrastructure projects

**Question 6: Parliamentary scrutiny of national policy statements.**

Almost all of those who answered the question supported the principle of draft national policy statements being subject to Parliamentary scrutiny. Of these, approximately a quarter had comments. Support was strongest from business and weakest from the public.

The main points were:

- a committee of the House of Commons and/or Lords with cross party representation should have powers of approval
- draw in expert witnesses and other stakeholders

**Question 7: timescale of national policy statements.** A large majority of those who answered the question agreed overall with the proposed lifespan for national policy statements, although almost a third of them made comments. A minority of those who answered the question disagreed with the proposition. There was little differentiation in the views of different sectors, although those from the environment and community sector were more likely to disagree with the timescales proposed for national policy statements.

The main points were:

- flexibility is required
- the statements should take a long view but have frequent updates
- timescales should be highly dependent on the individual sector

**Question 8: review of national policy statements.** A large majority of those who answered the question agreed that five years was an appropriate period for the Government to review national policy statements, with over one third of them having comments. Support was greatest from professionals and academics and business and weakest from the public.

The main points were:

- clarity was needed for triggers of reviews
- major technological advances, advances in scientific knowledge and particular social, economic and demographic changes and fluctuations were cited as main triggers for review

**Question 9: opportunities for legal challenge.** A majority of those who answered the question agreed with the proposition that the opportunity for legal challenge would provide sufficient and robust safeguards, although almost half of them made comments. Support was strongest from government bodies and weakest from the public.

The main points were:

- a longer period than 6 weeks was required
- assistance should be provided for challengers
- contrary views on whether the grounds for challenge were too wide for business or too narrow for government bodies and the public

**Question 10: transitional arrangements.** Overall, a majority of those who answered the question accepted the proposed transitional arrangements for national policy statements, although almost half of these made comments. Government and business groups were most supportive.

The main points were:

- set a timetable for national policy statement preparation
- treat each case on its merits
- existing policy is short on consultation, climate change and sustainability issues

**Preparing applications for nationally significant infrastructure projects**

**Question 11: preparation of applications.** Almost all of those who answered the question agreed that promoters should meet a defined standard when preparing nationally significant infrastructure projects. About a quarter of those agreeing had comments.

The main concern raised was that proposals will place a greater burden on applicants. In addition a number of suggestions were made:

- the standard for applications should be high, with the Infrastructure Planning Commission providing clear guidance on requirements
- separation of the Infrastructure Planning Commission's advice giving and decision taking functions

**Question 12: consultation by promoters.** There was support for this proposal from almost all of those who answered the question, across most groups, with comments made by nearly half of those agreeing. Support was strongest from government bodies and professionals and academics and weakest from the public. The emphasis of comment is on the methods, efficiency, effectiveness and level of consultation.

The main points were:

- need for clear standards for consultation including how the information is presented

- avoid reopening 'need' argument
- balancing the views of different consultees

**Question 13: consulting local authorities.** Almost all of those who answered the question thought that local authorities should have a special status in the consultation on nationally significant infrastructure projects, with less than a quarter of these making comments. Support was greatest from government bodies and environment and community groups and weakest from professionals and academics.

The main points were:

- authorities should determine the form of and/or carry out the consultation
- concern about the potential burden placed on authorities

**Question 15: statutory consultees' responsibilities.** Almost all of those who answered the question thought that it was right that there should be an upper time limit on consultation responses to emerging nationally significant infrastructure projects, but just under a quarter of them had comments. Support was strongest from business and weakest from public.

The main points were:

- 13 weeks was the most commonly proposed limit
- concern that there would be resource implications for consultees
- there should be flexibility in the timescale for complex cases

**Question 16: Commission's guidance role.** Almost all of those who answered the question agreed with the principle that the Infrastructure Planning Commission should issue guidance to developers of nationally significant infrastructure projects. Approximately one-fifth of these made comments. Business gave the most support for this proposal, with weakest support from environment and community groups.

The main points were:

- concern that the Infrastructure Planning Commission and its commissioners in particular were not the appropriate body for providing guidance
- guidance should be prepared in consultation with stakeholders

- roles and responsibilities of the Infrastructure Planning Commission, local planning authorities, promoters and third parties must be clearly established by the guidance
- Infrastructure Planning Commission should provide advice for community groups/third parties

**Question 17: Commission's advisory role.** Almost all of those who answered the question agreed with the principle that the Infrastructure Planning Commission should have an advisory role during the preparation of applications. Approximately one-fifth of those agreeing had comments. The business sector was particularly supportive, with more qualified approval coming from the general public and professionals and academics.

The main points were:

- concern about the distinction between the Infrastructure Planning Commission advisory and decision making roles
- concern about whether the Infrastructure Planning Commission would offer pre-application advice on nationally significant infrastructure projects content as well as application process
- clear guidance on the definition of nationally significant infrastructure projects is required and where/why the line is drawn between these and other schemes
- requirement for open lines of communication between the Infrastructure Planning Commission and previous decision maker

**Question 18: rules governing propriety.** Representatives of all groups answered the question; all groups made suggestions on propriety rules. It was government bodies that most commonly responded to this question.

Suggestions for propriety rules included:

- the same rules that apply to local planning authorities and Planning Inspectorate
- all information and advice provided by the Infrastructure Planning Commission, together with the minutes of meetings they have attended, should be made publicly available
- there should be no direct contact between Infrastructure Planning Commissioners and promoters; must go through an intermediary
- Commissioners should not have any financial, political, personal or other affiliation/interest that would undermine impartiality

**Question 19: Commission's role at point of application.** A large majority of those who answered the question agreed with the proposed role of the Infrastructure Planning Commission at the point of application. There was strong support from professionals and academics, business and government bodies, with least from the public.

The main points were:

- there is a need for clear criteria governing which applications go to the Commission and the basis for the Infrastructure Planning Commission's decisions
- the Infrastructure Planning Commission would need to begin to consider an application before being able to come to a view on the preparation of and consultation on it
- local planning authorities should do the pre-application work and the Infrastructure Planning Commission should consider soundness

#### **Community engagement through consultation**

**Question 14: consulting with other organisations.** A large majority of those who answered the question were in favour of the list of proposed statutory consultees that, depending on the nature of the project, should be consulted during the development of nationally significant infrastructure project applications. The greatest support was from government bodies and professionals and academics. Environment and community groups were the least supportive, and the public were concerned to see a balance between various interests.

The main points were:

- support for a flexible approach: promoters should be directed towards the more relevant bodies, some of which may be non-statutory
- respondents suggested that the results of any consultation must be published alongside all the other material that accompanies the application
- many respondents sought to add their own organisation to the consultee list

**Question 26: preliminary stages.** A large majority of those who answered the question were in favour of the government's proposals on the process of consultation at the determination stage. Government bodies and professionals and academics were the most supportive groups. The public were the most sceptical about the proposals.

The main points were:

- the same bodies should be consulted as at the pre-application stage, although it was suggested that they should not all be required to comment again

- a degree of flexibility was suggested, to allow consultation with bodies not included in the pre-application discussions
- many respondents sought to add their own organisation to the consultee list

**Question 28: hard to reach groups.** Almost all of those who answered the question agreed to the proposals to involve hard to reach groups in the process for nationally significant infrastructure projects. A wide range of individual comments was received, including:

- specific means would be needed to assist the involvement of local people
- need to ensure that the Infrastructure Planning Commission has a duty to demonstrate that the views of local people have been taken into account
- the local planning authority would have an important role in consulting and articulating the views of the local community
- Planning Aid would require further funding to provide the necessary assistance

#### **Determining applications for nationally significant infrastructure projects and the scope of the Infrastructure Planning Commission**

**Question 20: scope of Commission.** There was majority support among those who answered the question for the various thresholds proposed to determine whether projects came before the Infrastructure Planning Commission. Support was greatest from the public, business and professionals and academics.

The main points were:

- thresholds must be justified with a clear and robust evidence base
- avoid unnecessarily low thresholds and possible delays to smaller schemes, as not all developments proposed would be nationally significant
- keep thresholds under review
- include guidance on strategic rail projects
- provide better guidance on works on the Strategic Road Network

**Question 21: electricity system.** A large majority of those who answered the question were in favour of the proposal to include in the Infrastructure Planning Commission's remit all projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network. Just under one-quarter of those in favour had comments. Support was greatest from business and the public.

The main points were:

- work on local transmission and distribution networks should be determined at the local level
- only projects of national significance should be considered by the Commission
- national policy statements should clearly define the scope of projects to be determined by the Commission

**Question 22: gas infrastructure.** A large majority of those who answered the question were in favour of the proposal to include in the Infrastructure Planning Commission's remit all projects necessary to the operational effectiveness and resilience of the gas transmission and distribution network. Just under one-fifth of those in favour of the proposal had comments. Support was greatest from government bodies, business and professionals and academics.

The main points raised were the same as for question 21.

**Question 23: other routes to the Commission.** A large majority of those who answered the question were in favour of the proposal to allow additional projects to come before the Infrastructure Planning Commission, although more than one-third of those agreeing had comments. Support was greater from business, with the public least convinced of the merits of the proposal.

The main points were:

- the power should be used sparingly
- the proposal tended to undermine the proposed new system
- use could be made of a screening process

#### **The operation of the Infrastructure Planning Commission**

**Question 24: rationalisation of the consent regimes.** A majority of those who answered the question supported the proposal for a unified consent regime and specific powers to be given to the Infrastructure Planning Commission. The greatest support came from professionals and academics and business organisations, with the least from environment and community groups and the general public.



The main points were:

- concern that the Infrastructure Planning Commission should not have powers to amend legislation or deal with compulsory purchase powers without a recourse to the Lands Tribunal
- a need to ensure that the Infrastructure Planning Commission was fully qualified, experienced and resourced to make appropriate decisions
- other relevant bodies (such as English Heritage and the local planning authority) who would previously have granted the consents, all statutory consultees, and the general public, should retain appropriate status

**Question 25: Commission's mode of operation.** A majority of those who answered the question supported the suggested mode of operation for the Infrastructure Planning Commission, though nearly half of those agreeing had comments. The greatest support came from the business community where almost all supported the proposals.

The main points were:

- concerns that a single Commissioner should not be used because one person might have insufficient expertise, be manipulated or face a considerable burden
- suggestions that a larger panel – at least three people – should be used, with parties' agreement on the relevant expertise needed in the panel

**Question 27: examination.** A majority of those who answered the question were in favour of the proposals for procedural reforms at examination, with greater support from the business community and government bodies.

The majority of the responses from the public and environment and community groups were opposed to the proposal.

The main points were:

- the right to be heard of local planning authorities, statutory bodies, local bodies, and individuals must not be affected by time limits or use of open session
- all participants should have a right to cross examine the main parties
- inquisitorial role of commissioners supported, with training or expert support
- all information, including records of oral evidence, to be made publicly available

**Question 30: conditions.** A large majority of those who answered the question supported the proposals for identifying and enforcing conditions, although over one half of those agreeing did so with comments. The greatest support came from the business sector.

The key alternative proposals were:

- local planning authorities to have a role in formulating and enforcing conditions, but need for wider resources and skills
- Infrastructure Planning Commission to establish mechanisms by which conditions are assessed, and monitor enforcement
- a working party to be set up to identify full range of regimes and who to be involved

**Question 31: rights of challenge.** A large majority of those who answered the question supported the proposals for challenge on the specific grounds indicated, though approximately one-third of those agreeing had comments. Greatest support came from the business community, and least from the public.

The main points were:

- time period for challenge is too restrictive
- grounds of challenge too restrictive: an appeal to be possible on planning merits
- use should be made of a draft report to allow corrections of fact or law prior to final version

**Question 32: Commission's skill set.** A wide range of skills were suggested for the members of the Infrastructure Planning Commission, with the highest response rate from environment and community groups.

The main points were:

- a wider range of additional expertise needed to ensure environmental/ social understanding
- generic skills of judgement, independence and integrity are considered important
- commissioners to be supported by advisors with appropriate skills for the project
- a variety of individuals should be present on the Commission's panel

## Proposed reform of the town and country planning system

### **A positive framework for delivering sustainable development**

**Question 33: microgeneration.** Almost all of those who answered the question saw land uses, locations or situations which had the potential for microgeneration. Four-fifths of those agreeing made specific suggestions. There were no systematic response patterns from particular groups, with the majority of all groups stating that specific locations would be suitable for microgeneration.

The main points were:

- business, office, employment, and agricultural uses, and public buildings, were considered the best for increased microgeneration
- designated areas and buildings need protection from possible adverse impacts

### **Strengthening the role of local authorities in place shaping**

**Question 34: joined up community engagement.** A large majority of those who answered the question agreed that the use of the 'duty to involve' process would be an improvement over the present system, particularly government bodies and businesses.

The main points were:

- the proposal would speed up the process because the examination of Statements of Community Involvement had added little to the process
- the 'duty to involve' must provide a clear standard approach that would allow all participants to fully engage with the system
- clarification was needed on the definition of 'duty to involve', and guidance was sought on the protocol for local authorities

**Question 35: more flexible response to legal challenge.** Almost all of those who answered the question agreed with the proposed increased High Court flexibility, with greatest support from business and professionals and academics. Of those agreeing, less than one-quarter had comments.

The main points were:

- the proposal could save a significant amount of time and resources, as a lot of repetitive work could be omitted
- importance of identifying an appropriate earlier stage in the process that the plan could be returned to and remain a sound basis for further work
- Planning Inspectorate should indicate to the High Court what stage of the plan process the document should be sent back to

**Question 36: removing the requirement for statutory list of supplementary planning documents.** The proposal to remove the requirement to list supplementary planning documents in the local development scheme was welcomed by a large majority of those who answered the question, particularly government bodies. Approximately one-quarter of those agreeing included comments.

The main points were:

- concern at the loss of the informative role of the local development scheme; need for an informal list in its stead; the change should not be a back door route to bad policy
- respondents suggested that due process of local consultation and scrutiny would still need to take place

**Question 37: sustainability appraisal of supplementary planning documents.** A large majority of those who answered the question supported the proposals for the blanket requirement for sustainability appraisal of all supplementary planning documents to be dropped, with just over one-fifth of those agreeing making comments. The weakest support was from the public.

The main points were:

- there could be less onerous processes and less repetition of appraisals if sustainability appraisal is carried out at a higher level
- the proposal would result in increased flexibility and improved accessibility of supplementary planning documents to community groups
- uncertainty about how the proposals would work in practice, and need for clear guidance on when a sustainability appraisal would be needed
- development plan documents provide the generic context for any supplementary planning documents and thus cannot ensure that all aspects of the supplementary planning documents have been fully appraised

### **Making the planning system more efficient and effective**

**Question 38: permitted development for non-domestic land and buildings.** A large majority of those who answered the question considered that there should be wider permitted development rights for non-residential development. Support was greatest from businesses and government bodies.

The main points were:

- a variety of non-residential developments were identified
- concern that extension of permitted development rights could have unintended effects on the quality of the built environment

- limitations need to be placed on permitted development rights to reduce the impact on open space, amenity and neighbouring residents and designated areas

**Question 39: neighbour agreements.** A large majority of those who answered the question disagreed with the introduction of a streamlined process incorporating neighbourhood agreements. Only a minority of respondents agreed with the introduction of the process, and more than half of those agreeing had comments about how it would work in practice or suggestions about how the idea needed to be modified or further developed. The greatest proportion of objections to the principle came from government bodies.

The main points made were all of concern about the proposals:

- scope for abuse by either neighbour party (through bullying and blackmail)
- failure to take account of any adverse impacts on the wider community and area
- complicated process which would not save time or resources, particularly because of the need for monitoring and possible enforcement
- cumulative effects of minor development

**Question 40: minor amendments of planning permission.** A large majority of those who answered the question supported the proposed flexibility for local planning authorities to make minor amendments to planning permissions. Of those agreeing, under half made comments. Support for the proposal was greatest from the business sector.

The main points were:

- detailed suggestions about how a scheme could be made to work effectively and be fair for those affected by minor amendments
- concern about cumulative impacts, particularly in designated areas

#### **Other comments**

In addition, a significant group of responses – comprised of both general and more detailed ones – were about town and country planning system issues that were mentioned in the Planning White Paper but that were not the subject of questions.

## 1

# Introduction

This report is a comprehensive analysis of the responses submitted by post or email to the addresses listed in the Planning White Paper (PWP), *Planning for a Sustainable Future*.

The PWP was published on 21 May 2007 and comments were invited, on a series of questions in relation to a number of key proposals and other specific issues contained in the White Paper, by 17 August 2007. The responses to the PWP were sought to inform the development of policy and the preparation of a Bill envisaged coming before Parliament during the 2007/08 session.

Allowing a period for the receipt of late responses, Communities and Local Government asked Arup to analyse the responses received by 31 August that were not standard letters stimulated by a number of organised campaigns. The objective was to set the views in these letters against the themes in the campaign responses. This involved scrutiny of approximately 1,800 responses.

At 31 August, approximately 32,150 responses had been received. Around 31,050 of these were general responses and approximately 1,100 were more detailed. The messages in the responses are reported here and will form a valuable contribution to the formulation of policy in this area. The way in which Arup approached the task of analysing the responses and the conventions used throughout the report are explained in Appendix A1. A separate glossary of abbreviations is in Appendix A2.

In addition to the formal consultation process, Communities and Local Government received feedback and comments on the PWP from a range of other sources including meetings with stakeholders and correspondence sent directly to Ministers. This is not the subject of this report and is being reported separately.

The Government will publish a summary of responses, including next steps, separately. This will include the other feedback and comments referred to above.

The remainder of this report is set out as follows:

- Section 2 analyses the general responses about all parts of the PWP
- Section 3 is an assessment of the more detailed responses on the proposals on nationally significant infrastructure projects
- Section 4 analyses the more detailed responses on the town and country planning system including those that were not the subject of consultation questions
- Section 5 makes an assessment of the responses that addressed the partial regulatory impact assessment, the PWP consultation process and matters not raised in the PWP
- Appendix A1 sets out methodology and conventions used throughout the report
- Appendix A2 is a glossary of abbreviations
- Appendix A3 shows examples of the model texts used by many of the respondents who wrote as a result of the campaigns

## 2

## General responses

There were around 31,050 general responses. They represent the greatest volume of responses.

The main weight of the views expressed in these letters concerned two key issues regarding nationally significant infrastructure projects. The issues were:

- concerns about local democracy, public participation, and accountability, which respondents thought should be addressed by
  - ensuring national policy statements properly involve local people
  - preserving people’s right to be heard in public inquiries
  - decisions being made by democratically accountable politicians, not an unelected Infrastructure Planning Commission
- adverse impact on the environment and other planning considerations, and a need to
  - avoid economic considerations being given undue weight, either in national policy statements or in decisions on individual nationally significant infrastructure projects
  - protect natural and historic resources for future generations, through robust environmental assessment and stronger, not streamlined biodiversity policy
  - impose a duty on all decision makers to promote sustainable development, and thus
  - avoid major carbon intensive developments (such as airports, roads, incinerators and non-renewable energy projects)

In addition, concerns were expressed about certain issues relating to the town and country planning system, in particular:

- concern about removal of the need test in England in relation to town centre development
- concern about the removal of the initial consultation stages of local plan-making in England



## 2.1 General responses

Around 31,050 responses were general responses. These did not address the questions specifically but responded, often briefly, in broad terms about some or all of the proposals. (See Appendix A1 for a fuller definition).

Some of those writing in this way were involved with organised campaigns, and sent in standard replies that did not vary in content. The main campaigns of letters, postcards and e-mails addressed the proposals in the PWP in a general way, and not by reference to the questions set out in it. They were organised by a group of nationally based non-governmental organisations, including Friends of the Earth, the Royal Society for the Protection of Birds, the Campaign to Protect Rural England, Transport 2000, Restore UK, The Woodland Trust, The National Trust and the Wildlife Trust. Collectively known as 'Planning Disaster', some of them also organised individual campaigns which were also at the general level.

There were also smaller campaigns by locally based interest groups. They addressed the PWP proposals in a way similar to the larger campaigns and some were quite specific to the local area, such as a proposed airport development near an existing nuclear power station. Examples of responses generated by these campaigns are included in Appendix A3.

Other general responses received were independent of the campaigns but often identified very similar themes, as set out below.

In our analysis below, we have provided an indication of the questions to which the points made in the general responses refer, where applicable.

## 2.2 The main themes in the general responses

The main theme of the general responses was the Government's proposals for NSIPs and the IPC. Some points were also made about the proposals in relation to the town and country planning system.

Almost all the general letters expressed views about the issues that needed to be addressed to make the PWP proposals workable or just, or both. As such, in general, the responses were making points similar to those being made in relation to question 1 by the more detailed responses.

The main weight of the views expressed in the general responses was that the proposals would centralise power, rather than devolve it to the local level. This was manifest in the two key issues to do with NSIPs.

### **2.2.1 The threat to local democracy, public participation and accountability**

The principal concern expressed was that there is great potential for loss of democratic rights. In more detail, the responses set out a range of specific concerns which needed to be addressed in finalising the proposals.

First, respondents wanted the preparation of NPSs to involve local people properly and effectively. The issues of concern were that

- the strength of local opinion should be enhanced in the preparation of NPSs because they would be written at national level
- the NPSs should not reflect national needs to the detriment of local impacts, particularly given the primary status accorded to the statements in the decision making process

There was also widespread support for the need to safeguard the public's right to be heard at any public inquiry into a proposed NSIP. There were detailed issues about

- ensuring that the IPC had an appropriate level of control in deciding which parties had the right to appear and speak at an inquiry
- the length of time that such parties would have to present their arguments, and
- in the absence of detail in the PWP, the exact manner in which the open floor stage would be conducted

Finally, respondents wanted to see decisions made by democratically accountable politicians, not an unelected IPC. Many took this view because they were unsure about the way in which the IPC would be appointed, and to whom and how they would report about the decisions they had made and the conduct of their business. One suggested remedy was that the IPC should advise Ministers on a recommended decision, rather as PINS do on call-in and recovered appeal cases.

In our view, the issues raised here relate to questions 1, 4, 5, 29 and 27.

### **2.2.2 Adverse impact on the environment and other planning considerations**

Respondents saw potential in the Government's NSIPs proposals to set the balance between NSIPs and other considerations, particularly the environment, in a way that favoured economic development at the expense of adverse local impacts, which themselves might have national or international significance.

Respondents saw a particular need to protect natural and historic resources for future generations. This they considered should be achieved through robust environmental assessment of NPSs and NSIP proposals. Respondents were concerned that the proposals on NSIPs would weaken environmental protection and suggested that one way in which it might be strengthened would be to impose a duty on all decision makers, and on NSIPs in particular, to promote sustainable development. Respondents thought that failure to take such steps would lead to a surge in major carbon intensive developments (such as airports, roads, incinerators and non-renewable energy projects).

A further issue of concern was that there would be a 'presumption in favour of development' that would prioritise the economy over the environment (NB it was not always clear whether this concern related to the NSIP proposals, the town and country planning proposals or both). Respondents were concerned that in the case of the NSIP proposals, unless the preparation of NPSs was undertaken in a way that ensured all the local (and possibly wider) impacts had been considered, there was a risk that any such presumption would adversely affect the environment or local economy, or both. Among other ways that this might be met was ensuring that the drafting of NPSs had considered all alternatives to and the need for any particular form of NSIP development that was set out. Without this, undue weight might be put on only one factor in the decision making process.

In our view, the issues raised here relate to questions 1, 3, 4, 5, and 29.

The general responses also made points about the proposals in the PWP for the town and country planning system. In particular:

- concern about removal of the need test in England in relation to town centre development
- concern about the removal of the initial consultation stages of local plan-making in England

Other common points emerging were:

- ensuring that revision of PPG4 did not unduly prioritise economic development over the environment
- asking that any review of biodiversity policy in the review of PPSs did not make it ineffective, and
- pressing that Green Belt should be reinforced, not weakened

Section 4 of the report deals in more detail with the points raised on town and country planning matters.

## 2.3 Petitions

Three petitions were sent to the address in the PWP.

The first was from The Tame Valley Defence Group. It made an objection to the use of an unelected body paid to make decisions that should be democratic decisions, and that they wanted a strong voice in the future of the local Green Belt. The petition was signed by 233 people.

The second was from residents of the village of Otford in Kent. It objected to 'the government's proposals as set out in its planning white paper'. The petition was signed by 116 people.

The third was organised in Bournemouth, and signed by more than 25 people. It said that the signatories were extremely concerned about the PWP and cited adverse impacts on local democracy, individuals' rights, the environment and community aspirations and the effects of badly designed minor development, particularly in conservation areas.

# 3

## Detailed responses on the proposals for nationally significant infrastructure projects

Approximately 1,100 responses could be considered 'more detailed responses'. They addressed one or more of the questions, either expressly or by virtue of a reference to a clearly identifiable question - and many had supporting text that assisted in the understanding of the points of view being expressed. (See Appendix A1 for a fuller definition).

These more detailed responses provide an explanation of the concerns that underlie the general responses and have been analysed in full, question by question, in this section and section 4. Some of these more detailed responses also contained general comments about the PWP and these have been included in the analysis in Sections 2 and 4.

The first question posed in the PWP is a general one about the proposals for NSIPs and the new IPC. It is analysed in full below and repeats and, to a degree, elaborates the concerns expressed in many of the general letters, which are summarised in Section 2. Succeeding questions dealt with the proposals on NSIPs and the new IPC in greater detail. In responding to these subsequent questions, some respondents repeated the arguments they or others had made about the high level issues in response to question 1. In our detailed analysis we have not repeated those points in full but have referred to the themes briefly. In answering question 1, other respondents tackled the detail of subsequent questions and, to avoid repetition, we have related these to the relevant questions instead of listing them in relation to question 1.

## 3.1 Improving the way nationally significant infrastructure projects are dealt with

**Question 1.** A large majority of those who answered the question thought there was a case for reform, although a third of these had comments of varying degrees of seriousness. A majority of those who answered the question considered that the proposed reforms would meet the objectives set for them, but almost as many considered they would not do so, with some making specific suggestions.

Business, government bodies and professionals and academics gave greatest support to the proposals.

Among those who supported the need for reform and/or the specific set of proposals but had reservations, and those who opposed, there was a consistent set of priority concerns (particularly expressed by the general public, government bodies and environment and community groups):

- the reforms were likely to result in reduced public involvement
- there would be a lack of democratic accountability in decision making
- local and regional government would not have clear roles in the process
- environmental and social aspects of sustainability were likely to have less weight in decision making than economic and business concerns

These key themes were similar to those expressed in the general responses.

As an alternative, the same range of respondents said that the current system could be improved to meet some of the objectives; or that the proposals could be altered to improve performance against the objectives.

### 3.1.1 Question 1: the proposed package of reforms

The PWP begins with a strategic question about the Government's proposals for nationally significant infrastructure projects (NSIPs). For the purposes of the quantitative analysis, we have approached this question as two parts because they relate to different issues. For the purposes of the qualitative analysis, the two parts have been considered together as this was the approach taken by many of the respondents.

**Question 1a. Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?**

<b>Question 1a</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	182	66%	27%	6%
<b>Public</b>	171	34%	27%	39%
<b>Environment and community groups</b>	207	50%	21%	29%
<b>Business</b>	113	83%	12%	4%
<b>Professionals and academics</b>	43	60%	16%	23%
<b>All</b>	<b>716</b>	<b>56%</b>	<b>22%</b>	<b>21%</b>

56% of those who answered the question agreed that there was a strong case for reform. The support was particularly high from the business community, with the general public being least convinced.

22% of those who answered the question agreed there was a case for reform but had general concerns about the proposals. These concerns were expressed from all sectors (with slightly more from governmental bodies and the general public). There was a fuller response from those placed in this category.

21% of those who answered the question were opposed to the reforms. Opposition was concentrated among the general public and environmental and community groups. Almost all those rejecting the reform provided reasons.

The second part of the question focused on the extent to which the new system could meet the Government's objectives.

**Question 1b. Do you agree, in principle, that the overall package of reforms proposed here achieves the objectives that we have set out? If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?**

<b>Question 1b</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	171	34%	57%	9%
<b>Public</b>	255	5%	11%	85%
<b>Environment and community groups</b>	215	17%	29%	54%
<b>Business</b>	92	45%	42%	13%
<b>Professionals and academics</b>	38	32%	45%	24%
<b>All</b>	<b>771</b>	<b>21%</b>	<b>32%</b>	<b>48%</b>

21% of those who answered the question agreed that in principle the proposals achieved the objectives of the reform. Business, government bodies and professionals and academics showed a greater level of support.

32% of those who answered the question agreed in principle but had comments about some particular aspects. The majority of respondents from governmental bodies raised reservations.

48% of those who answered the question did not agree that the reforms were likely to achieve the objectives. This view was particularly expressed in responses from the general public, followed by environment and community groups.

### **Supporting**

- present system is too slow: welcome the moves towards a more transparent system with a greater amount of clarity
- current adverse effect on investment because of uncertainty
- existing system increases the cost of delivery of infrastructure and subsequent services
- current arrangements are so complex that they are inaccessible for local people
- present political influence and the perceived partiality of ministers
- early policy formulation would provide certainty and consistency, and this would help to ensure UK could compete internationally



- a balance had been struck between speed and democratic accountability, with IPC able to take decisions in agreed timeframes
- package would allow meaningful public consultation

### **Concerns**

The two themes of the general responses on the proposals on NSIPs were repeated in the more detailed responses.

#### ***Local democracy, public participation and accountability***

- reduced involvement of local communities
- reduced democratic accountability (that is, NPSs must undergo rigorous Parliamentary scrutiny; IPC should review only, with ministers making decision)
- lack of clear role for local and regional government (including meeting local objectives, regional needs and capacity)
- concerns regarding IPC in relation to competence, interpretation of brief, level of administrative support and resources
- an increased risk of delay and legal challenge if people felt their views were being ignored
- selection of membership of IPC by government would mean lack of credibility and independence, and policy needed to make specific reference to governance in reaching decisions

#### ***Impact on the environment and other planning considerations***

- would result in increased pressure on climate change, energy consumption, local communities, landscapes, habitats, historic environment
- needed to make specific reference to climate change and sustainability, including environmental (biodiversity), social (health/quality of life) and economic objectives

#### ***Other concerns***

The more detailed responses went on to mention more specific concerns about the NSIP proposals, some of them with a procedural element

- limited evidence for need for change so soon after previous reforms
- present system working well (with the length of public inquiries reflecting strength of public feeling and breadth of issues - Heathrow Terminal 5 was not typical)
- speed or convenience should play no part in devising a mechanism for determining applications: sometimes it is necessary for a lengthy planning process to hear and consider all the evidence needed to determine an application

- factors leading to delay include lack of properly prepared and considered proposals
- there is a more complicated relationship between future prosperity and infrastructure provision than set out in the PWP; not simply a matter of meeting of demand but should address demand management
- there could be problems with lack of consistency in treatment of projects that fall above and below the NSIP thresholds
- relationship with regional infrastructure should be clarified
- uncertainty that process would result in speedier decisions since there were still major opportunities for consultation, and still need for some (waste) licences

### **Suggestions**

Some more detailed responses suggested ways of meeting the concerns raised about local democracy, public participation and accountability

- Public Inquiry system should be retained for NSIPs, with opportunity for cross examination and assurance that all views would be taken into account in ministerial decision
- consultation must ensure that people from all sections of society understand the government's strategic policy direction and the national interest, and the balance that is being struck with local interests
- Inspectors should be appointed to the IPC, or used as replacement, since they were experienced in dealing with these decisions
- need to consider role of regional and local government and hence the relationship to RSS and LDF should be made clear
- IPC should be a transparent advisory body reporting to ministers
- IPC should provide annual report to Parliament, including assessment of relevant NPS
- IPC should operate as a form of national planning committee of elected councillors
- IPC should include public hearing in the locality directly affected by a NSIP to consider alternatives and make use of cross examination

The more detailed responses did not, in response to this question, put forward suggestions to tackle the concerns about balance of economic and environmental impacts.

The more detailed responses also went on to mention ways of addressing other issues raised by the proposals

- other reasons for delay include delays in ministerial decision making, and lack of spending approval – reforms should address these issues
- the number and type of projects involved should be kept to a minimum, related to national interest
- a National Spatial Strategy or single NPS should be developed for all nationally significant infrastructure
- Select Committees or EIP should examine NPS including identified needs and public comment, with opportunities to call for oral evidence and right to be heard
- should **include** certain projects, including waste, renewable energy, rail, public transport, freight logistics, grid connected renewable energy, flood defence and minerals
- should **exclude** certain projects, for example, waste disposal and recycling
- there would need to be consideration of the position in Wales and Scotland
- combine/synchronise on- and off-shore infrastructure consent regimes for energy
- LPAs should be resourced to assist with the introduction of the new system
- the relevant agencies and public sector (including e.g. English Heritage, Natural England, PTAs, NHS and Police) need to be better co-ordinated and engaged in process if the new system is to work
- NPSs should take into account the commercial dimension of NSIPs
- existing system could be streamlined removing a lot of bureaucracy, perhaps through the creation of a new independent Office of Planning
- NPS should be site specific whenever possible, to enable implications of national policy to be understood locally
- more consideration should be given to how the existing planning system can be adapted to deal more effectively with the non nationally significant infrastructure projects
- there should be a right of appeal on NSIPs decisions

- more information is needed on the interim period before the new system is up and running, and what happens to projects half way through the current process when the new one is introduced
- local authorities should make decisions on NSIPs with external technical advisors, subject to call in
- requires more explicit reference to economic benefits, internal rate of return and technical viability of projects
- need for greater consideration of how compensation for losses to public benefit and blight on property would be addressed (if locality considered in NPS)
- Parliamentary Bill procedure could be adopted more widely

## 3.2 National policy statements

### 3.2.1 Question 2: National policy statements

**Question 2.** A large majority of those who answered the question welcomed the principle of national policy statements, although over half had comments about implementation or content. A minority of those who answered the question rejected the proposal. Support was strong among all groups except the public.

The main points were:

- support for a national focus for infrastructure provision and the separation of policy and decision making in respect of nationally significant infrastructure projects
- concern that they might not address local issues adequately, take proper account of local views expressed in the consultation process, or put weight on environmental or amenity issues
- a wide range of suggestions about
  - further classes of infrastructure that might be the subject of a national policy statement and
  - integration of national policy statements with other policy in terms of content and timing of production to ensure that nationally significant infrastructure projects were not delayed by conflicting policy

Q2. Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, to provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries? If not, do you have any alternative suggestions for helping to achieve these objectives?

Question 2				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	171	34%	57%	9%
<b>Public</b>	88	17%	35%	48%
<b>Environment and community groups</b>	183	39%	46%	15%
<b>Business</b>	104	54%	41%	5%
<b>Professionals and academics</b>	38	55%	39%	5%
<b>All</b>	<b>584</b>	<b>38%</b>	<b>46%</b>	<b>16%</b>

38% of those who answered the question accepted the policy outright in principle. 46% of those who answered the question supported it with comments. 16% of those who answered the question rejected the proposals. Support was strongest among government bodies, business and professionals. Support was weakest from the public.

### Supporting

- clearer national policy would be welcome
- policy and decision-making must be kept separate
- faster determination process would be welcome
- NPS would give reassurance for developers to plan for the future
- NPSs would help to ensure that nationally significant infrastructure projects are targeted in the best locations across the country
- NPSs would relieve the burden on local inquiries which are currently required to interpret national policy/reopen national debate in judging whether proposals are acceptable
- support for integration of national policies with economy, society and environment on equal footing
- to avoid delays at inquiry stage the government will have to develop robust supply and demand forecasts that establish where there is a clear need for additional infrastructure capacity within each sector

- where the same development falls within the policy purview of two or more departments there must be careful coordination of content between departments to ensure consistency

### **Concerns**

- appears to deny the right for local authorities and the public to have a genuine opportunity to assess/challenge/object to proposals and influence NPS content
- it would be a mistake to reduce decision-making time; well informed proposals lead to better quality development
- emphasis on sustainable development issues should not 'sabotage enterprise and stagnate development'
- NPSs may not fully meet the goals of sustainable development, including properly protecting natural and built heritage
- NPSs may not fully meet the government's goals with regard to public consultation
- the excessive speed proposed could undermine proper consideration of issues
- NPS could lead to long drawn out debate and cause NSIPs to be delayed
- lack of clarity on the role and purpose of NPSs
- government lacks the resources to implement the system

Responses also made detailed points about the content of NPSs, the weight to be given them in decision making, Parliamentary scrutiny and transition to the new system - all of which are covered in subsequent questions.

### **Suggestions**

***Additional classes of infrastructure*** (either with their own NPS, or as part of another NPS):

- rail, including strategic rail-freight interchanges
- freight logistics (including truck stops)
- marine/ports (freight and passenger)
- minerals and coal extraction
- flooding
- historic environment

### Other suggestions

- should have a single National Spatial Strategy/National Planning Policy Framework, or a more limited range of NPSs
- NPSs should to be consistent with existing government policy (with specific mention of energy, waste and heritage policy and CLG's disability equity strategy) and new policy such as the proposed Marine Policy Statement/Ports Policy
- should reconcile conflicting governmental priorities (e.g. road building and climate change; major development in National Parks)
- should focus on national issues and **not** stray into regional or local issues
- NPS needs to be flexible and **reflect** regional variations
- preparation should include the equivalent of an inquiry/independent examination (as for RSS)
- should fully assess/demonstrate need for the infrastructure, taking account of all relevant economic, social and environmental issues and develop 'whole policy' solutions including reduction of demand; a 'predict and provide' system would enshrine the status quo
- should be clear about relationship between NPSs and PPSs
- should clarify relationship between NPSs and RSSs, LDFs and local decision-making; a timetable for the preparation of NPSs would be welcomed because of the relationship with future RSS reviews in terms of timing and policy content
- NPSs should relate to funding programmes where applicable
- should impose a duty for sustainable development and be subject to SEA
- should not be the responsibility of individual government ministers or revised every time there is a new Secretary of State
- NPSs should not mean the complete restructuring of the Public Inquiry approach
- should be scrutinised by a new branch of PINS, or non-decision-making arm of IPC
- inclusion of a project in NPS should imply broad commitment to funding from central government

### 3.2.2 Question 3: Content of national policy statements

**Question 3.** A large majority of those who answered the question agreed in principle with the proposed content of national policy statements. Support was very strong from all groups except the public.

The main points were:

- concern that economic factors might be given undue weight over environmental/sustainability and local issues
- a difference of opinion over the merits and impacts of locational specificity in national policy statements
- comprehensive suggestions on national policy statements content, some specific to particular statements
- suggestions about how to address environment and sustainability concerns

The PWP proposed the core elements of the content of NPSs. They would:

- set out the Government's objectives for the development of nationally significant infrastructure in a particular sector and how this could be achieved in a way which integrated economic, environmental and social objectives to deliver sustainable development. Strategic Environmental Assessment (SEA) is a procedure for assessing the effects of certain plans and programmes on the environment and will be an important tool in some cases for ensuring the impacts of development on the environment are fully understood and taken into account in national policy statements. National policy statements would be subject to an appraisal of their sustainability to ensure that the potential impacts of the policies they contain have been properly considered. Wherever appropriate we would expect this to be in the form of an SEA
- indicate how the Government's objectives for development in a particular infrastructure sector had been integrated with other specific government policies, including other national policy statements, national planning policy, and any relevant domestic and international policy commitments
- show how actual and projected capacity and demand are to be taken into account in setting the overall policy for infrastructure development. This would not necessarily take the same form in all national policy statements as the drivers of need for infrastructure vary and may be more complex and uncertain for some sectors than for others
- consider relevant issues in relation to safety or technology, and how these were to be taken into account in infrastructure development



- indicate any circumstances where it was particularly important to address adverse impacts of development
- be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. Some national policy statements might, according to circumstances, be locationally specific, while for others where it would not be appropriate, or sensible, for the Government to direct where investment should take place, they might specify certain factors affecting location; and
- include any other particular policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development

Question 3 asked: Do you agree that national policy statements should cover the core issues set out above? Are there any criteria that should be included?

Question 3			
	Answered	Yes	No
<b>Government bodies</b>	118	92%	8%
<b>Public</b>	60	67%	33%
<b>Environment and community groups</b>	115	81%	19%
<b>Business</b>	76	96%	4%
<b>Professionals and academics</b>	22	95%	5%
<b>All</b>	<b>391</b>	<b>86%</b>	<b>14%</b>

86% of those who answered the question supported the proposals. 14% of those who answered the question were opposed to the suggestions. Support was very strong among all groups except the public.

Some of the comments made in the more detailed responses to question 3 repeat those made in general responses about environmental concerns.

**Supporting**

No points were made other than ones reinforcing the PWP.

**Concerns**

- creates a perception that economic issues would be given more weight than environmental ones (including climate change)
- important to address adverse impacts on local communities, natural environment, historic environment, perhaps through statements of need balancing any detrimental effects

- relationship for NPSs to other Ministerial Statements (e.g. on climate change)
- deciding on the appropriate authority to conduct the SEAs
- translating the Aviation White Paper into an NPS, with respondents divided between those who felt it did not cover environmental issues satisfactorily or consider alternative options, and those who felt it put too much emphasis on the views of the opposition
- 'overriding public interest' justification should be replaced by a set of clear criteria, and a Select Committee should have a role in setting those criteria
- NPSs appear to provide insufficient restraint on sub-optimal development
- infrastructure demand and capacity will both change over time (possibly rapidly), due to number of influences including climate change and this could threaten the robustness of the evidence base for an NPS
- local impacts will not always be clear when draft NPS is published for consultation
- concern over levels of input to NPS preparation required from LPAs and RPBs
- relationship to Wales, which already has national level spatial policy

#### ***Locational specificity***

Respondents were divided on the issue of locationally-specific detail. A majority considered that NPSs should only refer to high level issues, although there was disagreement about the extent to which this meant the national, regional or sub-regional scale.

- site-specific proposals should remain within the remit of the existing planning process
- locationally-specific details would lead to a requirement for an NPS to also discuss alternative options
- locational specificity could stifle market competition and innovation where providers operated in a market situation
- national policy approved by Parliament would not be able to address local issues fully, so NPSs should be as spatially specific as possible, and should take local circumstances and needs into account
- too much locational detail in NPSs could limit the discretion of the IPC

- different levels of detail would be appropriate for different types of development: more detail may be appropriate where opportunities may already be limited, or where there is a specific shortfall
- if NPS is locationally specific, should be subject to Hybrid Bill approach

### **Suggestions**

#### ***Content***

Responses suggested that NPSs should include:

- an objective, robust evidence base, produced by independent experts, able to be tested, include supply and demand forecasts, checked for counterproductive or unintended effects, and which should be published (except for issues of national security)
- strategic, up-to-date, comprehensive and clearly articulated issues from national needs to local impacts
- EU as well as national policy objectives
- relevant regional, sub-regional and local policies
- the case for alternative options (including 'no development', different development or avoiding development through demand management)
- the drivers of trends and forecasts
- environmental sustainability, climate change, noise, landscape, historic environment/heritage, design, agricultural land protection
- social and community factors
- specific commitment to maintain or improve biodiversity
- recognition of difference between rural and urban contexts
- noise issues (using international standards)
- compliance with British Standard 5837 – Trees in Relation to Construction
- the ability of the private sector to come up with innovative solutions
- mitigation measures (for testing by an independent body)
- compensation for those adversely affected by the proposals
- how the proposed infrastructure would be funded, and specify a minimum internal rate of economic return (e.g. 10% as per the World Bank)

- how the infrastructure is to be delivered, with a timetable
- where appropriate (for instance on electricity) the requirements for associated distribution network projects
- an NPS on ports must establish that it is in the national interest to provide sufficient port facilities to meet projected growth in demand
- include an equivalent of the Access Statements that accompany local planning applications, and walking network covering streets, off-road and other traffic-free paths, parks and open spaces

On particular NPSs, respondents suggested

- Energy NPS must **not** specify the type of generation required – this should be left to the market to decide
- Energy NPS must cover need, alternatives and conclude on the mix of generation resources – the latter **cannot** be left to the market to decide
- Energy NPS needs to differentiate between primary and secondary forms of renewable energy
- Transport NPS: should be a holistic view of national transport needs, not a series of fragmented statements on individual modes
- Waste NPS: the capacity of waste treatment plants should be expressed in terms of tonnage of waste treated, not energy produced; local waste planning decisions should take account of consented capacity
- Water NPS: should centre on fundamental principles and process (e.g. presumption to expand existing sewage works rather than build new)
- Mineral NPS: could be subject of an NPS, although for planning and control purposes minerals can be dealt with at local level through MPSs
- Aviation NPS: should be more prescriptive than the Aviation White Paper on limits and mitigation for development

***Sustainability issues***

- SEA should guide the policies, not vice versa
- SEA should be augmented by assessment under the Habitats Directive if the NPS would affect Natura 2000 sites
- perhaps sustainability appraisal, including SEA, would provide a more balanced assessment framework
- all NPSs need to apply the principles of sustainable development (and perhaps there should be a legal duty for decision-makers to do so)

- should identify appropriate environmental and social limits
- should also consider EU Directive 90/313/EEC
- lifetime costs should be considered, not just the construction phase

#### **Safety and technology**

- safety issues would be especially important in relation to nuclear power proposals; there should be a safety zone around them and clear guidance on how safety issues would be addressed
- NPSs could make a useful contribution to debate and evidence base on technologies which are so far unproven by independent science

### **3.2.3 Questions 4 and 29: Status of national policy statements and decisions made relying on them**

**Question 4 and 29.** The primary status of the national policy statement in policy and decision making was accepted by a majority of those who answered the questions, although half of them had comments, particularly government bodies and professionals and academics. The security of a clear policy lead on infrastructure development was welcomed by the business community. Opposition was strongest from the public and environment and community groups.

The main points were:

- concerns that the definition of 'adverse local consequences' was too narrow, and
- respondents suggested
  - the national policy statement should be one of many material considerations, with appropriate weight on environmental and social factors and on other relevant planning policy, and
  - other means of clarifying the factors that decision makers should consider when determining specific proposals

Because they raised common themes and have therefore triggered similar responses, we have considered the two questions that deal with the status of national policy statements together. The issue arises in question 4, which sets out the proposed status of NPS, and question 29, which deals with the considerations to which the IPC would have regard in reaching a decision on a NSIP.

Question 4 asked: Do you agree, in principle, that national policy statements should be the primary consideration for the Infrastructure Planning Commission in determining individual applications? If not, what alternative status would you propose?

Question 4				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	135	17%	41%	42%
<b>Public</b>	67	15%	21%	64%
<b>Environment and community groups</b>	159	23%	25%	52%
<b>Business</b>	81	59%	28%	12%
<b>Professionals and academics</b>	25	32%	36%	32%
<b>All</b>	<b>467</b>	<b>27%</b>	<b>30%</b>	<b>43%</b>

The PWP said that the Government proposed that the IPC would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EU and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Question 29 asked: Do you agree that the commission should decide applications in-line with the framework set out above? If not, what changes should be made or what alternative considerations should it use?

Question 29				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	108	31%	33%	36%
<b>Public</b>	67	10%	16%	73%
<b>Environment and community groups</b>	127	23%	19%	58%
<b>Business</b>	68	65%	22%	13%
<b>Professionals and academics</b>	24	38%	29%	33%
<b>All</b>	<b>394</b>	<b>31%</b>	<b>24%</b>	<b>45%</b>

27% of those answering Question 4 and 31% of those answering Question 29 supported the proposals. 30% of those answering Question 4 and 24% of those answering Question 29 supported the proposals with comments. 43% of those answering Question 4 and 45% of those answering Question 29 opposed the proposals. The greatest support was from business and the greatest opposition was from the public and environment and community groups.

The comments made in the more detailed responses in relation to both questions repeat those made in general responses about democratic accountability and environmental concerns.

### **Supporting**

There were no comments made other than ones that reinforced the PWP.

### **Concerns**

- definition of 'local consequences' is too restricted by being related only to legal issues; needs to be clarified with reference to local environmental and other issues
- should be balanced against genuine local impacts of projects (e.g. environment, sustainability, safety) otherwise adverse local consequences too narrowly defined
- places too much emphasis on short term business interests and economic factors
- proposals would undermine the consultation and decision making process, and merely 'rubber stamp' applications
- local opinion on a project must be properly engaged, considered and answered; local objectors are likely to face a tall order demonstrating to the IPC that their objections outweigh the national interest; protestors may not be deterred from voicing their concerns in other ways
- global and international considerations need to be taken into account as well as EU and domestic ones
- clarity required regarding status and weight attached to LDF and RSS
- local impacts would only become clear in the later stages of a project
- may not be appropriate to measure local harm against national benefits because many proposals are likely to have benefits and impacts at national, local, regional and international level

### **Suggestions**

- PPS and RSS should not be subordinate to NPS, and the guidance in them should be reinforced not diluted or subordinated to other policy

- need to be consistent with established national (particularly PPS1, PPS10), regional and local planning policy (including e.g. Community Strategy)
- Sustainable Development Strategy and Climate Change programme should be important part of considerations; national environmental consequences (e.g. effect on landscape designations) should be capable of outweighing the benefits of a development
- IPC should give proper consideration to compensation/mitigation for meeting overriding national interest at the expense of adverse local impacts
- 'need', alternative means of meeting need, and locations should be subject to IPC consideration
- IPC should have the role of finding and brokering amelioration of adverse local impacts; an alternative suggestion was that the LPA should play a part in this role
- IPC should publish reasons for decision and make available evidence in language that can be understood
- NPS should not override international obligations and EU law; there should be a clear statement on the relationship of EU law to NPS including who would be responsible for advising the Commission on the applicability of the legislation
- where NPS is less locationally specific, NPS should not be primary consideration
- IPC deliberations should accommodate the CPO process
- further consideration is needed, given the potential duplication that might arise from marine projects which are covered by spatial planning through MMO



### 3.2.4 Question 5: Consultation on NPS

**Question 5.** A majority of those who answered the question agreed that the proposed consultation arrangements would ensure effective public engagement in national policy statement production, although many respondents were concerned that the public's views were not always taken into account, even if robust procedures were in place. The greatest support came from business, with almost all in support of the proposals, and the least from the public.

The main points were:

- rationalise the consultation requirements
- set the right balance between quality and speed of preparation
- clarify if a timescale would be built into the proposals
- it is difficult for local people to understand the impacts of national scale proposals until it is too late
- national bodies are not good at local consultation
- there is an overarching view that people would like to be involved from the start and be better informed about new nationally significant infrastructure projects

The PWP said that the Government proposed that there should be thorough and effective public consultation on national policy statements. The precise means of consultation would depend on the proposed content of national policy statements. However to ensure consultation is to a high standard, certain principles would need to apply:

- before publishing national policy statements in draft, there should be thorough consideration of evidence, which may include informally consulting relevant experts or organisations
- once published in draft, there should be thorough and effective public consultation, in-line with best practice, on the Government's proposals for national infrastructure needs and policy
- local, regional and national bodies and statutory agencies with a particular interest should be consulted
- where proposals might have a particular bearing on local communities, there would need to be effective engagement to ensure that such communities understood the effect of and could express views on the government's proposals, in-line with best practice on community involvement with planning

- the Government would need to take the consultation responses into account and explain how they had influenced policy

The PWP said that the key requirements for consultation would be set out in legislation, so they had full statutory underpinning.

**Question 5 asked: Do you agree in principle that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected? Are there any additional measures that would improve public and community engagement in their production?**

<b>Question 5</b>			
	Answered	Yes	No
<b>Government bodies</b>	112	73%	27%
<b>Public</b>	73	29%	71%
<b>Environment and community groups</b>	151	55%	45%
<b>Business</b>	67	90%	10%
<b>Professionals and academics</b>	24	79%	21%
<b>All</b>	<b>427</b>	<b>62%</b>	<b>38%</b>

62% of those who answered this question supported the proposed consultation arrangements would engage the public effectively. However, a significant minority of those who answered the question believed that the public's view would not always be taken into account even if robust procedures were in place, and a large majority of members of the public held this view.

Some comments made in the more detailed responses in relation to the question repeat those made in general responses about democratic accountability and environmental concerns. In addition, the following points were made.

#### **Support**

- welcome commitment to engage 'hard to reach' groups
- LPAs, Regional Authorities and Town/Parish Councils must be fully engaged as well from the beginning
- welcome front loading of public engagement

### Concerns

- difficult for local people to understand the impacts of national scale proposals
- believe there is a need for the introduction of a timescale. Most common suggestions were for 3-4 months. Timescale should be acceptable to all and take into consideration holiday periods
- need for a clear statement on who is in control of the process, and how consultee groups will be selected; proposals must not be over complex or prolonged
- difficult to balance local and national interests, as consultation at a local level is vital, and consultation at a national level is not always effective
- fresh approaches are required to consultation (respondents willing to assist), whilst at the same time remaining formal and inclusive to all
- LPAs are already overstretched on consultations – additional resources may be required to ensure meaningful contributions can be made
- process will only be effective if NPS makes clear the scale of need
- where there is a local dimension, timescale for consultation should be longer and there should be local exhibitions on proposed NPS
- full evidence base must be published alongside draft NPS, and a report on consultation must be published alongside final version
- greater emphasis should be placed on the need to consult national and local voluntary bodies
- national bodies are not good at local consultation
- concern that the proposed consultation process would create 'twin track' situation where organised lobby groups/businesses et al have access to decision-makers but individual members of the public find it difficult to make themselves heard
- would increase the time taken to reach a decision
- need a forum for the consideration of alternative options, consultation with specific communities should be through specific applications

Respondents were divided on the merits of a streamlined process:

- consultation must be done efficiently to avoid delay; but
- quality should not be compromised by excessive speed

**Suggestions**

There were also many suggestions for additional parties to consult in the preparation of National Policy Statements. In addition to the Local Planning Authorities, Town Councils and Parish Councils noted above, specific suggestions included:

- Arts Council for England
- AONBs
- CPRE
- Civic Trust
- Commission for Integrated Transport
- Cotswold Conservation Board
- Council for British Archaeology
- DfT Shipping Policy Division
- DPTAC
- English Heritage
- Freight Transport Association
- Friends of the Earth
- Institute of Historic Building Conservation
- Local Strategic Partnerships
- MLA
- NHS
- National Park Authorities
- National Society for Clean Air
- National Trust
- Natural England
- PTA/PTE
- Police and other emergency services

- RSPB
- Sport England
- Utility Companies inc water
- World Wide Fund for Nature

More generally, respondents also suggested:

- Community Organisations
- Developers and Associations representing them
- Non Government Organisations
- Trades Unions
- Public Transport Authorities
- Residents
- Regional Assemblies
- National and international societies for astronomy and dark skies

It was also suggested that LPAs should be asked to supply any further contacts that they considered appropriate to consult with regard to a particular NPS.

Further suggestions included:

- would prefer a formalised consultation framework with requirements being enshrined in legislation including a formal response from the Government
- provide information in a variety of formats so that it is easier for different groups to comment on proposals
- emerging proposals should be independently tested and subject to a Public Inquiry
- should offer some 'facilitatory' payments or provide support and guidance for local activists (i.e. expenses) where no other public representatives are available
- all NPS should be subject to SEA and environmental assessment
- documents should be in plain English, and less lengthy. May also be useful to produce a separate document which provides a summary

- some additional evidence should be allowed to be submitted after the publication of a Draft NPS
- all evidence must be available for consultation and include, social, environmental and economic objectives
- LPA should be required to do consultation, mobilise citizen involvement and also be able to cross examine the commission
- NPS should take into account existing documents (RSS and DPDs), and consultation on plans and development plans
- need a Select Committee to examine the consultation process in depth
- refer to Aarhus Convention on consultation (Articles 6 and 7)
- if there are regional implications, hold a regional EIP
- where there is an increased sense of openness, this will lead to increased public involvement and “sign off”, which will contribute to greater public acceptance of proposals
- reporting on why community views were not accepted, making the effect of proposals easy to understand
- could be better undertaken as part of RSS or LDF
- would welcome feedback to see if and how submitted views and involvement had influenced the outcome

### 3.2.5 Question 6: Parliamentary scrutiny

**Question 6.** Almost all of those who answered the question supported the principle of draft national policy statements being subject to Parliamentary scrutiny. Of these, approximately a quarter had comments. Support was strongest from business and weakest from the public.

The main points were:

- A committee of the House of Commons and/or Lords with cross party representation should have powers of approval
- Draw in expert witnesses and other stakeholders

The PWP proposed that, because ministers would no longer be taking decisions on individual applications, draft NPSs should be subject to Parliamentary scrutiny.

Question 6 asked: Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements? What mechanisms might ensure appropriate Parliamentary scrutiny?

Question 6				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	128	72%	20%	8%
<b>Public</b>	37	59%	16%	24%
<b>Environment and community groups</b>	137	69%	22%	9%
<b>Business</b>	73	85%	15%	0%
<b>Professionals and academics</b>	27	67%	30%	4%
<b>All</b>	<b>402</b>	<b>72%</b>	<b>20%</b>	<b>8%</b>

72% of those who answered the question agreed with the proposal and support was particularly high from business. 20% of those who answered the question agreed in principle with the intention to have Parliamentary scrutiny for proposed national policy statements but had comments.

8% of those who answered the question disagreed with the proposals and opposition was particularly strong from the general public.

**Concerns**

- more details required of what is actually proposed to ensure a clear process
- there must be a mechanism where MPs are made fully aware of the outcome of consultation and/or any other appropriate evidence
- will not provide the level of scrutiny of a public, independent examination
- Committees should be conducted like an EIP
- scrutiny should not contain public inquiry element, if it does it should only be as a last resort
- essential that the process does not cause delay - Ministers should commit to pre-defined timescale for scrutiny
- the process should be independent
- Committees must have details of likely social impact of policy statements
- scrutiny must be carried out before the draft for public consultation is produced

- there must be accountability for national policy statements
- it is unlikely MPs will have the time or expertise to do this
- MPs will have self interest for own constituencies during process
- judgements must be exercised in name of an accountable Minister
- it should be in addition to current ministerial decision making process not instead of it
- should not remove Ministerial responsibility
- should be subject to same process as Parliamentary Bills

### **Suggestions**

- cross party Select Committee required
- should be subject to debate or vote in the House of Commons and/or Lords
- expert/technical witnesses should be selected to participate
- local MPs should be involved to ensure local overview
- any Select Committee should involve broad range of stakeholders, including NGOs
- regional Parliamentary scrutiny required
- NPSs should go through the same processes as any local development plans advertised through Local Authorities at a local level
- 75% Committee Approval should be required
- should be statutory instrument subject to affirmative resolution
- rotation of chairman within Committee would remove bias
- should be subject to same process as Parliamentary Bills
- ministers should be responsible for arguing a particular case through Parliament



- process should be akin to a Royal Commission or statutory Public Inquiry
- process should be more independent e.g. a new division of the Planning Inspectorate
- decisions should be made by democratically accountable politicians not an unelected commission
- should be a statutory requirement of the IPC to make periodic reports to Parliament
- Parliamentary scrutiny is much more likely to be effective than public consultation
- Parliament must be involved in the drafting of NPS
- must ensure there is political consensus behind the decision so that there are not constant changes of priorities when a new government is elected

### 3.2.6 Question 7: Timescale of national policy statements

**Question 7.** A large majority of those who answered the question agreed overall with the proposed lifespan for national policy statements, although almost a third of them made comments. A minority of those who answered the question disagreed with the policy proposition. There was little differentiation in the views of different sectors, although those from the environment and community sector were more likely to disagree with the timescales proposed for national policy statements.

The main points were:

- flexibility is required
- the statements should take a long view but have frequent updates
- timescales should be highly dependent on the individual sector

The PWP proposed that NPSs should, in principle, have a timeframe of 10-25 years, depending on the sector.

Question 7 asked: Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements? If not, what timeframe do you consider to be appropriate?

Question 7				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	114	49%	32%	18%
<b>Public</b>	33	42%	18%	39%
<b>Environment and community groups</b>	115	43%	22%	35%
<b>Business</b>	81	44%	31%	25%
<b>Professionals and academics</b>	26	42%	35%	23%
<b>All</b>	<b>369</b>	<b>45%</b>	<b>28%</b>	<b>27%</b>

45% of those who answered the question supported the proposal for a timeframe of 10-25 years. Support was high from the general public, Government bodies and Professional and Academics. 28% of those who answered the question supported the proposed timeframe of 10-25 years and qualified their response with comments.

27% of those who answered the question disagreed with the timeframe of 10-25 years proposed for national policy statements.

#### Support

- timeframe should certainly be no less than 10 years
- long term approach should be matched with long term financial commitments
- must ensure regular monitoring and review
- suitable timeframe – will bolster developer confidence in the stability of Government policy, which will secure investment in energy infrastructure
- proposed timeframe should accord with Eddington timeframe

#### Concerns

- timescales should be highly dependent on the individual sector
- awareness required of how events such as climate change and changes in technology can change policy very quickly
- there will need to be a more flexible approach to timescales

- ensure there are adequate measures to trigger a review if necessary
- would benefit from timeframe alignment with appropriate RSS/LDFs and public service agreements
- indicative financial commitments are needed to ensure that the policy can be effectively implemented
- fuel shortage issues must be taken account of when outlining policy timeframes
- cross party political support required to ensure consistency and stability
- NPS cannot produce enough detail for all national infrastructure 25 years in advance
- uncertainty about climate change issues requires more foresight, as well as a quick response
- should not be an upper limit on timescales
- must have 5-year rolling review

#### **Suggested timescales**

Many respondents provided alternative appropriate timeframes, or made comments regarding factors which should be taken into account when formulating timeframes. The majority of these suggestions originated from those respondents who indicated that they disagreed with the proposed timeframe of 10-25 years. Comments included:

- 10 years maximum
- more than 10 years - as a minimum
- 10 – 15 years maximum
- minimum timescale 15-20 years
- minimum of 25 years to allow for long term issues
- 25 years is too long in view of speed of technological change
- up to 30 years and reviewed as appropriate
- much longer term thinking required – 50 years plus
- NPS should be reviewed every 3-5 years
- 15 – 20 years with 5 yearly review

- timescales should be longer than those set out in RSSs and appropriate development plans
- statements should lapse on change of Government
- sector specific suggestions:
  - Energy 25 years plus
  - Transport 30 years
  - Waste 15 years
  - Water 15 years
  - Ports 25-30 years
  - Aviation 25-30 years

### 3.2.7 Question 8: Review of national policy statements

**Question 8.** A large majority of those who answered the question agreed that five years was an appropriate period for the Government to review national policy statements, with over one third of them having comments. Support was greatest from professionals and academics and business and weakest from the public.

The main points were:

- clarity was needed for triggers of reviews
- major technological advances, advances in scientific knowledge and particular social, economic and demographic changes and fluctuations were cited as main triggers for review

The Government said in the PWP that it would consider whether national policy statements remain up-to-date, or require review, at least every five years. It should consider significant new evidence and any changes in circumstances where they arise and review national policy statements where there is a clear case for doing so.

**Question 8 asked:** Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up-to-date or require review? What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?

<b>Question 8</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	116	49%	41%	10%
<b>Public</b>	34	50%	21%	29%
<b>Environment and community groups</b>	115	56%	30%	15%
<b>Business</b>	78	58%	37%	5%
<b>Professionals and academics</b>	26	54%	38%	8%
<b>All</b>	<b>369</b>	<b>53%</b>	<b>34%</b>	<b>12%</b>

53% of those who answered the question agreed that the proposed 5 year review period would be acceptable. 34% of those who answered the question agreed in principle with the proposals, although they had some comments.

12% of those who answered the question disagreed with the proposed reforms. Concerns were shown across all of the categories with the greatest concern being the need for review in light of technological or scientific advances.

#### **Support**

- this would take into account technological advancement and/or rapidly changing market conditions
- five year review provides the appropriate degree of certainty necessary for Local Authority investments, LAA/LDF initiatives and RSS reviews
- would correspond with the proposed 5 year carbon budgets
- regular reviews will ensure that NPS are up-to-date

#### **Concerns**

- process too inflexible – should not be ‘one size fits all’
- frequent NPS reviews are unhelpful for LPAs – national policy takes a considerable amount of time to trickle down to the local level
- should be under continuous review; need to be reviewed against pre-agreed performance tests
- investment decisions cannot be made if policy is constantly changing
- in latter years of five year period decisions could be delayed pending results of the review

- it is sector dependent
- there would be further delays if amendments were also subject to full SEA
- stakeholders will lose confidence in the system if reviews are undertaken unnecessarily

### **Suggestions**

- flexibility is required for special circumstances and key events that many fall outside of the timeframe
- review ranges from 1 year to 10 year periods
- content and scope of NPS reviews should be identified
- principles of plan, monitor, manage and evidence gathering to provide monitoring development; who is responsible for reviews
- given over to relevant Secretary of State to initiate a review any time

Some of the respondents also provided suggestions regarding what sort of evidence or circumstances might otherwise justify and trigger a review of national policy statements. These triggers can be summarised as follows:

- new data/scientific knowledge that undermines policy e.g. new climate change forecasts
- should be 10 years minimum
- poor performance or impact of a NPS
- major technological or scientific advances
- social, environmental, economic and demographic changes and fluctuations
- national emergencies and/or disasters
- changes or progression in Government and Government Policy
- Parliamentary and/or High Court Challenge
- regular (annual/bi-annual) review of existing and projected infrastructure capacity and utilisation should form basis for triggering review

- reviews of Water Resources Management Plan
- changes in or failure to meet international commitments, EU Directives, national legislation
- consensus of new scientific opinion - particularly regarding the environment and climate change
- effective monitoring would be a more suitable indicator of the need for review than an arbitrary time span
- unintended consequences of previous NPSs
- helpful to differentiate between 3 levels for increasing frequency of review e.g. high level principles, key statements of direction, supporting statements

### 3.2.8 Question 9: Opportunities for legal challenge

**Question 9.** A majority of those who answered the question agreed with the proposition that the opportunity for legal challenge would provide sufficient and robust safeguards, although almost half of them made comments. Support was strongest from government bodies and weakest from the public.

The main points were:

- a longer period than 6 weeks was required
- assistance should be provided for challengers
- contrary views on whether the grounds for challenge were too wide for business or too narrow for government bodies and the public

The PWP proposed that there would be opportunity to challenge a national policy statement, or the process of developing it, when it had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the policy. The grounds for challenge would be illegality, procedural impropriety or irrationality. Any challenge would have to be brought within six weeks of publication.

Question 9 asked: Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it? If not, what alternative would you propose?

Question 9				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	96	47%	29%	24%
<b>Public</b>	35	17%	31%	51%
<b>Environment and community groups</b>	113	29%	25%	46%
<b>Business</b>	67	43%	37%	19%
<b>Professionals and academics</b>	24	38%	25%	38%
<b>All</b>	<b>335</b>	<b>36%</b>	<b>29%</b>	<b>34%</b>

36% of those who answered the question agreed in principle that the proposals were suitable for people to have confidence in the statements. In addition to this, 29% of those who answered the question responded positively but had some comments. The greatest concern was the proposed timescale with all categories being concerned that the six week period was too short, which was supported in all categories. Government bodies, and also environment and community groups had reservations about the assistance which will be provided for challengers.

34% of those who answered the question did not agree with proposals. This came primarily from government bodies who requested further details, although concern on this issue was shown from all other categories.

#### Support

- will provide greater confidence in the system, and will provide consistency
- a statutory six week challenge period is more appropriate than a judicial review
- legal challenge is an appropriate safeguard

#### Concern

- six week threshold is an insufficient timeframe
- expense of legal challenge – particularly for NGOs
- system must be carefully monitored



- legal challenge likely to be beyond individuals and groups – there is very little support for the public to raise issues or oppose policy
- opportunities for legal challenge too limited in proposals
- should be no limits on grounds on which legal challenge is made
- this proposal is difficult to reconcile with EU law and Human Rights Act
- grounds suggested for legal challenge are too wide

### **Suggestions**

- increased timescale: proposals from 8-12 weeks to a maximum 9 months suggested
- Legal Aid could be provided to community groups
- grounds for legal challenge should not be limited, and should be clearly set out
- proposals should be expanded to include deliverability – a new soundness test
- should consider role for an ombudsman
- should be sufficient for a proper written challenge to be made without legal process
- clarity is required around definitions such as 'irrationality' before the process is finalised
- only sufficient grounds if NPSs are subject to independent examination
- right to legal challenge is inadequate substitute for insufficient scrutiny
- too focused on grounds such as legality rather than simply that NPS may have negative consequences
- suggest a semi informal forum similar to current planning inquiries rather than a judicial review
- should be possible to challenge on grounds of factors such as insufficient consultation, scrutiny, inconsistency with other planning decisions etc
- there should be either new legal challenge or judicial review process – not both

### 3.2.9 Question 10: Transitional arrangements

**Question 10.** Overall, a majority of those who answered the question accepted the proposed transitional arrangements for national policy statements. However, of these, almost half made comments. Government and business groups were most supportive.

The main points were:

- set a timetable for national policy statement preparation
- treat each case on its merits
- existing policy is short on consultation, climate change and sustainability issues

Where relevant policy statements already existed, the Government proposed that they should acquire the status of NPSs for the purposes of decision making by the IPC. However, in order for this to be possible, they would need to meet the core elements and standards for NPSs with regard to both content and consultation.

**Question 10 asked:** Do you agree in principle that subject to meeting the core elements and standards for national policy statements, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission? If not, what alternative arrangements do you propose?

Question 10				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	106	26%	31%	42%
<b>Public</b>	29	34%	17%	48%
<b>Environment and community groups</b>	109	28%	19%	53%
<b>Business</b>	73	51%	29%	21%
<b>Professionals and academics</b>	25	24%	28%	48%
<b>All</b>	<b>342</b>	<b>32%</b>	<b>25%</b>	<b>42%</b>

32% of those who answered the question supported the proposals. Generally, it was the business sector which provided the greatest support. 25% of those who answered the question supported the proposals with

comments and 42% of those who answered the question opposed the proposals. All categories were concerned about the timescale for NPS preparation.

### **Support**

- existing policy such as in the Air Transport White Paper should be retained; issues were thoroughly examined and there is no need to go over old ground
- this would provide an early opportunity to see and comment on the proposed policy
- necessary provision to avoid stagnation in the period until new NPSs are produced
- MPS 1 already fulfils this role
- existing policy should only be used as a stop-gap measure

### **Concerns**

- existing statements were not prepared on this basis or with the same standards of scrutiny or consultation
- sustainability and climate change have not been given sufficient consideration in current policy
- existing policy has often not been endorsed by Parliament and is out of date, particularly in relation to environmental and climate change issues (e.g. Air Transport White Paper)
- the arrangement would be merely a continuation of the existing status quo with no gain
- the use of existing policy should not lead to delays in preparation of NPSs
- interim measures should not give existing policy any additional status or weight than at present

### **Suggestions**

- there needs to be a clear timetable for NPS preparation
- policy should be used only where climate change adaptation and mitigation are core elements of the policy
- existing policy should only be used if elected representatives endorse them as transitional policy
- the IPC should take account of existing policy, but should admit new evidence and in the interim defer final decisions to Ministers

### 3.3 Preparing applications for nationally significant infrastructure projects

The PWP, having established the method for determining the policy that would underlie NSIP applications, sets out principles for their preparation.

#### 3.3.1 Question 11: preparation of applications

**Question 11.** Almost all of those who answered the question agreed that promoters should meet a defined standard when preparing nationally significant infrastructure projects. About a quarter of those agreeing had comments.

The main concern raised was that proposals will place a greater burden on applicants. In addition a number of suggestions were made:

- the standard for applications should be high with the Infrastructure Planning Commission providing clear guidance on requirements
- separation of Infrastructure Planning Commissions advice giving and decision taking functions

The PWP proposed that to avoid delays during the decision making process, promoters of nationally significant infrastructure projects would be required to prepare applications to a defined standard before the IPC would agree to consider them.

**Question 11 asked: Do you agree, in principle, that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?**

Question 11				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	117	84%	15%	1%
<b>Public</b>	35	74%	14%	11%
<b>Environment and community groups</b>	126	78%	21%	2%
<b>Business</b>	76	71%	29%	0%
<b>Professionals and academics</b>	26	69%	27%	4%
<b>All</b>	<b>380</b>	<b>77%</b>	<b>21%</b>	<b>2%</b>

77% of those who answered the question supported the proposals, with greatest support from government bodies. 21% of those who answered the question agreed in principle with the proposals but had some comments about the practicality of arrangements and the burden the standards would place on applicants. Just 2% of those who answered the question opposed the suggestions.

**Support**

- the general view was that inadequately prepared applications cause current delays and problems

**Concerns**

- information submitted to meet criteria should not automatically be assumed to be sound in a 'tick box' way
- the approach will not guarantee that rational and equitable decisions are taken
- requirements should be no more onerous than current submissions to planning authorities particularly in relation to cost

**Suggestions**

- degree of detail required in submission should be clearly stated in guidance produced by IPC
- some respondents would like to contribute to the list of requirements
- the standard needs to be set very high so that shortcuts are not taken on the basis that a proposal is already supported by national policy and hence a minimum standard of proposal and application is sufficient
- IPC will need to provide advice on what is required in specific cases
- officers providing any pre-application advice on what is required will need to be separated from those supporting the IPC in decision making
- the defined standard should be open for public comment
- the promoters should be required to submit proposals in outline only, with IPC determining additional requirements in relation to the specific proposal

### 3.3.2 Question 12: Consultation by promoters

**Question 12.** There was support for this proposal from almost all of those who answered the question, across most groups, with comments made by nearly half of those agreeing. Support was strongest from government bodies and professionals and academics and weakest from the public. The emphasis of comment is on the methods, efficiency, effectiveness and level of consultation.

The main points were:

- need for clear standards for consultation including how the information is presented
- avoid reopening 'need' argument
- balancing the views of different consultees

The PWP proposed that promoters of NSIPs should be required to consult the public and, in particular, affected landowners and local communities, on their proposals before submitting an application to the IPC.

**Question 12 asked: Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission? Do you think this consultation should take a particular form?**

Question 12				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	143	76%	23%	1%
<b>Public</b>	62	47%	32%	21%
<b>Environment and community groups</b>	166	58%	32%	10%
<b>Business</b>	82	70%	23%	7%
<b>Professionals and academics</b>	29	76%	14%	10%
<b>All</b>	<b>482</b>	<b>65%</b>	<b>27%</b>	<b>8%</b>

65% of those who answered the question supported the proposals outright 27% of those who answered the question supported the proposals with comments. The strength of opinion focused on the specific standards of consultation that are required. These generally reflect existing and known good practice in consultation. 8% of those who answered the question were opposed to the proposal.

### Concerns

- consultation on specific proposals should not reopen 'need' arguments as these should be addressed through NPS – this will be difficult to ensure in practice
- difficult to give appropriate weight to responses
- could the promoter conduct consultation in a sufficiently impartial and objective way
- the extent to which wide consultation may conflict with the objective of speedy decisions
- how the IPC will be able to balance and resolve views between competing responses

### Suggestions

- there needs to be a clear set of standards for consultation
- sufficient information should be made available at consultation to allow informed comment
- consultation should engage hard to reach groups
- proposals should be illustrated and presented in formats that can be understood
- consultation should be used to shape proposals
- consultation should balance communities that are impacted against communities that benefit
- responses should be made available to the public and IPC

In addition there were specific comments relating to the roles of different organisations in managing consultation:

- should consultation be managed by local authorities or by an independent body?
- local authorities should drive the process and determine what is required, through an SCI mechanism
- both the community and stakeholder bodies should be included
- IPC should issue good practice guidance on consultation and how consultation responses will affect its decisions
- developers should also have to demonstrate how they have addressed and taken account of responses

### 3.3.3 Question 13: Consulting local authorities

**Question 13.** Almost all of those who answered the question thought that local authorities should have a special status in the consultation on nationally significant infrastructure projects, with less than a quarter of these making comments. Support was greatest from government bodies and environment and community groups and weakest from professionals and academics.

The main points were:

- authorities should determine the form of and/or carry out the consultation
- concern about the potential burden placed on authorities

The Government proposed that promoters of NSIPs would be required to engage with affected local authorities on their proposals from early in the project development process.

Question 13 asked: Do you agree, in principle, that relevant local authorities should have special status in any consultation? Do you think the local authority role should take a particular form?

Question 13				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	150	82%	17%	1%
<b>Public</b>	42	79%	12%	10%
<b>Environment and community groups</b>	142	79%	15%	6%
<b>Business</b>	71	63%	25%	11%
<b>Professionals and academics</b>	25	52%	24%	24%
<b>All</b>	<b>430</b>	<b>76%</b>	<b>17%</b>	<b>7%</b>

76% of those who answered the question supported the proposals. Many thought that local authorities' special status reflected the role of elected members. Special status was generally suggested to mean determining the method of consultation and/or leading it.

17% of those who answered the question supported the proposals with comments. Concerns included avoiding parochial views and ensuring that authorities had the resources to make an informed response.



7% of those who answered the question opposed the proposal. Substantive issues here were that authorities should only have the same status as other consultees and that the nature of the special status would be difficult to define and reflect.

In addition to these comments a number of other points were raised:

#### **Concerns**

- authorities lack resources and the technical expertise to be given special status
- authorities already have an important role
- it was important to recognise that authorities are not well placed to trade local views against regional or national need
- the proposal was acceptable as long as authorities do not create delays

#### **Suggestions**

- all input by authorities should be public
- authorities must take into account the views of wider consultation
- strength of local authority views should also be influenced by the soundness and basis of their response
- IPC should give reasons before overruling local authority views

#### **3.3.4 Question 14: Consulting with other organisations**

This question is considered in the section of this report dealing with statutory consultation (see Section 3.4).

#### **3.3.5 Question 15: Statutory consultees' responsibilities**

**Question 15.** Almost all of those who answered the question thought that it was right that there should be an upper time limit on consultation responses to emerging nationally significant infrastructure projects, but just under a quarter of them had comments. Support was strongest from business and weakest from public.

The main points were:

- 13 weeks was the most commonly proposed limit
- concern that there would be resource implications for consultees
- there should be flexibility in the timescale for complex cases

Question 15 asked: Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to promoters' consultation? If so, what time limit would be appropriate?

Question 15				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	108	60%	31%	8%
<b>Public</b>	37	62%	27%	11%
<b>Environment and community groups</b>	124	69%	26%	5%
<b>Business</b>	80	83%	18%	0%
<b>Professionals and academics</b>	22	73%	18%	9%
<b>All</b>	<b>371</b>	<b>69%</b>	<b>25%</b>	<b>6%</b>

This question was of particular interest to parties that would be either submitting or responding to requests for consultation on major development proposals. 6% of those who answered the question thought there should be no upper time limit. There was a range of suggestions for appropriate timescales made by the members of the majority who supported the proposal. The bulk of respondents put forward a fixed timescale for consultee responses, with the current determination period for major applications (13 weeks/3 months) being the most popular choice, although many also advocated a degree of flexibility that would allow for the complexity of the scheme to be taken into account.

### Support

Respondents proposing a fixed time period suggested a range of limits, with the following being cited most regularly:

- 12 or 13 weeks/3 months
- up to 8 weeks
- up to 6 weeks

Further, less popular suggestions were as follows:

- up to 12 months
- up to 6 months
- between 3 and 6 months

- at least 13 weeks (longer if the LPA has been involved in pre-application)
- up to 10 weeks
- up to 35 days initially/5 weeks, more if complex application
- up to 28 days/4 weeks/1 month
- 21 days
- 14 days

### **Concerns**

- statutory consultees need to be adequately resourced to comply with the timetable and some (including LPAs) might need additional funding/resources
- ability to meet time limits will depend on the adequacy/level of detail of information provided by promoters
- there is a potential problem in setting a deadline that consultees might be tempted to lodge an objection in order to safeguard their position
- does the time limit apply only to the organisations in Box 4.2 [of the PWP], or to wider local authority community consultations as well?

### **Suggestions**

Respondents provided suggestions for two key areas; the approach adopted and implementation of proposals.

#### ***Flexible approach***

Respondents proposing a flexible approach made the following procedural suggestions:

- the time limit should depend on the complexity of the application, with some suggesting that the IPC should have powers to vary or extend the consultation period
- the whole timetable should be agreed at the pre-application stage
- the timescale should be flexible/longer if primary research is required by a consultee

#### ***Implementation***

Several respondents made further comments on the implementation of the proposals:

- there should be sanctions against those who fail to respond within the given timeframe, though it was recognised that financial penalties might further undermine capacity

- IPC should be able to grant extensions in extenuating circumstances
- where significant changes to schemes are proposed allowance should be made for reconsultation, to which a time limit should also be applied
- statutory consultees should be required to provide 'balanced and reliable' advice
- IPC must make clear to consultees why they are being approached, and what the scale of their reply should be

### 3.3.6 Question 16: Infrastructure Planning Commission's guidance role

**Question 16.** Almost all of those who answered the question agreed with the principle that the Infrastructure Planning Commission should issue guidance to developers of nationally significant infrastructure projects approximately one-fifth of whom made comments. Business gave the most support for this proposal with weakest support from environment and community groups.

The main points were:

- concern that the Infrastructure Planning Commission and its commissioners in particular were not appropriate body for providing guidance
- guidance should be prepared in consultation with stakeholders
- roles and responsibilities of Infrastructure Planning Commission, local planning authorities, promoters and third parties must be clearly established by the guidance
- Infrastructure Planning Commission should provide advice for community groups/third parties

Question 16 asked: Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications and consultation? Are there any other issues on which it might be appropriate for the commission to issue guidance?

Question 16				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	98	76%	16%	8%
<b>Public</b>	34	82%	12%	6%
<b>Environment and community groups</b>	107	74%	15%	11%
<b>Business</b>	70	86%	14%	0%
<b>Professionals and academics</b>	23	65%	30%	4%
<b>All</b>	<b>332</b>	<b>77%</b>	<b>16%</b>	<b>7%</b>

77% of those who answered the question supported the proposals and 16% of those answering supported the proposals with comments. Support was especially strong among business and the public. 7% of the people who answered this question were opposed to the proposals, with strongest opposition from environment and community groups.

#### Support

- guidance would bring clarity to the process and speed it up

#### Concerns

- guidance should be issued by the Government, ensuring democratic accountability
- PINS should have this guidance role
- guidance should be prepared by the IPC secretariat, not the Commissioners: need to keep advisory and decision-making roles separate
- there is a fine line between advising on procedures and giving the impression that approval would be assured if they were adhered to
- requirements for NSIP applications should be set out in legislation, not just guidance

#### Suggestions

Responses can be categorised into three key areas: approach, content of guidance and suitable topics for guidance.

**Approach**

- guidance should be prepared in consultation with statutory consultees, NGOs and environmental lobby
- guidance should be kept under review and published well in advance of implementation
- the status of the guidance and establishment of mechanisms for scrutiny will be important considerations
- guidance on the consultation process recommended by the IPC should be flexible, realistic, and not prescriptive

**Content of guidance**

- guidance should not indicate likely attitude to proposals, or include any interpretation of national policy
- flow charts and check lists should be used
- guidance should distinguish between best practice and required procedures
- guidance documents should be concise
- cross-references to other legislation and guidance should be included
- guidance must be made available in alternative formats/languages

**Guidance topics**

- the roles and responsibilities of the IPC, LPAs, statutory consultees and third parties
- determination timescale and procedures, including the role and nature of hearings
- for community groups/third parties on what to expect and how to become involved with a nationally significant infrastructure application
- the status and role of the planning policy framework, including NPS and SCI
- advice on the scope and quality of application material required for a decision to be made including whether EIA required and design specifications
- what comprises a material consideration
- procedures that would apply where an infrastructure scheme is dependant on another infrastructure scheme
- the Compulsory Purchase Order procedure

### 3.3.7 Question 17: Infrastructure Planning Commission's advisory role

**Question 17.** Almost all of those who answered the question agreed with the principle that the Infrastructure Planning Commission should have an advisory role during the preparation of applications. Approximately one-fifth of those agreeing had comments. The business sector was particularly supportive, with more qualified approval coming from the general public and professionals and academics.

The main points were:

- concern about the distinction between the Infrastructure Planning Commission advisory and decision making roles
- concern about whether the Infrastructure Planning Commission would offer pre-application advice on nationally significant infrastructure projects content as well as application process
- clear guidance on the definition of nationally significant infrastructure projects is required and where/why the line is drawn between these and other schemes
- requirement for open lines of communication between Infrastructure Planning Commission and previous decision maker

Question 17 asked: Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine the application process, procedural requirements, and consultation? Are there any other advisory roles which the commission could perform?

Question 17				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	100	74%	17%	9%
<b>Public</b>	29	66%	31%	3%
<b>Environment and community groups</b>	104	71%	17%	12%
<b>Business</b>	68	84%	15%	1%
<b>Professionals and academics</b>	21	62%	33%	5%
<b>All</b>	<b>322</b>	<b>74%</b>	<b>19%</b>	<b>7%</b>

74% of those who answered the question supported the proposals and 19% of those who answered the question supported the proposals with comments. 7% of those who answered the question were against the suggestions with strongest opposition from environment and community groups.

### **Support**

- all advice given by the IPC should be made fully public
- IPC should be able to offer pre-application advice to promoters and recommend amendments/improvements to the content of NSIPs

### **Concerns**

- advisory role should be carried out by IPC secretariat, the Planning Inspectorate or ATLAS, and not by Commissioners
- IPC must restrict itself to advice on process and should not advise on the content of applications: i.e. it would be inappropriate for the IPC to be involved in discussions with developers
- there is a risk that developers will 'oversize' their schemes so that they qualify for determination by the IPC rather than the local planning authority: need for more clarity on what happens if a scheme is slightly below the IPC threshold
- it is critical that the Commission is properly resourced, and that it is able to respond within appropriate time limits
- would the IPC advice be free? If not, what fee would be applicable and would this be separate from the planning application fee?
- opposition to perception that government and businesses together are deciding on what is a nationally significant infrastructure case
- the IPC should be kept as free as possible from obligations other than those central to its role

### **Suggestions**

Several respondents suggested procedural approaches for determining whether NSIPs would fall within the IPC's remit:

- there must be absolutely clear definition of NSIPs and where/why the line is drawn between these and other schemes (could be defined in legislation or NPS)
- before advising on whether a NSIP falls within its remit, the IPC should first consult with the body that would have otherwise been the decision-maker (e.g. LPA, Mayor of London), especially in borderline cases; an independent body is required to resolve any disputes between the IPC and former decision-maker



- decisions on whether a project falls within the Commission's remit should be taken jointly by the IPC and Government
- the process for determining whether an application falls within the IPC's remit should be similar to the EIA screening and scoping process
- there should be a mechanism whereby the IPC can delegate a scheme back to the LPA for consideration, and whereby an LPA can request that the IPC determine an application, subject to the agreement of the IPC, LPA and promoter
- need for an appeal procedure where a promoter or third party considers that a project should fall within the remit of the IPC, but the application is allocated for determination by LPA (or vice versa)

Suggestions for any additional advisory roles that the IPC could fulfil included:

- specialist advice for LPAs, promoters and third parties where a nationally significant infrastructure project falls outside the remit of the IPC to determine the application
- advising government when NPSs need to be reviewed
- providing screening and scoping opinions under EIA Regulations
- advising on possible financial assistance for developers
- advising on the CPO process

### 3.3.8 Question 18: Rules governing propriety

**Question 18.** Representatives of all groups of those who answered the question made suggestions on propriety rules. It was government bodies that most commonly responded to this question.

Suggestions for propriety rules included:

- the same rules that apply to local planning authorities and Planning Inspectorate
- all information and advice provided by the Infrastructure Planning Commission, together with the minutes of meetings they have attended, should be made publicly available
- there should be no direct contact between Infrastructure Planning Commissioners and promoters; must go through intermediary
- Commissioners should not have any financial, political, personal or other affiliation/interest that would undermine impartiality

**Question 18 asked: What rules do you consider would be appropriate to ensure the propriety of the IPC's interactions with promoters and other parties?**

This question did not elicit 'yes' 'yes but' or 'no' responses, but rather asked for respondents' views and opinions on ways to ensure the propriety of the IPC's interactions. Comments are therefore structured accordingly.

### **Suggested rules**

The most frequently suggested rules were:

- the same propriety rules as apply to LPAs or the Planning Inspectorate
- all information and advice provided by the IPC, and the minutes of all meetings in which they have been involved, should be available to all parties to ensure transparency
- Commissioners should not have any financial, political, personal or other affiliation/interest that would undermine impartiality; any interests must be declared and published
- a Code of Conduct for Commissioners should be prepared
- there should be no direct contact between IPC and promoters: must go through an intermediary
- there is a need to clearly separate the IPC's advisory and decision-making functions, and within the secretariat, separate any advisors to the applicant from advisors to the Commissioners
- the Nolan principles on standards in public life should apply

### ***Procedural approach***

A number of points were made regarding ways rules on propriety could be upheld:

- scrutiny by a Parliamentary Select Committee
- a robust complaints procedure and an independent Ombudsman
- no private meetings between IPC and individual parties: LPA should always be invited to attend as well
- a large enough pool of Commissioners should help to minimise the risk of conflicts of interest arising
- each panel should be chaired by a Planning Inspector

- there should be at least two commissioners on the panel who had not been involved in pre-application work with other parties
- audits should be undertaken
- relationship between promoter and LPA should be used as the basis for propriety

### 3.3.9 Question 19: The Commission's role at the point of application

**Question 19.** A large majority of those who answered the question agreed with the proposed role of the Infrastructure Planning Commission at the point of application. There was strong support from professionals and academics, business and government bodies, with least from the public.

The main points were:

- there is a need for clear criteria governing which applications go to commission and the basis for the Infrastructure Planning Commission's decisions
- Infrastructure Planning Commission would need to begin to consider an application before being able to come to a view on the preparation of and consultation on it
- local planning authorities should do the pre-application work and the Infrastructure Planning Commission should consider soundness

The government proposed that, before agreeing to consider an application, the IPC would need to satisfy itself that

- a) the application fell within its remit to determine;
- b) the application had been properly prepared; and
- c) appropriate consultation had been carried out.

In the event that an application had not been properly prepared or consulted on, the commission would direct the promoter to do further work before resubmitting their application. In the event that an application was not appropriate for the commission to determine, the commission would refuse to consider it.

Question 19 asked: Do you agree, in principle, that the commission should have the powers described above? Are there any other issues the commission should address before or at the point of application?

Question 19			
	Answered	Yes	No
<b>Government bodies</b>	88	92%	8%
<b>Public</b>	32	66%	34%
<b>Environment and community groups</b>	105	83%	17%
<b>Business</b>	59	97%	3%
<b>Professionals and academics</b>	18	100%	0%
<b>All</b>	<b>302</b>	<b>87%</b>	<b>13%</b>

87% of those who answered the question agreed with the proposals, with greatest levels of support from professionals and academics and business. 13% of those who answered the question objected to the proposals with members of the public reporting the greatest levels of opposition.

### Concerns

A number of concerns were raised which have been addressed in other sections of this report. These include whether IPC should be a decision making body and appointment of and skills base of commissioners. Respondents also raised other general concerns:

- IPC would use these tests as reason to delay an application
- process could become overly iterative and time consuming

### Suggestions

A number of general suggestions were made about the IPC's role at the point of application:

- need for clear criteria governing the basis for the IPC's decisions
- as currently proposed, the IPC would need to begin to consider an application before it would be able to come to a view on issues b) or c)
- LPAs should do the pre-application work; IPC should consider soundness
- need legislation to determine which applications go to the commission
- there should be parliamentary scrutiny of any application that was rejected, instead of being directed for re-submission

- would like IPC to be able to give greater weight to local impacts, with power to reject applications on these grounds
- set timescale for determining the application when it is submitted
- involve the LPA in determining the level of publicity required – in-line with the LPAs Statement of Community Involvement and the publicity that the LPA would be required to prepare if it was determining the application
- consider similar applications elsewhere, their precedence and state of readiness in comparison to the application at hand (in order to take national overview)

***Specific comments in relation to each of the three tests***

*a) that the application fell within the IPCs remit*

- possible abuse in process by IPC where delay in registration could be used to 'improve' performance against targets

*b) that the application had been properly prepared*

- add a test of compatibility with EU/domestic law
- decide in conjunction with the statutory consultees
- must allow for robust testing of evidence
- all relevant data should be placed in the public domain within the specified timeframe

*c) that appropriate consultation had been carried out*

- this must be flexible: depends on the consultation requirements identified by IPC earlier in the process
- publicity should include a notification announcement by IPC upon receipt of application
- publicity should include notice of application to people with an interest in the land
- should undertake pre-application meetings with promoter to consider draft consultation statements
- promoters should be required to take consultation responses into account and explain how they may have influenced the application

### 3.4 Community engagement through consultation

In-line with its objective of encouraging public participation, the PWP addressed consultation in a number of places and at different stages in the NSIP process. Because the issue of consultation with other organisations on the preparation of NPSs and the handling of subsequent NSIPs applications raised common (but not identical) themes in the responses, we have analysed questions 14, 26 and 28 together. The analysis draws out themes specific to each consultation stage envisaged in the Government's proposals.

#### 3.4.1 Question 14: Consulting with other organisations

**Question 14.** A large majority of those who answered the question were in favour of the list of proposed statutory consultees that, depending on the nature of the project, should be consulted during the development of nationally significant infrastructure project applications. The greatest support was from government bodies and professionals and academics. Environment and community groups were the least supportive, and the public were concerned to see a balance between various interests.

The main points were:

- support for a flexible approach: promoters should be directed towards the more relevant bodies, some of which may be non-statutory
- respondents suggested that the results of any consultation must be published alongside all the other material that accompanies the application
- many respondents sought to add their own organisation to the consultee list

**Question 14 asked:** Do you agree, in principle, that the list of statutory consultees presented in the White Paper is appropriate at the project development stage? Are there any bodies not included who should be?

<b>Question 14</b>			
	Answered	Yes	No
<b>Government bodies</b>	104	93%	7%
<b>Public</b>	27	85%	15%
<b>Environment and community groups</b>	126	81%	19%
<b>Business</b>	63	86%	14%
<b>Professionals and academics</b>	20	95%	5%
<b>All</b>	<b>340</b>	<b>87%</b>	<b>13%</b>

87% of those who answered the question broadly agreed with the proposed list but 13% of those who answered the question disagreed in principle. Other respondents made suggestions, but did not explicitly state their support or opposition.

#### **Support**

- promoters should be directed towards the more relevant bodies: not all need to be consulted on everything; consultation should be wholly dependent on the location of development and its nature
- consultation with statutory consultees should be done in parallel with public consultation
- onus should be on the development promoter to pursue meaningful consultation

#### **Concerns**

- English Heritage cannot speak for the sponsoring government department as well as the various amenity societies
- 'Waste Regulation Authorities' needs to be more clearly defined: the Environment Agency or Waste Planning Authority, depending on role
- consulting so many bodies would increase delay

#### **Suggestions**

##### ***Procedural***

- the list should remain open and flexible: some non-statutory bodies may be appropriate in some cases
- prior to the submission of an application, applicants should be required to submit a proposed list of consultees

- there should be a two-stage process: i) initial notice of application issued to all consultees on the list; ii) full consultation undertaken with those consultees unless they have indicated that they are not interested in the particular application
- some bodies should be required to respond to consultation, others should be allowed to participate if they wish
- the results of any consultation must be published alongside all the other material that accompanies the application
- if a decision is taken without having consulted the relevant non-statutory bodies, there should be grounds for requesting a review of the decision
- the public should have the same ('special') status as the statutory consultees

***Additions to list of statutory consultees***

- those listed in the LPAs SCI
- Planning Aid should be notified, as facilitators of others' input

**Governmental bodies and regulators:** Government departments (including BERR, DEFRA, MOD, Justice Department for Human Rights and a proposed Ministry of Water); Welsh Public Bodies (including Countryside Council for Wales); Civil Aviation Authority; OFGEM; OFCOM; OFWAT; Forestry Commission; Regional Development Agencies; County Councils; Minerals Planning Authorities; Mayor of London/GLA; sub-regional groups/partnerships of LPAs; City-Region leadership bodies as they emerge; Local Strategic Partnerships; Town and Parish Councils; NHS Trusts; Primary Care Trusts; Education Authorities; Urban Development Corporations.

**Environmental, social and amenity groups:** Commission for Sustainable Development; Commission for Rural Communities; Commission for Equality and Human Rights; Civic Trust; RSPB; National Trust; CPRE; AONB Conservation Boards and Joint Advisory Committees/Partnerships; Ramblers Association; Friends of the Earth; Greenpeace; Wildlife Trusts Partnership; The Royal Society; Joint Committee of the National Amenity Societies; Wildlife and Countryside Link; Town and Country Planning Association; Heritage Link; The Theatres Trust; Grasslands Trust; Transport 2000; Restore UK; Woodland Trust; Airport Watch; UKRIGS; Residents Associations; Local Access Forum; Royal Astronomical Society; Garden Historic Society; National Organisation of Residents Associations; Museums Libraries and Archives Council; Auto Cycle Union; Cyclists Touring Club; The Council for British Archaeology; National Energy Foundation.

**Utilities:** Gas and electricity suppliers; waste companies; water and sewerage undertakers; water management companies; National Grid; UKOPA; communications companies.



**Transport:** Passenger Transport Executives/Authorities; Transport for London; Airport operators; Airport Consultative Committees (where applicable); Harbour/Port Authorities; Chamber of Shipping; Network Rail; Union Railways (North) (re: CTRL); Disabled Passengers Transport Advisory Committee; Commission for Integrated Transport; British Waterways; National Air Traffic Services; Local Authorities Aircraft Noise Council.

**Business:** Chambers of Commerce; Trades Union Congress; CBI; Centre for Accessible Environments; Access Association; JMU Access Partnership; Met Office (advising on climate change); 'the farming industry'.

**Professional Institutions:** Institute of Civil Engineers; Royal Institute of British Architects; Royal Town Planning Institute; Royal Institute of Chartered Surveyors; Local Government Association; Institute of Environmental Management and Assessment.

**Others:** Police, fire and other emergency services, including Marine and Coastguard Agency; Health Protection Agency; Sport England; Arts Council; Church Heritage Forum; Church of England Diocesan Boards of Finance; Church Commissioners; Inter-faith Councils; Cathedrals Fabric Commission for England; Crown Estates; RAC; AA.

**Clarifications**

- HM Railway Inspectorate is now part of the Office of Rail Regulation

**3.4.2 Question 26: Preliminary stages**

**Question 26.** A large majority of those who answered the question were in favour of the government's proposals on the process of consultation at the determination stage. Government bodies and professionals and academics were the most supportive groups. The public were the most sceptical about the proposals.

The main points were:

- the same bodies should be consulted as at the pre-application stage, although it was suggested that they should not all be required to comment again
- a degree of flexibility was suggested, to allow consultation with bodies not included in the pre-application discussions
- many respondents sought to add their own organisation to the consultee list

Question 26 asked: Do you agree in principle that the list of statutory consultees set out in the White Paper is appropriate at the determination stage? Are there any bodies not included who should be?

Question 26			
	Answered	Yes	No
<b>Government bodies</b>	95	93%	7%
<b>Public</b>	22	59%	41%
<b>Environment and community groups</b>	86	78%	22%
<b>Business</b>	55	87%	13%
<b>Professionals and academics</b>	18	94%	6%
<b>All</b>	<b>276</b>	<b>84%</b>	<b>16%</b>

84% of those who answered the question broadly agreed with the proposed list but 16% of those who answered the question disagreed in principle. Most of the respondents who answered this question provided the same information as they had for Question 14, especially with regard to the list of organisations to be consulted.

However, many of the respondents who answered this question had comments and suggestions to make about the **process** of consultation at the determination (rather than the pre-application) stage.

#### Support

- the IPC should coordinate this round of consultation
- the list of consultees should be the same as at the pre-application stage, and will therefore be relevant to the location and nature of the project
- there is a need to maintain involvement of local and regional authorities, affected persons and organisations

#### Concerns

- the perceived importance of quangos threatens to undermine public engagement/democracy
- more consultation must not slow the process unnecessarily

### Suggestions

- the process must be flexible to allow consultation with bodies not included in the pre-application discussions
- consultation should not be restricted to those bodies **considered** to be affected or relevant, as important views may be unintentionally lost from the process
- the bodies included on the list will already have been consulted by the promoter at the pre-application stage: further consultation by the IPC should only occur where a consultee's evidence, analysis or view conflicts with that of the promoter
- parties on the list need to be notified but not necessarily consulted again: need to acknowledge the risk of consultation fatigue
- the form and degree of post-application consultation should not in any way be dependent on the quality or extent of pre-application consultation by the promoter
- the final published list of consultees should be conclusive about who needs to be consulted
- LPAs should have special status, perhaps a special role in ameliorating adverse local impacts where national need overrides them

### 3.4.3 Question 28: Hard to reach groups

**Question 28.** Almost all of those who answered the question agreed to the proposals to involve hard to reach groups in the process for nationally significant infrastructure projects. A wide range of individual comments was received, including:

- specific means needed to assist involvement of local people
- need to ensure that the Infrastructure Planning Commission has a duty to demonstrate that the views of local people have been taken into account
- the local planning authority would have an important role in consulting and articulating the views of the local community
- Planning Aid would require further funding to provide the necessary assistance

The PWP proposed to increase the involvement of communities in the planning inquiry process, especially those who found it hard to engage with the formal processes and might not readily come forward, even though they may be affected by proposals. The Government proposed to increase the grant funding available to bodies such as Planning Aid by up to £1.5m per annum alongside the introduction of the new system so that they can extend their activities and help 'hard to reach' groups to get involved on site-specific proposals in NPSs and in the planning inquiries on nationally significant infrastructure projects.

**Question 28a asked: What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?**

**Question 28b asked: How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?**

Respondents tended to combine their answers to these questions, so they have been reported accordingly. 271 respondents answered this question, almost all of which supported the proposals. A wide variety of measures was suggested, by all categories of respondents, in order to ensure better engagement with hard to reach groups. Several other respondents, mostly nationally significant infrastructure providers such as ports and waste companies, considered that consultation was not usually a problem for them. The importance of the roles of the LPA and Planning Aid were particularly stressed by environment and community groups.

### ***Suggested measures***

The following suggestions were made for involving hard to reach groups:

- a variety of formats should be used for disseminating information and receiving responses, respecting possible problems of literacy among the audience
- wider use of the internet and e-mail
- LPAs should send newsletters to every household in their area
- local media should be used (including community radio and local press)
- exhibitions in local shops, faith centres, libraries, leisure centres, council offices etc
- public meetings
- groups have volunteered to assist in consultation process, including Chambers of Commerce, The Garden History Society, Cathedral networks, Neighbourhood Initiative Foundation

- distribution of information must not be unduly restricted
- consultation should be undertaken with local and regional interest groups
- free or low cost training courses
- Citizens Panels could be used at 'open forum' stage
- the form of consultation should vary depending on the particular circumstances of the project under consideration
- financial support in the form of Legal Aid to enable groups to appoint qualified legal representation
- LPAs should advertise Planning Aid's services
- house to house surveys
- properly funded local and national organisations of disabled people; disabled press
- extended role for the Planning Advisory Service
- IPC should liaise with Traveller Education Services, Gypsy Liaison Officers and other parties who have the trust of Traveller and Gypsy communities
- Planning Aid should advise Travellers on their rights and responsibilities at any Inquiry, and support and advise them with regard to any potential displacement occurring as a consequence of nationally significant infrastructure development proposals

### **Overall process**

#### **Concerns**

- Proposed determination process will make it harder to reach people than before
- LPAs may be biased and not reflect views of the local community
- existing guidance (on preparation of SCIs) should be followed
- further government research should be undertaken on this subject
- there is a need to manage expectations over controversial proposals

#### **Suggestions**

With regard to the consultation/engagement process itself, suggestions included:

- LPAs should be obliged to consult local communities and will have a key role in articulating the views of key stakeholders (further funding may be necessary, possibly from promoter)

- consultation should be in accordance with LPAs Statement of Community Involvement
- there should be a duty on the Commissioner to be satisfied that such groups have been reached, and a duty to demonstrate that their views have been taken into account
- a national SCI should be prepared, as well as a Communications Strategy for each NSIP proposal, to be agreed between promoter and IPC/LPA
- there should be a duty on the promoter to identify these groups and to publicise their proposals adequately
- LPAs (Councillors and officers) can use their local knowledge to recommend other groups/contacts to the body leading the consultation
- there should be an effort to involve hard to reach groups at an earlier stage in the process, for example through Council for Voluntary Services or Local Strategic Partnership
- some of the proposed funding should be available to local amenity societies, residents associations and Town and Parish Councils, who can use their local knowledge to engage local people
- funds should be levied from promoter to cover costs occurred by local community
- LPAs and IPC could act in partnership to undertake additional consultations and provide convenient access to application documents
- longer timescales would improve chances of hard to reach groups becoming involved

### ***Planning aid Concerns***

- £1.5m was considered an insufficient sum to properly resource community stakeholders; further funding is necessary
- it is not clear that Planning Aid is entirely effective, in particular due to the reliance on volunteer chartered town planners

### **Suggestions**

- Planning Aid more would be more effective if there were a service level agreement between government and Planning Aid for effective use of resources
- Planning Aid should be a facilitator, ensuring consultation is representative, balanced and fair

- Planning Aid should be the focus for the additional funding as it can utilise extensive networks of community contacts
- there should be an obligation for promoters or the IPC to publicise details of Planning Aid in initial public consultations
- increased funding for Planning Aid should be part funded by promoters as part of their application fee
- extra funding should be matched with a commitment to reshape Planning Aid to become more visible to individuals not engaged in planning process
- there should be a service level agreement between government and Planning Aid for the effective use of the additional resources
- involvement in Planning Aid work should be a requirement for professional planners' Continuing Professional Development

### 3.5 Determining applications for nationally significant infrastructure projects and the scope of the Infrastructure Planning Commission

The next section of the PWP considered the decision making stage of the NSIP application process, starting with the scope of the IPC.

#### 3.5.1 Question 20: Scope of Infrastructure Planning Commission

**Question 20.** There was majority support among those who answered the question for the various thresholds proposed to determine whether projects came before the Infrastructure Planning Commission. Support was greatest from the public, business and professionals and academics.

The main points were:

- thresholds must be justified with a clear and robust evidence base
- avoid unnecessarily low thresholds and possible delays to smaller schemes, as not all developments proposed would be nationally significant
- keep thresholds under review
- include guidance on strategic rail projects
- provide better guidance on works on the Strategic Road Network

In the PWP, the Government proposed that the IPC would deal with development consent applications for nationally significant transport, water, wastewater and waste infrastructure in England, and energy infrastructure in England and Wales, which exceeded statutory thresholds. The proposed thresholds were:

#### Energy

- (a) Power stations generating more than 50 megawatts onshore – the existing Electricity Act 1989 threshold – and 100 megawatts offshore.
- (b) Projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network. This would be subject to further definition in the relevant national policy statement.
- (c) Major gas infrastructure projects (Liquefied Natural Gas terminals, above ground installations, and underground gas storage facilities). This would be subject to further definition in the relevant national policy statement.
- (d) Commercial pipelines above the existing Pipelines Act 1962 threshold of 16.093 kilometres/10 miles in length and licensed gas transporter pipelines necessary to the operational effectiveness, reliability and resilience of the gas transmission and distribution network.

#### Transport

- (e) Schemes on, or adding to, the Strategic Road Network requiring land outside of the existing highway boundary. This would be subject to further definition in the relevant national policy statement.
- (f) A new tarmac runway or infrastructure that increases an airport's capacity by over 5m passengers per year.
- (g) Ports – a container facility with a capacity of 0.5 million teu or greater; or a ro-ro (including trailers and trade-cars) facility for 250,000 units or greater; or any bulk or general cargo facility with a capacity for five million tonnes or greater.

#### Water and waste

- (h) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
- (i) Works for the transfer of water resources, other than piped drinking water, between river basins or water undertakers' supply areas, where the volume transferred exceeds 100 million cubic metres per year.



- (j) Waste water treatment plants where the capacity exceeds 150,000 population equivalent, and wastewater collection infrastructure that is associated with such works.
- (k) Energy from waste plants producing more than 50 megawatts – the existing Electricity Act 1989 threshold.
- (l) Plant whose main purpose is the final disposal or recovery of hazardous waste, with a permitted hazardous waste throughput capacity in excess of 30,000 tonnes per annum, or in the case of hazardous waste landfill or deep storage facility for hazardous waste, a permitted hazardous waste throughput or acceptance capacity at or in excess of 100,000 tons per annum.

Question 20 asked: Do you agree, in principle, that these thresholds are appropriate? If not, what alternative thresholds would you propose?

<b>Question 20</b>			
	Answered	Yes	No
<b>Government bodies</b>	98	64%	36%
<b>Public</b>	19	79%	21%
<b>Environment and community groups</b>	89	66%	34%
<b>Business</b>	57	68%	32%
<b>Professionals and academics</b>	18	72%	28%
<b>All</b>	<b>281</b>	<b>67%</b>	<b>33%</b>

67% of those responding to this question agreed that the proposed thresholds are appropriate. 33% disagreed with the proposals. Many respondents suggested amendments or alternatives.

For the purpose of reporting these findings, suggestions for additional types of projects and general refinement the current thresholds are listed. These are followed by specific suggestions regarding thresholds for energy, airports, other transport, water and waste.

**Suggestions for additional types of project**

Those suggesting categories of NSIPs said that consideration should be given to adding the following:

- rail, including rail freight terminals, new high speed and inter-regional lines and national hub stations (with thresholds set in terms of capacity)

- other public transport, including light rail, tram and guided busway proposals
- mining and mineral extraction
- waste transfer
- car dismantling plants
- material reprocessing
- capital dredging projects (which have their own consent mechanism)
- defence infrastructure
- pipelines
- super-quarries
- bridges
- tunnels
- recycling facilities
- desalination plants
- major urban extensions
- development in the floodplain
- flood defences
- oil refineries and storage facilities
- information infrastructure, e.g. signal towers and cable networks

***Refining thresholds***

Respondents made the following suggestions in relation to thresholds:

- avoid unnecessarily low thresholds and possible delays to smaller schemes, as not all developments proposed would be nationally significant
- be kept under review (e.g. every 5 years) to ensure that they work effectively

- be set at or exceeding (e.g. by 50%) the thresholds set out in the 1999 EIA Regulations
- be based on the two-tier 1999 EIA Regulations (i.e. Schedule 1 projects must be considered by the IPC and Schedule 2 might be considered by the IPC)
- be justified with a clear evidence base
- should be indicative only, to allow Secretaries of State to refer projects which don't reach the appropriate threshold to the IPC on a case by case basis
- ensure there is no ambiguity when defining which projects will be referred to the IPC
- be defined so that the phasing of schemes could not be used to avoid the thresholds, perhaps by including a cumulative measure
- offer an opt-out if the developer and LPA agree to deal with an application locally or where the developer can demonstrate that the scheme would have only minor impacts
- take account of the impacts of climate change, i.e. infrastructure projects with a long lifetime or a high sensitivity to climate change may need lower thresholds.
- ensure that all projects will be determined by the IPC where they would be located in an AONB, SSSI or carbon sink (e.g. woodland)
- take into account resources available to the IPC
- be included in legislation and not just in NPSs
- be defined in NPS, not legislation, to retain flexibility to adjust them
- be defined in the appropriate NPS only where the NPS is subject to Examination in Public or via a separate public consultation
- be accompanied by detailed guidelines set out as part of or alongside appropriate NPSs
- it is not clear if changes to existing facilities which meet the thresholds would be referred to the IPC
- applications for nationally significant infrastructure projects should continue to be determined by the local planning authority or Secretary of State, advised by the IPC as necessary

### **Energy**

With regard to energy projects, it was suggested that:

- it should be made clear that thresholds for energy projects apply to renewable sources of energy
- a lower threshold should be introduced for renewable energy projects and in particular wind farms (a threshold of 15MW was suggested for wind farms)
- IPC process encourages larger projects, as opposed to a combination of smaller schemes subject to approval by LPAs (also applies to waste management and water supply)
- grid-connected onshore energy projects of less than 50MW might be relevant to the IPC
- the 50MW threshold for onshore energy projects should refer to installed capacity and not average output
- the threshold of 50MW for onshore power station capacity should be raised, to take into account modern efficiencies and to include only projects of national significance
- the threshold for onshore power station capacity should be lowered to 20MW/5MW
- all offshore energy schemes and CHP projects should be referred to the IPC
- all offshore energy schemes should be determined by the Marine Management Organisation (MMO)
- the threshold for offshore energy projects should be the same as onshore (50MW)
- the thresholds for wind farm development should take into account proximity to existing residential properties (Danish and German guidelines were suggested as examples of good practice)
- where additional wind turbines are proposed within a certain radius of existing wind turbines (with a combined total of over 50 Megawatts), any proposals should be referred to the IPC. The counter point was also made, i.e. that a combined total of proposed and existing should **not** be used to define the threshold

**Airports**

With regard to airports, the comments were largely designed to define the thresholds more effectively, but not always in the same way or with the same effect. It was suggested that:

- the threshold for airports should be based on a percentage increase in passenger capacity: the proposed threshold might be appropriate for development at regional and smaller airports, but a percentage threshold would be more appropriate for larger airports (including Heathrow, Gatwick, Stansted and Manchester)
- the threshold should be set at 10 million additional passengers per annum or more for single runway airports and 20 million additional passengers per annum for airports with 2 or more runways
- the threshold for airport development should be lowered to 1 million additional passengers per annum
- any new airport and any new tarmac runway should be referred to the IPC
- the threshold should be set in terms of air traffic movements, perhaps set at 20,000 per year (a threshold measuring passengers per year would not encompass freight aviation)
- the threshold should take into account the additional population affected by noise or emissions
- the threshold for airport development should be based on peak hour passenger numbers
- the thresholds for airport development should take into account existing potential capacity from other airports
- the reference to infrastructure other than a new runway is potentially confusing

**Other transport**

With regard to other transport projects, it was suggested that:

- not all of the Strategic Road Network can be considered nationally significant (a better defined threshold would be required)
- only those projects involving major works on or adding to the Strategic Road Network (including the TfL road network) should be referred to the IPC (i.e. current threshold could cover minor junction improvements)
- projects to be referred to the IPC should be those managed by the Highway Agency

- TfL should retain responsibility for determining how the London transport network operates
- all ports should be referred to IPC
- thresholds for ports should be lowered to 250,000 teu; a ro-ro facility for 150,000 units; or any bulk or general cargo facility with a capacity of 3 million tonnes (see glossary for further details if required)
- the thresholds for ports projects should cover coal or liquid natural gas terminals

### **Water**

With regard to water projects, it was suggested that:

- the threshold for water storage should be lowered to 5 million cubic metres
- the threshold for water storage should be increased to 50 million cubic metres (the current threshold would include water storage schemes of local significance)
- the threshold for water storage should take into account the population at risk from flooding should a dam or embankment fail
- the threshold for water transfer should be lowered to 50 million cubic metres per year
- the threshold for waste water treatment works should take account of improvement measures to reduce water use and should be based on a specified volume, not population equivalent
- the threshold should apply to new waste water treatment works only and not to associated collection infrastructure
- water projects should be determined at the regional level (on the basis of the appropriate RSS)

### **Waste**

With regard to waste projects, it was suggested that:

- the threshold for energy from waste projects should be lowered to 25MW
- the threshold for the disposal or recovery of hazardous waste should be lowered to 10,000 tonnes per annum
- the threshold for landfill or deep storage of hazardous waste should be lowered to 50,000 tonnes per annum

- a threshold of 75-100,000 tonnes per annum should be added for soil remediation
- the thresholds should be increased to 400,000 tonnes per annum for waste treatment and 800,000 tonnes per annum for landfill
- waste projects should be determined at the regional level (on the basis of the appropriate RSS)

### 3.5.2 Question 21: Electricity system

**Question 21.** A large majority of those who answered the question were in favour of the proposal to include in the Infrastructure Planning Commission's remit all projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network. Just under one-quarter of those in favour had comments. Support was greatest from business and the public.

The main points were:

- work on local transmission and distribution networks should be determined at the local level
- only projects of national significance should be considered by the Commission
- national policy statements should clearly define the scope of projects to be determined by the Commission

The PWP said that the inclusion of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network was a particular issue. Each link of the network was critical to the effectiveness and resilience of the network as a whole, and thus to ensuring the sustainable and inexpensive transportation of power from generating stations to customers. In the circumstances, the Government concluded that there was no obvious way to draw a line between national and local projects, although they would be interested in views on where such a line could be drawn.

**Question 21 asked: Do you agree, in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?**

<b>Question 21</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	75	47%	27%	27%
<b>Public</b>	19	63%	16%	21%
<b>Environment and community groups</b>	77	43%	13%	44%
<b>Business</b>	40	70%	25%	5%
<b>Professionals and academics</b>	16	56%	13%	31%
<b>All</b>	<b>227</b>	<b>52%</b>	<b>20%</b>	<b>29%</b>

52% of those who answered the question supported the proposals, and 20% of those who answered the question supported the proposals with comments. Particular support came from business and the public.

29% of those who answered the question opposed the proposals. The strongest opposition came from environment and community groups.

#### **Concerns**

- the IPC processes could end up being more burdensome, costly or time consuming than existing arrangements
- if cheapness is the driving factor it could be to the detriment of the local environment and have an adverse impact on people's lives, homes and places of work
- current parameters for referral to IPC would lead to a bottleneck in the system
- requires a safety case
- local communities and LPA will not be sufficiently consulted
- how is operational effectiveness determined, and by whom?

#### **Suggestions**

- NPS should clearly define the scope of projects to be determined by the IPC
- IPC remit should include projects necessary to delivery other energy policy objectives, i.e. energy from renewable sources
- IPC remit should include privately owned facilities (e.g. CHP plants), which would connect to the national grid



- only projects of national significance should be considered by the IPC, i.e. associated with the national grid (respondents suggested threshold may be based on capacity and/or length of transmission lines)
- minor works on existing power stations and local transmission and distribution projects should be considered locally by the LPAs
- work on the local network should be considered alongside work on the national network where appropriate, i.e. associated works
- all projects should be considered at the local level in the first instance, with the option of referral to the IPC
- IPC should be used in advisory role or to coordinate applications
- underground storage facilities should be determined at the local level
- electricity should not be treated differently to other utilities, e.g. water or gas
- provisions should be made for all energy development of significance, but below the agreed thresholds, to be dealt with alongside waste and minerals applications so a broader and more strategic view can be taken of them
- projects should be determined by size, environmental, planning and management impacts
- emphasis should be placed on allowing communities to become self sufficient and allowing for local networks to develop to distribute power from local wind or river turbines
- further layer of processing is required at regional level

### 3.5.3 Question 22: Gas infrastructure

**Question 22.** There was a large majority among those who answered the question in favour of the proposal to include in the Infrastructure Planning Commission's remit all projects necessary to the operational effectiveness and resilience of the gas transmission and distribution network. Just under a fifth of those in favour of the proposal had comments. Support was greatest from government bodies, business and professionals and academics.

The main points raised were the same as for question 21.

The PWP said that gas supply infrastructure (e.g. Liquefied Natural Gas terminals, above ground installations, underground gas storage facilities and pipelines) was covered by a number of consenting regimes with decisions confusingly split between central and local government. As the UK's indigenous gas supplies declined and the country moved towards increasing import dependence on gas, this infrastructure was becoming more important to the national need for secure energy supplies. Whereas, for some other energy infrastructure, there were set thresholds for responsibility for decision making, this was not the case for gas supply infrastructure as their importance was not necessarily determined by size. The Government therefore proposed that nationally significant gas supply infrastructure, as clarified in the relevant national policy statement, should be considered by the IPC.

**Question 22 asked: Do you agree, in principle that the consenting regime for major gas infrastructure should be simplified and updated, rationalising the regime to bring nationally significant decision making under the commission?**

<b>Question 22</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	76	76%	14%	9%
<b>Public</b>	16	50%	25%	25%
<b>Environment and community groups</b>	67	55%	22%	22%
<b>Business</b>	33	85%	15%	0%
<b>Professionals and academics</b>	16	94%	0%	6%
<b>All</b>	<b>208</b>	<b>70%</b>	<b>17%</b>	<b>13%</b>

The comments made to this question were largely repeating the points made under question 21 (see above), but doing so in the context of gas infrastructure. They are not therefore repeated here, only additional concerns and suggestions are listed below. 70% of those who answered the question supported the proposals, with support strongest from professionals and academics and the business community. 17% of those who answered the question supported the proposals with comments (a number of which were also applied to the electricity system) and 13% of those who answered the question opposed the proposals.

**Concerns**

- more detail required about how proposals approved will be safe; guidance does not indicate how the assessment is made

**Suggestions**

- hydrogen storage should be considered in same context
- underground distribution should be considered locally

**3.5.4 Question 23: Other routes to the Infrastructure Planning Commission**

**Question 23.** A large majority of those who answered the question were in favour of the proposal to allow additional projects to come before the Infrastructure Planning Commission, although more than one third of those agreeing had comments. Support was greater from business, with the public least convinced of the merits of the proposal.

The main points were:

- the power should be used sparingly
- the proposal tended to undermine the proposed new system
- use could be made of a screening process

The PWP proposed that, in addition to the projects which exceed the proposed statutory thresholds, the commission would deal with any applications for projects which:

- were specifically identified as being of national importance in the national policy statements
- ministers directed should be treated as nationally significant infrastructure projects. The ministerial power of direction would be exercised on the basis of clear criteria set out in a ministerial statement, or possibly in the national statement of policy itself

Question 23 asked: Do you agree in principle that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission? If not, how would you propose changing technology or sectoral circumstances should be accommodated?

Question 23				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	93	35%	39%	26%
<b>Public</b>	28	32%	21%	46%
<b>Environment and community groups</b>	91	49%	26%	24%
<b>Business</b>	60	65%	33%	2%
<b>Professionals and academics</b>	22	59%	27%	14%
<b>All</b>	<b>294</b>	<b>47%</b>	<b>31%</b>	<b>21%</b>

47% of those who answered the question supported the proposals, and a further 31% of those who answered the question did so with comments, most notably about the extent to which this power would be used and its potential to undermine the existing system. 21% of those who answered the question opposed the suggestions; opposition was most strong from the public.

### Support

- planning applications that do not reach the NSIPs thresholds but involve technical issues, have impacts beyond LPA area, and in which LPA has an interest should not be determined by LPA
- Ministerial direction is probably essential
- circumstances are likely to change and national statements of policy cannot necessarily cover every location or site permutation
- these proposals will lead to clear processes and will be easily understood at a local level

### Concerns

- if ministers retain these powers it could undermine the Government's objectives to support regional planning and undermine local democracy and accountability
- adds an element of political involvement that the IPC is meant to remove

- power of Ministerial direction would by-pass safeguards of the system
- NPS could be superseded by a Ministerial statement

### **Suggestions**

- the power should be used sparingly
- such a role should be exercised independently, with a high level of transparency, and be sufficiently resourced
- parliamentary discussion should precede direction
- decisions should be taken by elected representatives and power should be reviewed periodically, possibly every 5 years
- it should be undertaken with a specific justification based upon procedure and not the merits of a proposal
- there should be safeguards - Parliamentary review, representations and right of challenge in the courts for those affected
- specific projects should be considered by the Commission via NPS and a review of the criteria in it, but not by Ministerial directions to the Commission
- IPC should have an equivalent opposite power to devolve a decision to a LPA where it considered there were no nationally significant issues at stake
- decisions should be taken by the Minister because the Minister is accountable to the electorate
- should only see NSIPs in NPSs, otherwise the NPS should be reviewed
- since the government has entrusted the making of decisions on NSIPs to the IPC it would seem more appropriate for that body to have the power of reference
- a better approach would be to include a 'screening determination' stage so IPC could decide to recover jurisdiction over boundary line cases: a notification direction would mean that the IPC secretariat and Minister would receive information on a much wider set of projects
- for changing technology, there is a need for fresh legislation
- Ministers should be able to refer certain schemes to the Commission as an alternative to calling them in

## 3.6 The operation of the Infrastructure Planning Commission

The PWP's final section on NSIPs addressed the way in which the IPC would operate and considerations it would take into account in determining NSIP applications.

### 3.6.1 Question 24: Rationalisation of the consent regimes

**Question 24.** A majority of those who answered the question supported the proposal for a unified consent regime and specific powers to be given to the Infrastructure Planning Commission. The greatest support came from professionals and academics and business organisations, with the least from environment and community groups and the general public.

The main points were:

- concern that the Infrastructure Planning Commission should not have powers to amend legislation or deal with compulsory purchase powers without a recourse to the Lands Tribunal
- a need to ensure that the Infrastructure Planning Commission was fully qualified, experienced and resourced to make appropriate decisions
- other relevant bodies (such as English Heritage and the local planning authority) who would previously have granted the consents and all statutory consultees and the general public should retain appropriate status

**Question 24 asked:** Do you agree in principle that the commission should be authorised to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

**Question 24**

	Answered	Yes	No
<b>Government bodies</b>	111	80%	20%
<b>Public</b>	43	49%	51%
<b>Environment and community groups</b>	125	48%	52%
<b>Business</b>	71	89%	11%
<b>Professionals and academics</b>	23	91%	9%
<b>All</b>	<b>373</b>	<b>68%</b>	<b>32%</b>

68% of those who answered the question agreed in principle that the consent regime should be unified and the IPC should be given the authority to enable nationally significant infrastructure projects to be implemented. Support was particularly high from professionals and academics, government bodies and business organisations.

32% of those who answered the question disagreed with the proposed reform, particularly the powers given to the IPC. Many raised the general theme of arguments against the principle of establishment of an IPC. Opposition was particularly strong from environment and community groups and the general public.

**Concerns**

- amendment of legislation should rest with Parliament alone
- CPO powers designed to give specific rights to owners should not be in the hands of IPC with remit to secure development, but should continue to involve the Land Tribunal with opportunity to object
- need for more information before a final response can be given

**Suggestions**

- IPC should be fully qualified, experienced and resourced to make appropriate judgements
- other relevant bodies (such as English Heritage and the local planning authority) who would previously have granted the consents and all statutory consultees and the general public should retain appropriate status
- there should be opportunity for referral to Parliament (particularly in the case of contentious measures)

- it would be possible to streamline consents procedures without setting up an IPC, although care would still be needed not to weaken safeguards in the system
- take account of the related infrastructure that is needed to support the main project (for instance, abstraction consents, pipelines, and airspace changes)
- there should be similar streamlining of procedures for schemes of lesser significance

### 3.6.2 Question 25: The commission's mode of operation

**Question 25.** A majority of those who answered the question supported the suggested mode of operation for the Infrastructure Planning Commission, though nearly half of those agreeing had comments. The greatest support came from the business community.

The main points were:

- concerns that a single Commissioner should not be used because one person might have insufficient expertise, be manipulated or face a considerable burden
- suggestions that a larger panel – at least three – should be used, with parties' agreement on the relevant expertise needed in the panel

The PWP proposed that the board of the IPC would appoint a panel of members (usually three to five) to examine and determine the major applications but that, where it did not feel that a full panel would be required, the Board should have discretion to delegate the examination of smaller and less complex cases to a single commissioner with the commission's secretariat.

**Question 25 asked:** Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision? If not what changes or alternative mode of operation would you propose?



<b>Question 25</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	101	37%	30%	34%
<b>Public</b>	40	23%	18%	60%
<b>Environment and community groups</b>	107	23%	20%	57%
<b>Business</b>	58	55%	36%	9%
<b>Professionals and academics</b>	23	39%	35%	26%
<b>All</b>	<b>329</b>	<b>34%</b>	<b>26%</b>	<b>40%</b>

34% of those who answered the question agreed with the proposals. 26% of those who answered the question agreed in principle with the proposals, but had some comments about the specific numbers of commissioners suggested and the level of expertise necessary. 40% of those who answered the question disagreed with the proposals. Opposition was particularly strong from environment and community groups and the general public.

#### **Support**

- the proposed process was suitable, due to similarities with the existing appeals system
- flexibility over number of commissioners was deemed appropriate

#### **Concerns**

- a single commissioner should not be used because one person might have insufficient expertise, be manipulated or face a considerable burden
- even with a larger number of commissioners there was some concern about availability and lack of expertise

#### **Suggestions**

- a larger panel was needed to include wide range of expertise: suggested minima were three and eight members
- should be an opportunity for all parties to agree the range of experts appointed to cover a particular project
- if one commissioner was used, there should be set of guidance notes or protocol to ensure robust decisions and support from experts where appropriate
- the existing Public Inquiry scheme should be reviewed and improved

- a properly resourced PINS could undertake the role
- similar process to RSS should be adopted: Examination in Public where a small panel invites discussion on specific topics
- the approach proposed needs to be developed with care, to ensure public confidence is maintained and that effective testing of evidence takes place

### 3.6.3 Question 26: Preliminary stages

This question is considered in the section of this report dealing with statutory consultation (Section 3.4).

### 3.6.4 Question 27: Examination

**Question 27.** A majority of those who answered the question were in favour of the proposals for procedural reforms at examination, with greater support from the business community and government bodies.

The majority of the responses from the public and environment and community groups were opposed.

The main points were:

- the right to be heard of local planning authorities, statutory bodies, local bodies, and individuals must not be affected by time limits or use of open session
- all participants should have right to cross examine the main parties
- inquisitorial role of commissioners supported, with training or expert support
- all information, including records of oral evidence, to be made publicly available

The PWP proposed that

- the majority of evidence, given its likely technical nature, should be given in writing, although the commission would have discretion to call witnesses to give oral evidence where it felt that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage them
- the IPC would test this evidence itself by means of direct questions, rather than relying on opposing counsel to test it via a process of cross-examination though it would have discretion to conduct or invite cross-examination of witnesses, if it felt that this would better test the evidence

- the IPC would organise an “open floor” stage where interested parties could have their say about the application, within a defined period of time, where there was demand for it
- the examination and determination process should be subject to a statutory time limit of no longer than nine months (six months for the examination and three for the decision), but that for particularly difficult cases, the commission might decide that it needed longer to probe the evidence before they could reach a decision.

Question 27 asked: Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation? If not, what changes or other procedural reforms might help to achieve these objectives?

Question 27			
	Answered	Yes	No
<b>Government bodies</b>	98	80%	20%
<b>Public</b>	65	28%	72%
<b>Environment and community groups</b>	124	46%	54%
<b>Business</b>	66	86%	14%
<b>Professionals and academics</b>	21	52%	48%
<b>All</b>	<b>374</b>	<b>59%</b>	<b>41%</b>

59% of those who answered the question supported the proposals, with support greatest from business organisations and governmental bodies. Most of the positive responses included reservations about how the reforms would work.

41% of those who answered the question opposed the suggestions made, with greatest opposition from the general public and environment and community groups.

Some of the comments made in the more detailed responses in relation to question 27 repeat those made in general responses about democratic accountability. Additional comments are presented below.

**General comments:**

- local community (including landowners), LPA, and statutory and local bodies should retain the right to be heard, otherwise could lead to challenge and delay

- accessibility of the general public and interested parties should not be sacrificed for speed of decision-making
- process only worth going through if IPC can give proper weight to local impacts in reaching a decision
- examination should be able to consider need and alternatives not just local impacts (Aarhus Convention)

**Written/oral evidence:**

- all the written evidence should be made available (preferably via a web site and local library)
- oral evidence, with opportunity for cross examination, could increase understanding, enable full debate and test the evidence
- concern that oral evidence could disadvantage local people

**Direct questioning/cross examination:**

- there should be opportunity for all participants (including the LPA) to cross examine the main parties
- the inquisitorial role of the IPC was welcomed, though there would be training needs, and a need for safeguards against appearing partial
- testing of witnesses in Select Committee style would be most effective
- government guidance should be provided for direct questioning and cross examination.

**Open floor session:**

- there needed to be more information/guidance on how this would work, with it being unclear whether it would help or hinder local people (particularly with time constraint), or just be a token gesture
- a time limit of, for instance, 30 minutes per person for presentation could help
- careful management of this method is required to ensure that delays are not experienced
- concern that being at end of inquiry local people may feel excluded from main sessions, and that evidence will not make much difference to result
- open floor sessions should be held at the beginning as well as the end of the examination
- examinations must be held locally

**Statutory time limits:**

- proposed deadline **supported** (with confirmation sought that only the Secretary of State could extend it)
- statutory time limit **not appropriate**: time taken should be proportionate to the importance and complexity of the issues, and set on a case by case basis
- **shorter** timescale (e.g. 6 months) should be a possibility
- **longer** timescales of 1 year or 18 months proposed
- speed should not undermine proper decision making
- proposed deadline should not adversely affect quality of decision making
- timetable for whole process be set out by IPC at beginning to reflect requirements of the hearing

**3.6.5 Question 28: Hard to reach groups**

This question is considered in the section of this report dealing with statutory consultation (Section 3.4).

**3.6.6 Question 29: Decisions**

This question is considered with question 4 above (Section 3.2).

**3.6.7 Question 30: Conditions**

**Question 30.** A large majority of those who answered the question supported the proposals for identifying and enforcing conditions, although over one half of those agreeing did so with comments. The greatest support came from the business sector.

The key alternative proposals were:

- local planning authorities to have a role in formulating and enforcing conditions, but need for wider resources and skills
- Infrastructure Planning Commission to establish mechanisms by which conditions are assessed, and monitor enforcement
- a working party to be set up to identify full range of regimes and who to be involved

The PWP proposed that the IPC would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the NPS. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

**Question 30 asked: Do you agree in principle that the IPC should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them? If not, what alternative approach would you propose?**

<b>Question 30</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	115	20%	55%	25%
<b>Public</b>	30	53%	23%	23%
<b>Environment and community groups</b>	108	42%	36%	22%
<b>Business</b>	65	58%	35%	6%
<b>Professionals and academics</b>	22	36%	55%	9%
<b>All</b>	<b>340</b>	<b>38%</b>	<b>42%</b>	<b>19%</b>

38% of those who answered the question agreed with the proposals that the IPC should be able to specify conditions. Greatest support came from the business community. 42% of those who answered the question agreed with the proposals but with some comments. Concerns were raised particularly by governmental and professional bodies, who believed that it was important that LPAs should play a key role in formulating as well as enforcing conditions. 19% of those who answered the question were opposed to the new proposals.

**Support**

There were no new comments other than those re-inforcing the PWP proposals.

### Concerns

- LPAs may not have expertise to enforce conditions over the wide range of current consent regimes
- LPAs should have a role in formulating as well as enforcing conditions
- IPC should have role in establishing mechanisms by which conditions are assessed, discharged and monitored to ensure enforcement
- clarification is required as to whether there is a right to appeal against the imposition of conditions
- concerned that difficulty may arise where the LPA was originally opposed to the development
- IPC should ensure that mitigation is fair between different schemes

### Suggestions

- IPC should take full responsibility for the establishment and variation of conditions and should apply and enforce conditions itself
- Government should set up its own monitoring and enforcement system
- IPC should enter into partner agreements with LPAs for enforcement, and LPAs should then be able to ask for government support
- the new system should be consistent with the way LPAs currently deal with consents, including any equivalent to S106, and with LPAs being involved in early discussions
- consider building Planning Gain Supplement into the conditions in order to benefit the community
- LPA should have the right to apply additional consents consistent with the LDF
- LPAs should be provided with adequate resources to support enforcement function (possibly from promoter)
- conditions should not be constrained by UK guidance
- need for working party to be set up to clarify consent regimes covered and who should be involved, as well as assist and add expertise where necessary
- a single fee for the discharge of all conditions

### 3.6.8 Question 31: Rights of challenge

**Question 31.** A large majority of those who answered the question supported the proposals for challenge on the specific grounds indicated, though approximately one third of those agreeing had comments. Greatest support came from the business community, and least from the public.

The main points were:

- time period for challenge is too restrictive
- grounds of challenge too restrictive, appeal to be possible on planning merits
- use should be made of a draft report to allow corrections of fact or law prior to final version

Question 31 asked: Do you agree, in principle that this opportunity for legal challenge to a decision by the Infrastructure Planning Commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them? If not what alternative would you propose?

Question 31				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	92	60%	18%	22%
<b>Public</b>	36	28%	28%	44%
<b>Environment and community groups</b>	108	42%	30%	29%
<b>Business</b>	68	76%	16%	7%
<b>Professionals and academics</b>	22	41%	45%	14%
<b>All</b>	<b>326</b>	<b>52%</b>	<b>25%</b>	<b>23%</b>

52% of those who answered the question supported the proposal that challenge should be on the grounds of illegality, procedural impropriety or irrationality (including proportionality). Support was particularly strong from the business community.

25% of those who answered the question supported the proposals with comments. 23% of those who answered the question were opposed to the suggestions made, with opposition greatest from the general public.



### **Support**

- right for LPA or member of the public to be able to challenge
- an alternative of Parliamentary scrutiny was adequate
- appeal should not be on basis of planning merits

### **Concern**

- time period of 6 weeks is not sufficient for local groups
- costs likely to be beyond means of local groups (need for legal aid)
- grounds for challenge too narrow; should include e.g. planning considerations, evidence base of decision making
- unless strict timetables for challenge are adhered to then there could be delays
- grounds for challenge should be carefully designed so as not to undermine the robustness of the commission
- subject to the definition and interpretation of irrationality
- irrationality should include unreasonableness in effect on specific areas and communities
- need to ensure documentation is available to defend against legal challenge and against potential blocking tactics

### **Suggestions**

- grounds of challenge must be restricted to procedural or legal matters and strictly adhered to
- economic and technical feasibility should also be grounds for appeal
- adjudication should involve panel of five members not a single person
- suggested time period of 8, 10, 12 or 13 weeks
- use of draft report to allow for corrections of fact or law so correcting action could be taken before final version
- mechanism needs to be developed to ensure that the public and planning authorities are able to challenge development in a meaningful way

### 3.6.9 Question 32: Commission's skill set

**Question 32.** A wide range of skills were suggested for the members of the Infrastructure Planning Commission, with the highest response rate from environment and community groups.

The main points were:

- a wider range of additional expertise needed to ensure environmental/social understanding
- generic skills of judgement, independence and integrity are considered important
- commissioners to be supported by advisors with appropriate skills for the project
- a variety of individuals should be present on the Commission's panel

**Question 32 asked: What experience and skills do you think the commission would need?**

A wide range of skills were suggested for the members of the Infrastructure Planning Commission (126 suggestions in total), with the highest response rate from environment and community groups.

#### **Specific Skills**

- additional skills suggested included: civil engineering; ecology; heritage/archaeology; land management; water/hydrology/marine; transport; housing; access and inclusion; risk/safety management; sustainability; climate change; landscape architecture; architecture and urban design; non specialist community/young people; local authority membership/NGOs; disability awareness; biodiversity/ecological enterprise; surveying; building control; consents process; geoscientists; power generation; sport recreation; waste management; nuclear and renewable energy; finance; construction; historic building conservation; culture

There were concerns that it is most important that the Commissioners should have generic skills and standing:

- independence, common sense and integrity
- ability to take broad view in quasi judicial environment and make rational decisions based on professional experience of policy, nationally significant infrastructure proposals and consents process (that is, planners, lawyers and PINS as important sources)

- conciliation, empathy with local impacts, negotiation skills
- numeracy
- project management

There were suggestions that the general skills of the IPC should be augmented by advisors, appointed to provide the appropriate technical skills for the case.

### **Selection**

Suggestions were also made about how the Commissioners should be selected and the terms of appointment:

- a variety of individuals should be present on the panel: lay people, contractors, professionals, NGOs, academics, trade unionists, expertise from public sector and private sector, House of Lords members, local government representatives
- members of IPC should be elected, not appointed, with a review process to ensure impartiality
- members should have one fixed but long term appointment (of, for example, 8 years) to ensure independence from government
- selection should be undertaken by an all party Select Committee
- PINS should be sourced at least at beginning until IPC can have its own training process
- Commissioners should be appointed by Ministers according to the Commissioner for Public Appointments' Code of Practice
- eight year appointments may be too long a break from chosen careers for prospective applicants
- skills needed will vary with project and locality
- need for an appropriate balance of e.g. environmental and commercial background
- draw on the knowledge and experience of a panel of advisers, co-opted to help with specific case
- advice from officers in secretariat, made up of the wide range of skills
- different professional bodies should suggest members as candidates for selection

## 4

## Detailed responses on the proposals for reform of the town and country planning system

Chapters 6 to 9 of the PWP included a range of proposals to be taken forward over the next two to three years. The PWP included questions on eight specific town and country planning matters, the responses to which are reported below. The responses to the four consultation documents flagged in the PWP and issued alongside it are reported separately.

### 4.1 A positive framework for delivering sustainable development

#### 4.1.1 Question 33: Microgeneration

**Question 33.** Almost all of those who answered the question saw land uses, locations or situations which had the potential for microgeneration. Four-fifths of those agreeing made specific suggestions. There were no systematic response patterns from particular groups, with the majority of all groups stating that specific locations would be suitable for microgeneration.

The main points were:

- business, office, employment, and agricultural uses and public buildings were considered the best for increased microgeneration
- designated areas and buildings need protection from possible adverse impacts

The PWP acknowledged that climate change is one of the biggest challenges facing the UK today. In order to tackle climate change, the Government have set targets for reducing our carbon emissions. The Government's microgeneration strategy (March 2006) estimated that by 2050, 30-40% of the UK's electricity demand could be met through the installation of microgeneration equipment, significantly reducing the UK's carbon emissions. The Government had made significant progress in promoting a more positive planning context for microgeneration on residential development including the recent consultation on proposals to allow the installation of householder

microgeneration without the need to apply for planning permission. The PWP stated that there is an urgent need to make progress in extending permitted development rights for microgeneration to non-residential land uses.

**Question 33 asked: What types of non-residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?**

The responses were categorised as ‘answered’, ‘none’, ‘all’ and ‘specific’. The three right hand columns in the table show the views expressed on the types of non-residential developments where are considered suitable for microgeneration, with ‘all’ meaning that all non-residential developments would be suitable.

<b>Question 33</b>				
	Answered	None	All	Specific
<b>Government bodies</b>	134	4%	15%	81%
<b>Public</b>	30	7%	7%	87%
<b>Environment and community groups</b>	105	9%	15%	76%
<b>Business</b>	42	2%	21%	76%
<b>Professionals and academics</b>	22	0%	18%	82%
<b>All</b>	<b>333</b>	<b>5%</b>	<b>15%</b>	<b>80%</b>

For the purpose of reporting these findings, responses have been split up into four sections: priority land uses, unsuitable locations, specific approaches, and opponents.

‘Priority land uses’ suggested land uses which could represent a priority for microgeneration. ‘Unsuitable locations’ contains information where respondents voiced concerns that some sites may *not* be suitable for microgeneration without a full planning application.

Where some respondents argued that decisions on the most appropriate sites should not be taken on the basis of land use these have been placed under the ‘specific approaches’ section.

A small number of respondents argued that permitted development rights should not be extended for microgeneration on any non-residential developments but should remain with a public authority such as the Local Planning Authority or Parish/Town Council. These have been incorporated into the ‘opposition’ section of the question.

### Priority land uses

- employment sites. Over half of respondents who specified a particular land use as suitable for microgeneration recommended a focus on employment sites. Supporting arguments included that employment sites are numerous, may be located some distance from residential areas and may have large roofs on which microgeneration equipment could be installed. A significant number of respondents argued that the greatest potential may lie with large developments (e.g. industrial estates, tall office buildings and business parks). The suggestion was raised that rebates on business rates could be given in return for excess energy and grants could be given for the installation of equipment
- agricultural land. Supporting arguments included that agricultural land may be located some distance from residential properties and be particularly suitable for wind turbines and biomass crops
- publicly owned land and buildings. Schools, civic offices and hospitals were commonly suggested, but public utilities, prisons, defence land and roundabouts were also suggested as suitable sites
- retail developments. Large retail centres were identified as particularly suitable
- public entertainment/leisure
- brownfield land
- waste management/processing sites
- transport infrastructure and petrol stations
- community/religious buildings
- docks, ports, marinas and estuaries
- sports facilities and stadia
- all non-residential buildings

Specific suggestions included that small settlements should include combined heat and power systems; that hydro powered mills could be re-commissioned for energy generation; and to utilise the methane from redundant landfill sites. Some suggested that Building Regulations should require the installation of microgeneration in all new developments or that all microgeneration schemes should be regarded as permitted development.

### **Unsuitable locations**

- the largest concern was that the UK's built heritage should be protected. In particular, a number of respondents were of the opinion that a full planning application should be required for the installation of micro-generation equipment on listed buildings, Scheduled Ancient Monuments and in Conservation Areas
- a similar number of respondents were concerned that guidance should minimise the negative impacts of developments on the residential and visual amenity of an area
- some respondents were concerned about any extension of permitted development rights in natural and landscape designations such as Areas of Outstanding Natural Beauty, Green Belt and National Parks
- other concerns included that microgeneration should not have significant noise and vibration impacts or damage nearby trees. A further concern was that wind turbines should not be allowed near aerodromes or airports because they may interact with airport radar systems

### **Specific approaches**

- the most popular alternative was that sites should be assessed according to their adjacent uses and designations. In particular, respondents suggested that the distance from residential properties and sensitive sites such as AONBs should be taken into account
- another popular suggestion was that the technical feasibility of microgeneration equipment should be considered and perhaps Government guidance prepared on the effectiveness of technology. For example, the aspect to the sun, openness to winds and availability of water power will affect the potential for microgeneration in different areas. This should be established so proposals do not encourage development of dubious environmental benefit
- a further suggestion was that sites with a high energy usage should be a priority for the development of microgeneration equipment
- a number of respondents argued for sites to be considered on financial grounds, with locations sought that give the most favourable cost/benefit ratio or the best return on investment
- it was suggested that clear guidance should be prepared on the conditions and limitations of permitted development. including a method of determining scale which was simple to understand. In particular, this may help avoid the problems in Local Authorities caused by the 'prior approval' process for telecommunication aerials

- to aid the development of effective microgeneration technology, it was suggested that the Government could create a fund for research into technology appropriate for domestic and commercial use
- it was suggested that specific assessments on costings of microgeneration schemes should be undertaken in order to assess the impact of such proposals to the market

### **Opposition**

- an extension of permitted development rights may negatively affect the environment and residential amenity
- proposals may increase enforcement work for the planning department (District Councils)
- wind turbines can be noisy, intrusive and a danger to birds
- the need to apply for planning permission is not a barrier to the take-up of domestic renewable energy schemes
- energy generated may be inconsequential
- microgeneration is not an efficient or effective way to mitigate climate change; investment must be made in strategic sub-regional supply
- an overly prescriptive approach will prevent cost-effective outcomes

### **Suggestions**

- each parish or district should be given the right to requisition land for local energy generation schemes. Specific suggestions for larger scale schemes include larger energy users and sites which are suited to hydro electric schemes
- all proposals should be screened by Local Authorities before determining whether permitted development rights apply or be treated in a similar manner to the 'prior approval' system currently used for telecommunications

## 4.2 Strengthening the role of local authorities in place shaping

Questions 34-37 of the PWP dealt with proposed changes to the LDF making process.



### 4.2.1 Question 34: Joined up community engagement

**Question 34.** A large majority of those who answered the question agreed that the use of the 'duty to involve' process would be an improvement over the present system, particularly government bodies and businesses.

The main points were:

- the proposal would speed up the process because the examination of Statements of Community Involvement had added little to the process
- the 'duty to involve' must provide a clear standard approach that would allow all participants to fully engage with the system
- clarification was needed on the definition of 'duty to involve', and guidance was sought on the protocol for local authorities

The PWP said that legislation was being sought to remove the requirement for the independent examination of the separate planning Statements of Community Involvement, using the new Best Value 'duty to involve' as the means of ensuring high standards across all local authority and local strategic partnership activities.

**Question 34 asked: We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new 'duty to involve' to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?**

Question 34				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	180	80%	17%	3%
<b>Public</b>	26	62%	12%	27%
<b>Environment and community groups</b>	127	51%	17%	31%
<b>Business</b>	53	77%	17%	6%
<b>Professionals and academics</b>	29	62%	31%	7%
<b>All</b>	<b>415</b>	<b>68%</b>	<b>18%</b>	<b>14%</b>

68% of those who answered the question agreed with the proposal to use the 'duty to involve'. Support was particularly strong from government bodies and businesses, who considered that the changes would speed up the process and free up resources. Support was expressed for a clear, standard approach to community involvement from government bodies and environment and community groups.

14% of those who answered the question disagreed with the proposals. Many were concerned that their opportunity to be involved would be compromised. Change was resisted by some respondents, who supported the current SCI practice and believed that the proposals would bring limited benefit. Opposition was strongest from the general public and environmental and community groups.

### **Concerns**

- the opportunity for direct involvement of local communities and business organisations must be available at the earliest opportunity
- further clarity and guidance is required on the terminology used and the protocol and measures for 'duty to involve'
- the LPAs approach must still be independently assessed (possibly by Government Office of the Region)
- the common approach across Council services and the statutory requirements to consult do not provide enough flexibility
- local authority planners need more training in community involvement
- there should be a clear role for Planning Aid under 'duty to involve'

### **Suggestions**

- community involvement should be a test of soundness rather than a component of a plan
- the obligation to have a single vision for an administrative area should be removed; different visions for different 'places' should be allowed
- a duty to consult should be audited under the Comprehensive Area Assessment regime
- existing consultation standards in the planning system should be the minimum required in the future
- the process should be streamlined and the public consulted by way of questionnaires
- a minimum standard should be set out in national guidance with the opportunity for LPAs to add to this when circumstances dictate

- more effort should be made to join up the multitude of different strategies and plans that are required to be produced and consulted upon
- local steering groups could develop and agree a SCI to accord with existing tests of soundness and submit it to GOs on a self-certified basis

**4.2.2 Question 35: More flexible response to a successful legal challenge**

**Question 35.** Almost all of those who answered the question agreed with the proposal to increase High Court flexibility, with greatest support from business and professionals and academics. Of those agreeing, under one-quarter had comments.

The main points were:

- saving a significant amount of time and resources, as a lot of repetitive work could be omitted
- importance of identifying an appropriate earlier stage in the process that the plan could be returned to and remain a sound basis for further work
- Planning Inspectorate should indicate to the High Court what stage of the plan process the document should be sent back to

The PWP proposed that legislation would be sought to enable the High Court to order that a plan is sent back to an earlier stage of its process rather than back to the start. It should be noted that it is intended that this proposal would also apply to a Regional Spatial Strategy (RSS).

**Question 35 asked: Do you agree that the High Court should be able to direct a plan (both at local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?**

<b>Question 35</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	170	78%	20%	2%
<b>Public</b>	24	83%	0%	17%
<b>Environment and community groups</b>	102	81%	12%	7%
<b>Business</b>	61	80%	20%	0%
<b>Professionals and academics</b>	25	80%	20%	0%
<b>All</b>	<b>382</b>	<b>80%</b>	<b>16%</b>	<b>4%</b>

80% of those who answered the question agreed with the proposal to allow the High Court to be able to direct a plan to an earlier stage in its preparation process. 16% of those who answered the question agreed with the principle with qualifying comments, while 4% of those who answered the question objected to the proposal. The greatest opposition came from the general public and environment and community groups.

### **Support**

- this would save months of often repetitive work saving resources and time
- the principle of keeping the LDF process moving forward in procedural terms as it is amended should be applied more widely
- should be extended not only to the High Court, in the case of a legal challenge, but also to the Inspectorate in the case of a document being found unsound

### **Concern**

- proposal is acceptable subject to an appropriate stage being readily identified and that this led to a sound basis
- dependent on there being clear reasoned guidance
- only if this would speed up the overall process
- it would be more desirable if the High Court's remit could be limited to only that part of the plan subject to challenge, rather than the whole plan
- it may be desirable to ask developers to contribute to the evidence base under supervision of the LPA
- provided acceptable re-consultation requirements are introduced
- should consider applying this to normal plan making, not just when a plan is subject to a legal challenge
- there must be safeguards in place against unforeseen effects, such as other policies or parts of a plan no longer being valid

### **Suggestions**

- Inspectors should be required to clearly indicate to the High Court what stage of the plan process the document should be sent back to
- should only be necessary to re-write when it can be proven the basis of the plan is flawed
- it should be for the High Court only to determine the appropriate stage to which a plan is returned
- the High Courts' power should be limited
- no legal challenge should be allowed

- it would be better to issue instructions on what is required from the system rather than introducing an evolutionary approach
- it would be advantageous if DPDs could be prepared in parallel with the production of a Core Strategy, rather than preparing plans in sequence
- the Regulation 26 stage should be replaced by carrying out consultation before the plan is submitted

**4.2.3 Question 36: Removing the requirement to list supplementary planning documents in local development schemes**

**Question 36.** The proposal to remove the requirement to list supplementary planning documents in the local development scheme was welcomed by a large majority of those who answered the question, particularly government bodies. Approximately one-quarter of those agreeing included comments.

The main points were:

- concern at the loss of the informative role of the local development scheme and need for informal list in its stead and that the change should not be a back door route to bad policy
- respondents suggested that due process of local consultation and scrutiny would still need to take place

The Government proposed to allow local authorities to produce SPDs without them having to refer to central government or list the documents in the LDS.

Question 36 asked: Do you agree in principle that there should not be a requirement for supplementary planning documents to be listed in the local development scheme?

<b>Question 36</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	183	76%	13%	11%
<b>Public</b>	24	46%	13%	42%
<b>Environment and community groups</b>	126	53%	15%	32%
<b>Business</b>	58	50%	21%	29%
<b>Professionals and academics</b>	32	44%	16%	41%
<b>All</b>	<b>423</b>	<b>61%</b>	<b>15%</b>	<b>24%</b>

61% of those who answered the question agreed with the principle. 15% of those who answered the question agreed with the principle but had some comments. 24% of those who answered the question did not agree with the principle. Support was strongest among government bodies and weakest among the public and professionals and academics.

### **Supporting**

- support the greater flexibility and 'lighter touch' from Government
- consider that the new system will reduce delay and simplify the process of producing SPDs
- appreciate the opportunity for documents like Parish Design Statements to be adopted as SPDs without being included in the LDS

### **Concerns**

- SPDs should be listed as they provide useful information to stakeholders and the public about the LPAs intent
- an alternative way of providing information about SPDs needs to be found and adhered to by all LPAs
- proposals would result in a loss of clarity and full and proper referencing
- SPDs must retain their purpose and influence
- LPAs will pursue planning policies that should instead be considered and tested through a DPD
- LPAs should not have to change their plan-making arrangements so frequently
- part of the current delay in plan-making system is sign-off by GOs
- LPA must ensure that SPDs are appropriate and not excessive
- impact on Planning Delivery Grant and staff resources
- increased flexibility may result in LPAs not progressing SPDs or DPDs in a timely manner

### **Suggestions**

- LPAs should still be required to publicise a more informal plan-making programme, including SPDs and guidance
- all SPDs must be consulted upon
- local checking of SPDs should take place (including checking the number produced)

- some bureaucracy introduced by recent legislation should be removed
- as an alternative, LPAs should be allowed to commence work on SPDs before they are included in the LDS but should be subject to formal 4-6 week consultation within a set period (e.g. 3 months)
- decision to prepare SPDs could be recorded in the Annual Monitoring Statement/ Development Plan Index
- the system should be changed to allow SPDs based on RSS policy to be produced
- a statute could be devised to ensure that SPDs conformed with DPD policies

#### 4.2.4 Question 37: Sustainability appraisal and SPD

**Question 37.** A large majority of those who answered the question supported the proposals for the blanket requirement for sustainability appraisal of all supplementary planning documents to be dropped, with just over one-fifth of those agreeing making comments. The weakest support was from the public.

The main points were:

- less onerous processes and less repetition of appraisals if carried out at a higher level
- increased flexibility and improved accessibility of supplementary planning documents to community groups
- uncertainty about how the proposals would work in practice and need for clear guidance on when a sustainability appraisal would be needed
- development plan documents provide the generic context for any supplementary planning documents and thus cannot ensure that all aspects of the supplementary planning documents have been fully appraised

The Government proposed that it should not be necessary for a Sustainability Appraisal (SA) to be carried out for every SPD. This question sought views on the principle of doing this, but noted that a further consultation would be undertaken on full guidance as to when Sustainability Appraisals would be needed.

Question 37 asked: Do you agree in principle that there should not be a blanket requirement for SPDs to have a sustainability appraisal unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA directive?

Question 37				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	179	83%	16%	1%
<b>Public</b>	27	41%	15%	44%
<b>Environment and community groups</b>	110	68%	15%	17%
<b>Business</b>	47	66%	21%	13%
<b>Professionals and academics</b>	32	63%	31%	6%
<b>All</b>	<b>395</b>	<b>72%</b>	<b>17%</b>	<b>10%</b>

72% of those who answered the question agreed with the principle outright. 17% agreed with the principle, but made comments. 10% did not agree with the principle. Greatest support for these reforms came from government bodies.

**Support**

- SA was covered by higher level appraisals already
- support the reduction in administrative burden
- believe proposals will streamline the process and make more efficient use of time and resources
- consider that proposals will encourage greater involvement from community groups who found SA requirements daunting
- support greater flexibility and ‘lighter touch’ from Government
- there should be no requirement for SA of any SPD
- there is scope for a ‘supplementary’ SA, to cover the gaps between a broad ‘parent’ DPD and a more detailed SPD (e.g. Village Design Statements)
- producing fewer SA would increase the value of those that are produced

**Concerns**

- SA is useful if the situation has changed since the parent DPD was adopted or if there are deficiencies in the DPDs SA



- any SPD seen by any relevant party to have potential economic, social or environmental impacts should be subject to SEA
- economic sustainability of DPDs should be appraised with the same fervour as environmental sustainability
- SPDs covering sites which have not been through the DPD process will not have been appraised
- normal considerations should only be set aside where there are overwhelming reasons in favour of a development
- SPDs need better consultation at the initial and final stages
- removal of requirement for SA runs counter to objectives of improving sustainability
- SA of parent DPD will not cover the necessary detail for specific SPDs
- LPA could use SPD/Gs to progress policy that has not been properly scrutinised
- proposals would allow later SPDs to bypass SEA
- proposals to produce less SAs undermine commitment to tackling climate change
- where plans are caught by SEA Directive, SEA should be carried out, not SA

Some respondents expressed a need for clarification on certain points or extra information, these included:

- clarification of when the decision will be made as to whether an SPD will require SA or not
- the need for clear language used in the consultation text
- the need for additional information before proposals could be fully supported
- who would check that SA was carried out when required, and when would this happen?
- the need for clarification between the requirements for SPDs, DPDs and UDPs
- guidance to help judge the effects of SPDs and decide whether SA is needed

### Suggestions

It was predominantly local authorities who added suggestions for improvements; these included:

- a criteria based requirement for SA would be more appropriate, either set down by government or decided by the LPA
- remove requirement for SA only where issues are covered by higher level plans that have undergone SA
- future legislation should provide for a 'screening direction' to ensure that LPA is not judged in its own cause
- DPD production could be streamlined to reduce the need for SEA
- a sustainability checklist, to ensure all aspects are considered, should be used
- the need for a UK level SA over and above statutory requirements for SEA and EIA should be reconsidered
- all SPD should be subject to SEA
- clear and enforceable guidance on when SA are needed must be provided, and should not reduce the regard paid to any sustainability criteria.

## 4.3 Making the planning system more efficient and effective

### 4.3.1 Question 38: Permitted development for non domestic land and buildings

**Question 38.** A large majority of those who answered the question identified that there should be wider permitted development rights for non-residential development. Support was greatest from businesses and government bodies.

The main points were:

- a variety of non-residential developments were identified
- concern that extension of permitted development rights could have unintended effects on the quality of the built environment
- limitations need to be placed on permitted development rights to reduce the impact on open space, amenity and neighbouring residents and designated areas

The PWP proposed changes to the planning system, so that the process can become more efficient. The reason behind these proposals was that the planning system had been seen as inefficient and ineffective for its customers. One of the actions to reduce these problems would be to decrease the need for planning permission for minor developments. This could be taken forward in terms of the impact approach for residential development, with an extension of this approach to other types of development as highlighted in the question.

**Question 38 asked: Which types of non-residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?**

<b>Question 38</b>				
	Answered	None	All	Specific
<b>Government bodies</b>	125	11%	3%	86%
<b>Public</b>	28	29%	0%	71%
<b>Environment and community groups</b>	114	28%	4%	68%
<b>Business</b>	43	7%	7%	86%
<b>Professionals and academics</b>	24	21%	8%	71%
<b>All</b>	<b>334</b>	<b>19%</b>	<b>4%</b>	<b>78%</b>

The responses recorded were categorised into ‘none’, ‘all’, and ‘specific’ and therefore do not follow the format which has been applied to the rest of the report. This section will examine each of the response types in turn.

4% of those who answered the question believe that all non-residential development offers the potential for change to PDR. 19% of those who answered the question objected to the extension of PDR. Opposition was strongest from the public and environment and community groups. 78% of those who answered the question made specific suggestions which included specific types of non-residential developments that have potential for changes in PDR, as well as what limitations may be appropriate for particular sorts of development and local circumstances. Suggestions were concentrated amongst government bodies, businesses and the public.

**None**

A minority did not agree that PDR should be extended for non-residential developments. They offered the following concerns:

- planning control should remain and possibly be tightened in designated areas or rural areas, with no changes to occur to PDR in airports

- the cumulative effect will be significant over time
- proposals could bring conflict between households and businesses
- proposals could lead to a scope for abuse
- question who will decide what is a “minor impact”

Suggestions were also made for other possible approaches:

- LPA should be arbiter for limitations of appropriate development, or define appropriate development types, possibly through Local Development Orders
- parish and town councils should be allowed rights of approval
- give more funding to enforcement departments, rather than extend PDR

### **Specific changes**

There was a mixed response over types of development which were considered suitable. The list below provides examples of development types which respondents considered would offer the greatest potential for change to PDR:

- industrial developments/industrial estates
- commercial businesses/offices
- agricultural buildings, redundant agricultural land and countryside
- retail, restaurants and drinking establishments
- educational and institutional developments
- replace prior approval and extend/reduce permitted development rights for telecommunications
- sewerage and sewage treatment works, including waste water kiosks, outfalls, vent pipes, and above-ground manhole chambers
- waste management
- community, sports and leisure facilities and the tourism or hospitality industry
- extension of the present PDR freedoms for hospitals
- non visible extensions, roof extensions, small scale non controversial development, and external appearances

- environmentally friendly schemes and renewable energy generation
- cultural and religious buildings
- storage and distribution
- infrastructure: railways, ports and motorways, but with limitations on carbon emissions
- alterations to working areas within existing mineral operations/ mineral development
- airports, but with limitations on the requirement for aerodrome safeguarding
- should go further and introduce prior notification scheme

**Concerns over extending PDR**

- development might result in safety, supply or security issues
- access for disabled people will decrease in commercial buildings
- rules need to be clear and consistent, with guidance
- separate GDPO should apply to sensitive land
- changes to PDR may lead to more enforcement work
- potential for misuse and that the public will be unaware of development until after it is completed
- proposed changes will not necessarily improve efficiency
- changes to PDR will lead to an increase in poorly designed, non-sustainable buildings

**Limitations placed on extending PDR**

- limitations need to be considered and, where necessary, made subject to planning conditions over loss of car parking, servicing areas, open space, refuse and recycling space, amenity of neighbouring residents, the environment, character and nature of surroundings, public interests, public realm and designated areas
- limitations on noise, traffic, heritage, landscape, aesthetics, pollution and light impacts
- no impact on front elevations, with limitations on height, scale, size, site coverage and design/appearance
- no adverse impact upon residential areas or retail industry

- limit of 50% expansion of premises
- limit of 10% of original building, and 50% of car parks or hard surfaces
- changes should not discriminate against disabled people, potential users, or employees

#### 4.3.2 Question 39: Neighbour agreements

**Question 39.** A large majority of those who answered the question disagreed with the introduction of a streamlined process incorporating neighbourhood agreements. Only a minority of respondents agreed with the introduction of the process, and more than half of those agreeing had comments about how it would work in practice or suggestions about how the idea needed to be modified or further developed. The greatest proportion of objections to the principle came from government bodies.

The main points made were all of concern about the proposals:

- scope for abuse by either neighbour party (through bullying and blackmail)
- failure to take account of any adverse impacts on wider community and area
- complicated process which would not save time or resources, particularly because of the need for monitoring and possible enforcement
- cumulative effects of minor development

Kate Barker's Review of Land Use Planning put forward proposals for the development of a voluntary system, particularly aimed at smaller developments, where if there was agreement between a developer and affected neighbours, there would be no requirement for a full planning application to be submitted. The proposals sought to simplify the process for householders and reduce the numbers of small applications considered by Local Planning Authorities. While the PWP noted that there were concerns about how such a system might work in practice, it sought views on introducing such a process.

**Question 39 asked: What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?**

<b>Question 39</b>				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	156	3%	14%	83%
<b>Public</b>	56	20%	18%	63%
<b>Environment and community groups</b>	183	8%	20%	72%
<b>Business</b>	49	39%	20%	41%
<b>Professionals and academics</b>	32	22%	19%	59%
<b>All</b>	<b>476</b>	<b>12%</b>	<b>18%</b>	<b>71%</b>

12% of those who answered the question agreed with the principle of introducing a streamlined process incorporating neighbour agreements. The greatest support came from the business community with 39% in favour. Only 3% of respondents from government bodies supported the principle outright, with 8% of environment and community groups being in favour.

18% of those who answered the question agreed there was a case for the introduction of a streamlined process but had comments about how such a process would work in practice or suggested modifications and areas for further development of the scheme.

71% of those who answered the question were opposed to the introduction of a streamlined process incorporating neighbour agreements. There was a high level of disagreement with the principle across all respondent groups. A large majority of opposition came from government bodies with 83% against the principle. 72% of environment and community groups also disagreed with the principle.

#### **Supporting**

- particularly suitable for householder solar panels and micro wind turbines
- system could be used as an effective replacement for Class 1 of the General Permitted Development Order, and could operate in a similar way to agreements under the Party Wall Act
- agreements should cover buildings serving the community itself

#### **Concerns**

- would be open to abuse, including blackmail and intimidation/bullying
- development which is acceptable to neighbours could have impact on wider area/community
- lack of effective control over cumulative impact of minor developments

- permitted development rights need to be balanced against the need to protect amenities of neighbours and quality of built environment and design
- means of providing an adequate monitoring and enforcement of process; if LPA had a role, it might not save public resources
- neighbours may move on, but bad development will remain
- neighbours are often reluctant to reveal views on applications, and prefer to put views to the relevant LPA
- workability in areas with high proportion of holiday homes and non-resident neighbours
- protection of hard to reach and vulnerable groups

#### **Suggestions**

- need for definition of the term 'neighbour'
- current system should be left as it is

#### **4.3.3 Question 40: Minor amendments of planning permission**

**Question 40.** A large majority of those who answered the question supported the proposed flexibility for local planning authorities to make minor amendments to planning permissions. Of those agreeing, under half made comments. Support for the proposal was greatest from the business sector.

The main points were:

- Detailed suggestions about how a scheme could be made to work effectively and be fair for those affected by minor amendments
- Concern about cumulative impacts, particularly in designated areas

The PWP said that developers and planning authorities had been expressing uncertainty and concern over the level of flexibility that now exists to make minor amendments once planning permission has been granted. Interpretation of recent case law had suggested that, if a developer needed to make a minor amendment, they would be required to re-submit a full planning application, which would lead to delay and uncertainty. The PWP proposed to amend primary legislation to allow, at the request of the applicant, discretion for the local planning authority to amend planning permission where they consider changes not to be material.



Question 40 asked: Do you agree that it should be possible to allow minor amendments to be made to a planning permission? Do you agree with the approach?

Question 40				
	Answered	Yes	Yes, but	No
<b>Government bodies</b>	158	45%	51%	4%
<b>Public</b>	35	34%	29%	37%
<b>Environment and community groups</b>	128	37%	29%	34%
<b>Business</b>	70	76%	20%	4%
<b>Professionals and academics</b>	26	69%	27%	4%
<b>All</b>	<b>417</b>	<b>48%</b>	<b>36%</b>	<b>16%</b>

48% of those who answered the question were in agreement with the proposal. Support was strongest from the business sector, with a large majority agreeing with the proposed changes, together with professionals and academics. 36% of those who answered the question agreed in principle, but had comments relating to the way in which the proposal should be implemented, or how the proposal will be carried out in practice. The highest proportion of responses of this nature came from government bodies. 16% of those who answered the question disagreed with the proposal to allow minor changes to planning permission, with the public and environmental and community groups registering the largest proportion of objections.

#### Supporting

- design changes are unavoidable and the current requirement for further planning applications is both time consuming and expensive
- proposal would improve administration by reducing bureaucracy
- changes would formalise what has become established practice
- resources that are diverted to having to deal with minor changes could reduce the speed of those dealing with planning applications

#### Concerns

- there is the issue as to who decides whether an amendment is to be considered 'minor' and discretion could be open to abuse
- the proposal will be biased towards developers and businesses

- without consultation, these proposals may deny members of the public the right to comment: this could reduce democratic accountability and result in complaints about, and inequality in, the system
- this would reverse recent case law on the legality of accepting amendments to an existing permission
- if this is implemented it would reduce consultation on amendments
- this would weaken planning decisions and generally undermine planning control
- impact on listed buildings and conservation areas

### **Suggestions**

- guidance for such a proposal would create greater clarity and consistency; perhaps a standard set of criteria should be drawn up, which might include a volume limit
- changes to an application should have no material impact upon neighbours and points of objection
- consideration needs to be given to whether there should be a small fee as a cover charge
- changes will have limited impact as they can already be dealt with more effectively through the existing system
- minor amendments need to be strictly controlled
- notification is needed to those who were consulted on application
- minor amendments can result in schemes that bear little resemblance to the original submission
- minor amendments can have an impact on bigger issues, for example, converting a front garden into a hard surface driveway could have significant flooding implications, especially when implemented on a large scale
- minor amendments could include the deposition of permitted uses or siting of elements in development
- the subsequent owner of the site should also be able to make additional changes to the planning permission
- minor amendments should only be rejected where change raises new material issues that have not previously been considered, or is likely to affect the interests of third parties

- where an amendment is more than 'non material', there should be a simplified process that allows amendments to be accepted, subject to appropriate re-consultation
- IPC should have the same powers as the LPA to accept amendments
- minor amendments should only be permitted providing original objectors are notified
- cumulative effects are important to consider, so there is a question as to how many amendments can be made per application
- amendments should be made to section 73 of TCPA 1990 so that variation of conditions can be similarly expedited (rather than reopening all aspects of planning permission already granted)
- would flexibility be applicable to amendments to planning conditions or aspects of unreserved matters included within the outline permission following the approval of reserved matters application?
- should be backed by appropriate enforcement powers for LPAs

## 4.4 Town and country planning issues not subject to questions

A significant group of responses – comprised of both general and more detailed ones (see definitions in Appendix 1) – related to issues that were mentioned in the PWP but that were not the subject of questions.

The main themes arising in the general responses are set out in section 2.2.2. The most significant of these were about town centre development and consultation during the early stages of LDF preparation. The main topics that arose in the more detailed responses are set out below.

### 4.4.1 Town centres

Paragraph 7.55 of the PWP said that the Government intended to review the current approach to assessing the impact of proposals outside town centres, in PPS6 Planning for town centres, by replacing the need and impact tests with a new test. Many of the responses opposed change to the existing town centre policy regime, though it was admitted that it was difficult to judge the Government's proposals when they were not yet clarified.

#### Supporting

- objections to the removal of the needs test were unfounded; no evidence that a newly-proposed better located store development may be forestalled by an existing poorly-located store
- impact tests are inappropriate for some town centre uses, such as sport and leisure uses

### **Reservations**

- with no detail on the new test, it was difficult to anticipate its impact
- concern about erosion of the current sustainable policy position and the future balance between support for town centres and out of town development
- removal of the needs test would create uncertainty for town centre investors
- the benefits of change might not be sufficient to offset potential uncertainty generated by the reform
- planning is not an appropriate way to address competition
- a change may result in monopolisation by large superstores and less competition and choice
- the present 'needs' test does not restrict competition and limit choice: the emerging findings of the Competition Commission's grocery inquiry indicate that this proposition is unproven on the evidence

### **Suggestions**

- the test should be strengthened
- new test should specify what market information would be relevant, and who will provide this
- any new test must favour independent locally-based retailers
- any revised policy should not restrict or reduce the ability of the LPA to seek retail development in town centres
- town centre boundaries should be designated according to their distance from primary shopping areas
- Theatres Trust should be consulted on any review of town centre policy

#### **4.4.2 Householder permitted development rights**

The comments made on wider householder permitted development rights (mentioned in chapter 9 of the PWP) were in-line with those made in response to the specific consultation paper.

Paragraph 9.16 of the PWP raised the proposal put forward in the Barker Review that no planning application would be needed in cases where neighbours could agree over small scale development. The objection to this proposal was in-line with the responses to the specific question on the matter (question 39).

#### **4.4.3 Appeal reforms**

The proposals on streamlining the planning appeals system were subject to separate consultation and there was no specific question on the subject in the PWP. However, some respondents picked up on the references to the subject in paragraph 9.42 et seq. The tenor of responses was no different from that of the fuller appeals consultation paper with arguments being made for and against:

- local member review boards – those for on the grounds of speed and simplicity, those against because of fears about resources (cost and skills) and conflicts of interest among members
- the power of the Planning Inspectorate to choose the manner of an appeal – largely against, because of the perceived adverse impact on the appellants' ability to make the best case for their development

#### **4.4.4 New economic development Planning Policy Statement**

The proposal in paragraph 7.45 of the PWP to implement Kate Barker's suggested review of the existing PPG4 was generally welcomed by respondents on this issue. It was acknowledged that the present policy document was out of date and in need of revision.

However, respondents felt that the PWP emphasised economic development over social and environmental issues, particularly in relation to its proposals on NSIPs, and argued that the new PPS should have an appropriate weight in the decision making process and not be the pre-eminent consideration. Those with interests in the environment and heritage pointed out the need to express the economic value of such factors in themselves in any review of the policy.

#### **4.4.5 New suite of national planning policy documents**

In paragraph 7.57 et seq of the PWP, the Government set out its proposal to produce a more strategic and clearly focused national planning policy framework. The review was generally welcomed.

The principal comments made were:

- the policy should be concise, relevant and allow for local flexibility
- policy should be clearly separated from any accompanying guidance
- brevity and clarity were not synonymous
- the policy should put appropriate weight on issues like environmental assessment, habitats and biodiversity, design and heritage
- transitional arrangements would need to ensure that they did not result in a delay to the determination of nationally important development

#### 4.4.6 Green Belts

The specific reference in paragraph 7.64 of the PWP to the need for local planning authorities to keep their Green Belt boundaries under review stimulated two sorts of response. The first, and largest, response was in support of the unchanged retention of the present designated Green Belt land and considerable concern at any threat to it. The argument was propounded by those with amenity and conservation interests. The second, minority view, recognised its value, but thought that GB land should not necessarily be sacrosanct and were more open to the idea of thorough review.

#### 4.4.7 Reforms to plan making

Besides the responses to specific PWP proposals on plan making, respondents gave their views on some of the wider plan making issues mentioned in the PWP from paragraph 8.5 onwards. These were comments on matters which were not subject to consultation as part of the PWP, but will be subject to consultation later in 2007.

A group drawn from across all sectors had views on the inadequacies of the reforms in the 2004 Act. They welcomed change – although the exact form of the reforms they would have liked to see was not generally specified in their comments – because they said that the new system is:

- more complex, slower, more confusing, and adversely affected by inconsistent interpretation of soundness
- over-prescribed, which (combined with tight timescales) hinders integration with other strategies and functions, and that instead, greater emphasis should be placed on outcomes and pragmatic effectiveness

There was a mixed response over some of the specific proposals and, in particular, the removal of preferred options stages:

- support for removal of preferred options due to time savings
- concern that removal of preferred options stage (and perceived removal of issues and options stage) would reduce community input and hinder communities' ability to influence vision, strategies and policy development
- a risk of non compliance with the SEA Directive which requires consultation on SEA output (if consultation was considered to be insufficient, plans might be declared unsound, so LPAs would in effect have to consult as now or face delays)

A series of more general comments were also made, where a variety of views were offered:

- support for alignment of LDF Core Strategy with Sustainable Community Strategy
- further guidance needed about the status and hierarchy of importance of public sector documents in relation to the LDF
- reducing plan making time from 36 to 12-28 months was unrealistic without more resources, or would be at the expense of meaningful consultation
- a quicker production rate for LDFs is needed, and could be achieved through front loaded continuous informal consultation: a year would be a suitable timeframe
- all aspects of the plan making process should be kept under review to ensure that resources expended were proportional to the value that they add
- the use of housing and planning delivery grant was vital if the plan making system was to be implemented successfully

#### **4.4.8 Other matters in the PWP**

There was a very large range of other planning issues raised in the PWP and many responses picked up on these issues although there were no relevant questions. However, it is of value to note that, among things which respondents welcomed were:

- further development of planners' skills
- rationalisation of certain elements of the development control process
- emphasis on combating and adapting to climate change and the incorporation of sustainable development into all aspects of the PWP

There were also references to two other consultation papers issued in parallel with the PWP:

- planning fees – must reflect the cost of the service, but setting the fees locally is divisive
- Planning Performance Agreements – LPAs reported they need more resources to implement these properly, but were generally supportive, although questioned how to ensure developers are complying with their side of the Agreement

## 5

## Other issues

### 5.1 Regulatory Impact Assessment

In the PWP the Government explained that it had undertaken a partial Regulatory Impact Assessment (RIA) for the proposed reforms and signposted to the place on the Communities and Local Government web site where it could be found.

**The PWP went on to ask: Do you have any comments to make on the analysis in the partial RIA? In particular, do you have any comments to make on the economic, social and environmental costs and benefits presented in the partial RIA? Do you have any comments to make on whether the proposals would impact differently on people from different groups?**

Five specific comments were received on the RIA. The supportive comment suggested:

- the economic assessment of the proposals over the case for doing nothing made the case for reform compelling

Those critical included:

- lack of a gender impact assessment, when guidance on undertaking such an assessment is available
- lack of an assessment of an alternative set of proposals that would address the same objectives

### 5.2 Consultation process for the Planning White Paper

In the PWP the Government said that they had adopted a code of practice on consultations and set out the principal criteria.

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.



5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

***The PWP asked whether readers were satisfied that the consultation has followed these criteria?***

Of the 36 respondents who addressed this question in the PWP, some believed that the consultation was flawed. The remainder made points related to the consultation process and its outcome.

Those who were not satisfied had specific criticisms:

- badly designed from perspective of getting people to participate – language is obtuse and difficult to understand for non-planners
- the use of acronyms without use of a glossary of terms
- inconsistency in use of terms (particularly differences in the terminology and definition of NSIPs) and inaccuracy
- the lack of a set of comprehensive consultation questions on the town and country planning reforms, especially if changes would not require legislation and hence not be subject to Parliamentary debate
- the lack of clarity in the purpose of public engagement, which needed to be made clear if any reformed system was to have the same regard as the current one
- failure of the PWP to promote what it suggests it will deliver
- consultation was not sufficiently advertised in press and broadcast media, both nationally and locally
- some of the questions were not clear enough e.g. 1b – which 'objectives' is this question referring to?
- no opportunity has been provided for more debate
- such a large volume of questions has been onerous to answer
- poor grammar in places
- disappointed that PWP did not provide opportunity to respond to climate change issues
- disappointed that questions do not facilitate a considered reply but seek to force an unreasonably polarised answer.

Other comments were that respondents welcomed:

- the assistance given to them by Communities and Local Government staff
- receiving paper copies of the summary of responses
- the opportunity to contribute further (perhaps through a meeting) in order to ensure that appropriate objectives are fully integrated within the proposed reforms
- that Communities and Local Government followed the adopted code of practice

### 5.3 Matters not included within the Planning White Paper

The PWP was not comprehensive of all aspects of the town and country planning system, because the Government did not propose changes to major parts of the process. Some respondents raised issues about the operation of other parts of the system and some made proposals for further reform. Among the most significant of them, in terms of frequency of mention, were:

- housing numbers and the impact on design, infrastructure, services, fiscal and empty property issues
- the need for environmental safeguards in any new system
- flooding and floodplains
- specific planning issues (including plans for Luton Airport (Bedfordshire), development at Worstead (Norfolk) and Portishead (Avon), rail freight terminal at Newton-le-Willows (Lancashire))

Less frequently occurring remarks were made about:

- Planning Gain Supplement
- conservation areas
- UK self-sufficiency: grow more food; support British farming
- introduction of bonds or other guarantees to ensure the delivery of major schemes once they obtained approval (rather than simply raising the value of a development site which is then resold)
- the outcome of earlier consultations that had not led to apparently implemented reforms (Circular 02/99; Enforcement Review from 2002)
- perverse impacts of performance targets on LPA behaviour

- the future of planning obligations
- future of Village Design Statements
- content and application of Design and Access Statements to types of development
- third party rights of appeal
- devolution of planning powers to Wales
- comments on the GPDO with regard to rail schemes
- communications technology
- light pollution
- additional considerations for inclusion in Sustainability Appraisals
- need for better integration of PWP and Heritage WP
- energy efficiency and existing housing stock
- Thames Gateway – inappropriate for housing-led regeneration to outweigh employment development
- introduce a notification provision (like s.31(6) of the Highways Act 1980) such that claims to new village greens are discovered



# The form of the analysis

The analysis relates to the responses made to the questions in the PWP.

For the purposes of this report we have defined two categories of response. **General responses** are those that refer to the proposals in the PWP but do not address the questions, instead adopting a number of common broad themes, and often making some suggestions about them. Among the general responses are those received as a result of the campaigns, which we have defined as standard texts which have formed the basis of more than one response. We have analysed this group of responses according to the broad themes that are raised. This is largely a qualitative analysis.

**More detailed responses** are those that address some or all of the questions in the PWP, either expressly or in a way that could be clearly linked to a question. Many such responses make suggestions about refinements or changes to the PWP proposals. We have analysed this group of responses on a question by question basis and the results are both quantitative and qualitative. Some more detailed responses make general points and these points have been treated in the same way as general responses.

A database provided the figures in this report, in respect of more detailed responses. The database was also used to make brief notes of respondents' comments from both groups of response and this feeds into the qualitative analysis. The database was not suitable for some of the fullest responses because of the length of comments or their complexity or both. Arup alerted Communities and Local Government to such instances on a case by case basis.

Arup sought to adopt a standard approach to the presentation of the statistical material and the comments that are made in relation to them. Depending on the nature of the question and the number of respondents commenting, the format is adapted slightly.

In the tables presented in relation to each PWP question, the categories of respondent are:

Category	Members
<b>1. Government bodies</b>	Local authorities Government agencies Devolved administration Regional government organisations
<b>2. Public</b>	Members of the public (where there is no evidence to the contrary, we have treated all e-mail responses as members of the public)
<b>3. Environment and community groups</b>	Includes amenity, voluntary and local groups, and parish and town councils
<b>4. Business</b>	Individual companies Trade organisations
<b>5. Professionals and academics</b>	Includes professional institutes and legal firms

Depending on the question, the analysis is undertaken in different ways. Some questions invite suggestions about a broad principle. Others call for a 'yes/no' response. In most cases, respondents added comments, even when they said 'yes'. When a significant number appeared to qualify their agreement by their comments, we used an extra classification – 'yes, but'. In general, in undertaking the analysis, we have grouped comments that support the proposals, concerns being expressed, and suggestions for mitigation, improvement or alternatives.

The box at the start of the analysis of each question identifies the main threads of the arguments made on that subject. It shows headline information about the degree of support for the proposals, which groups of respondents expressed that support or opposition, and the main points (in support, concerns, or suggestions) made about them.

The text following the box gives the full analysis of the relevant question. This shows the numerical level of support for the proposals. The analysis tables in the main text show the number of respondents who made more detailed responses, and the percentage of those agreeing and disagreeing with the proposals. The percentages in the coloured (bottom) row of each table relate to the overall total response to the question, and should not be interpreted as the average of the rows above. Some percentages do not sum, due to rounding.

The analysis continues with relevant comments made in support of the proposals (other than repetition of the arguments in the PWP itself), concerns about them, and suggestions made to mitigate any foreseen drawbacks. Because the main themes in support of and against the proposals in the PWP are explored in the analysis of question 1, we have not repeated these main themes in full if they occur in relation to subsequent questions but, where appropriate, made a short reference to them. Where responses to particular questions included comments that were about matters raised in other questions, we have shown them with the comments about those other questions.

In writing about the degree of support for the individual questions posed in the PWP, we have adopted the following standard approach, where 100% is the number of more detailed responses. In our report, we use the following terms in the following circumstances:

In favour of or opposed to a proposal	Term used
<b>0-10%</b>	A few agree/disagree
<b>11-30%</b>	A minority agree/disagree
<b>31-49%</b>	A significant minority agree/disagree
<b>50-70%</b>	A majority agree/disagree
<b>71-90%</b>	A large majority agree/disagree
<b>91-100%</b>	Almost all agree/disagree



# A2

## Glossary of abbreviations

The following is a list of the abbreviations used in the report:-

<b>AONB</b>	Area of Outstanding National Beauty
<b>BERR</b>	Department for Business, Enterprise and Regulatory Reform
<b>CHP</b>	Combined Heat and Power
<b>CLG</b>	Department for Communities and Local Government
<b>CPO</b>	Compulsory Purchase Order
<b>CPRE</b>	Campaign to Protect Rural England
<b>CTRL</b>	Channel Tunnel Rail Link
<b>DEFRA</b>	Department for the Environment, Food and Rural Areas
<b>DfT</b>	Department for Transport
<b>DPD</b>	Development Plan Document
<b>DPTAC</b>	Disabled Persons Transport Advisory Committee
<b>EIA</b>	Environmental Impact Assessment
<b>EIP</b>	Examination in Public
<b>EU</b>	European Union
<b>GB</b>	Green Belt
<b>ILS</b>	Instrument Landing System
<b>IPC</b>	Infrastructure Planning Commission
<b>JMU</b>	Joint Mobility Unit Access Partnership
<b>LA</b>	Local Authority
<b>LAA</b>	Local Action Area
<b>LDF</b>	Local Development Framework
<b>LDS</b>	Local Development Scheme

<b>LPA</b>	Local Planning Authority
<b>MLA</b>	Museums, Libraries and Archives
<b>MMO</b>	Marine Management Organisation
<b>MOD</b>	Ministry of Defence
<b>MP</b>	Member of Parliament
<b>MPS</b>	Minerals Policy Statements
<b>mppa</b>	million passengers per annum
<b>MW</b>	Megawatts
<b>NGO</b>	Non-Governmental Organisation
<b>NHS</b>	National Health Service
<b>NPS</b>	National Policy Statement
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>OFCOM</b>	Office of Communications
<b>OFGEM</b>	Office of Gas and Electricity Market
<b>OFWAT</b>	Water Services Regulatory Authority
<b>PDR</b>	Permitted Development Rights
<b>PINS</b>	Planning Inspectorate
<b>PPS</b>	Planning Policy Statement
<b>PPS1</b>	Planning Policy Statement 1 'Delivering Sustainable Development'
<b>PPG4</b>	Planning Policy Guidance 4 'Industrial, Commercial Development and Small Firms'
<b>PPS6</b>	Planning Policy Statement 6 'Planning for Town Centres'
<b>PPS10</b>	Planning Policy Statement 10 'Planning for Sustainable Waste Management'
<b>PTA/PTE</b>	Passenger Transport Authority/Executive
<b>PWP</b>	Planning White Paper, 'Planning for a Sustainable Future'



<b>RIA</b>	Regulatory Impact Assessment
<b>ro-ro</b>	Roll-on-Roll-off (ferry)
<b>RPB</b>	Regional Planning Body
<b>RSPB</b>	Royal Society for the Protection of Birds
<b>RSS</b>	Regional Spatial Strategy
<b>S106</b>	Section 106 of the Town and Country Planning Act 1990 (planning obligations)
<b>SA</b>	Sustainability Appraisal
<b>SCI</b>	Statement of Community Involvement
<b>SEA</b>	Strategic Environmental Assessment
<b>SPD</b>	Supplementary Planning Document
<b>SSSI</b>	Site of Special Scientific Interest
<b>teu</b>	twenty-foot equivalent units
<b>TfL</b>	Transport for London
<b>UK</b>	United Kingdom
<b>UKOPA</b>	United Kingdom Onshore Pipeline Operators Association
<b>WP</b>	White Paper

# A3

## Campaign responses

This appendix includes examples of model texts for campaign letters, postcards and e-mails produced by campaign organisers, and advice to potential authors of responses. It is exhaustive of the sources of the campaigns but does not include all versions of the letters they encouraged respondents to use, which varied little from the examples shown.

### A3.1 Model text 1 from a consortium of national NGOs

I am writing in response to the consultation on the Planning White Paper. I am very worried about the effects the proposals will have on local democracy, communities and the environment.

The Planning White Paper threatens to make a mockery out of local democracy, stripping away fundamental rights to participate in matters of development. I particularly object that there is no guarantee that local people will be able to challenge major projects in any meaningful way at public inquiries.

Without the right safeguards, the proposals in the Planning White Paper will also create increased pressure to destroy valuable landscapes, habitats and historic environments across the country.

I am asking for:

- Any national statements on nationally significant infrastructure projects to consider all the alternatives, and properly involve local people
- Decisions made by democratically accountable politicians, not an unelected commission
- A legal right for local people to challenge projects at a Public Inquiry
- Natural and historic resources protected for future generations
- A legal duty on all decision makers to promote sustainable development

Please review the proposals and make changes that give people a meaningful voice in delivering sustainable development.

## A3.2 Model text 2 from a national NGO

Dear Sir/Madam,

I am writing in response to the consultation on the Planning White Paper. I am very worried about the effects the proposals will have on local democracy, communities and the environment.

The Planning White Paper threatens to make a mockery out of local democracy, stripping away fundamental rights to participate in matters of local development.

Proposals on National Policy Statements for nationally significant infrastructure projects are actually at odds with Government support for local democracy and Government efforts to reduce carbon emissions. The Planning White Paper will cause a surge in major carbon intensive development such as airport expansions, major road schemes and massive incinerators across England; and a surge in non-renewable major energy projects across the UK.

Specifically, I object to:

- national statements on nationally significant infrastructure projects that do not properly involve local people
- the removal of people's right to be heard in Public Inquiries
- the removal of the initial consultation stages of local plan-making in England
- the removal of the need test in England which would make it easier for big supermarkets to build out of town stores

Please review the proposals and make changes that give people a meaningful voice in delivering sustainable development.

Yours sincerely,

### A3.3 Model text 3 from a national NGO

Dear Sir/Madam,

I am writing in response to the consultation on the Planning White Paper. I am very worried about the effects the proposals will have on local democracy, communities and the environment.

The Planning White Paper threatens to make a mockery out of local democracy, stripping away fundamental rights to participate in matters of local development.

Proposals on National Policy Statements for nationally significant infrastructure projects are actually at odds with Government support for local democracy and Government efforts to reduce carbon emissions. The Planning White Paper will cause a surge in major carbon intensive development such as airport expansions, major road schemes and massive incinerators across England; and a surge in non-renewable major energy projects across the UK.

Specifically, I object to:

- national statements on nationally significant infrastructure projects that do not properly involve local people
- the removal of people's right to be heard in Public Inquiries
- the presumption in favour of development
- the removal of the initial consultation stages of local plan-making in England
- the removal of the need test in England which would make it easier for big supermarkets to build out of town stores

Please review the proposals and make changes that give people a meaningful voice in delivering sustainable development

To go ahead with these proposals would make a mockery of the local election process and be a threat to my environment. Why bother voting when The Government will just bulldoze its own way through? Please do not allow this to happen.

Yours sincerely,

## A3.4 Model text 4 from a local NGO

Dear Sir/Madam,

I am writing in response to the current consultation process on the Planning White Paper. I am deeply concerned about the impact its proposals will have on my rights and on the environment. I wish to object to the following:

1. The reduction of my right to have a say in Major Infrastructure Projects (MIPs) and local plans. The proposed Independent Planning Commission (IPC) must also be democratically accountable, allow proper public engagement, allow for the robust testing of all evidence and include environmental expertise.
2. The presumption in favour of development that would prioritise economic growth over the environment. There should be no change to the current legal and policy framework and no presumption in favour of development.
3. The removal of the need test, which would potentially give even more power to supermarkets; if anything, the need test should in fact be strengthened.
4. The planned review of Green Belt boundaries. The White Paper should be reinforcing, not weakening, constraints over the development of the Green Belt.

Please amend the White Paper so that it can deliver more sustainable development, protect our Green Belt and ensure that residents and communities keep their democratic right to voice their concerns.

Yours sincerely,

### A3.5 Model text 5 from a smaller NGO

We are grateful for the opportunity to respond to the White Paper. Some of the language we have used is perhaps a little more emotional than might normally be expected in a measured response to a government consultation paper. We have considered toning it down, but have concluded that it is best left in there as an indicator of how worried we are about certain proposals in the document which are profoundly undemocratic.

#### **Major Infrastructure Procedure – Chapters 2 to 5**

We have tried to follow the questions set out in italics. However since our answer to the first question in para 2.16 is “No” most other questions are not phrased appropriately for the responses we wish to deliver.

#### **Chapter 2**

Q. Do you agree that there is a strong case for reforming the current system for planning nationally significant infrastructure.

A. No, for the following reasons:

#### **The Case for Reform (i) Delays**

The White Paper states (2.7) that we need to get rid of public inquiries for major projects because the process takes too long. It cites, as an “extreme example of the delays possible”, the Heathrow Terminal 5 public inquiry which sat for nearly four years, and took over seven years from the date of application to reach a decision. The White Paper also mentions a number of other long-running processes such as the Dibden Bay inquiry for Southampton Docks, which sat for nearly two years and took over three years to conclude that the need for the development was not great enough to justify its adverse impacts. It doesn’t mention Scotland’s longest inquiry process; concerning the Lafarge superquarry at Lingerbay on the isle of Harris, which dragged on in one form or another from 1994 until 2004, when Lafarge finally withdrew in the face of public opposition.

But not all infrastructure public inquiries take a long time. Another inquiry, which the White Paper cites in a different context, concerning a scheme to increase the capacity of London’s Docklands Light Railway, was opened on 8 February 2005 and the Inspector’s report was delivered just over three months later on 18 May of the same year. The Inspector observed:

“As events unfolded, the proposals attracted very little sustained objection. Only one objector, Mr Costello, elected to appear before the inquiry to put his case; but he was satisfied that the matters concerning him could be addressed by a condition attached to the deemed planning permission. ...The limited number of objections on such an important project does carry with it the inference of very wide public support.” (TWA3/1/270; LRP270/E5990/0/139; LRP270/E5330/0/86 & LRP31/C5690/0/2)

The Docklands railway inquiry took just a few weeks because most people are happy to see improvements to the public transport network, and because light railways have a relatively low environmental impact, both locally and globally. People do not oppose infrastructure projects per se. The inquiry to increase the capacity of Heathrow terminal, on the other hand, took seven years because thousands of people opposed it on the very good grounds that air transport is unsustainable, polluting, excessively noisy, causes motor traffic congestion, and only benefits a fraction of the country's and the world's population.

The obvious fact, which the White Paper ignores, is that a public inquiry is brief when there is general public acceptance that the development is desirable, and drags on for years when it is contentious -that is to say when developers attempt to push a project through in the face of widespread opposition. In the case of Heathrow, the developers did finally succeed, whereas at Dribden Bay and Lingerbay both schemes were eventually turned down.

If BAA, Associated British Ports and La Farge respectively had gracefully acknowledged at an earlier stage in these inquiries that a significant body of public opinion was against their project, and dropped it, or gone back to the drawing board, then millions of pounds of public money would have been saved.

But instead of targeting developers who initiate contentious schemes for profit, and then try to force them through at public expense, the White Paper blames the cost and the wasted time on members of the public who aren't trying to foist anything on anybody. By getting rid of public inquiries, the government appears to be trying to find a way of pushing through major developments which are delayed by their own unpopularity -an objective which is inherently undemocratic.

### **The Case For Reform (ii) Inquiry Procedure**

The White Paper, however, spends quite a bit of space trying to show that the public inquiry system is undemocratic:

"Because of the length of time inquiries can take and the expense involved in participating in them, it can be difficult for local government, NGOs and local people to participate effectively in the process and make their views heard. This means that those with the most resources, or the best knowledge of the system can have the greatest say in decisions. ...The legalistic and adversarial approach can make it intimidating and difficult for members of the public to engage in the process. ...The current adversarial system can benefit those who can afford to employ professional advocates and, because of the length of time and cost involved in participating, even shut out smaller, less confident or less well resourced parties." (2.7, 2.8, 5.33)

There are wisps of truth in the above which the White Paper magnifies and distorts. It is indeed expensive for a voluntary organization to attend a public inquiry from beginning to end; but part-time attendance at a drawn out inquiry is better than a procedure which is so rushed that unpaid campaigners with their own jobs to attend to do not have sufficient spare time to prepare for it. Yes, the adversarial system can be intimidating for newcomers to the process -but it is intimidating precisely because it engineers the confrontation which objectors seek, and which developers try to avoid. The adversarial system offers the opportunity to cross-examine the opposition, and when you are dealing with professional consultants, this is the only way to get anything out of them other than prepared blandishments. The public inquiry system is indeed biased towards those with money and influence -but a decision-making system in which the humble are on a level playing field with the powerful has yet to be invented.

### **National Policy Strategy**

Q.(3.7) Do you agree in principle with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer framework for sustainable development, and remove a source of delay from public inquiries.

The Government is fully entitled to develop national policy strategies, and indeed one would expect it to have a strategy. However, unless this strategy is subject to a referendum, it will not have the sanction of the public since it will be introduced by a government who in all probability will have been voted into power by the majority of the electorate for entirely different reasons. It should therefore only have the authority of policy guidance, like Planning Policy Statements or development plan policies, which can be overridden "when material considerations indicate otherwise" (T and C Planning Act, Section 54A).

We are greatly disturbed by the statement in 2.13 (c) that

"The commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences for these purposes would be those incompatible with relevant EC and domestic law including human rights legislation."

Restricting objections to legal ones -ie those which can be raised in a judicial review – is almost tantamount to abolishing the planning decision-making process. It means that the public may be powerless to object on the grounds of lack of need, unsustainability, traffic generation, impact upon the community and other planning grounds. It is a grossly retrograde and undemocratic measure.



It also appears to signal a return to the discredited “predict and provide” projections which, for example, led to the last Conservative Government’s extravagant road-building programme, and the massive public protests which eventually sunk it. This programme was steered through by the corrupt DOT public inquiry system of the 1980s which put pressure on Inspectors to rubber stamp road proposals. At the 1993 Salisbury Bypass Inquiry the Inspector, when interrogated, acknowledged that he had presided at 35 road inquiries and allowed every single one of them! What sort of system is this? The sort that forces people to resort to direct action, and that is what is likely to happen if national policy strategies override the public right to advance planning objections.

We are also very disturbed by the proposal, in 7.41 that “smaller projects which are below the normal thresholds should be treated as nationally significant infrastructure projects.”

### **The Commission**

We are concerned about the objectivity of a planning commission which would comprise well-respected experts, drawn from a range of fields. (2.13.c) The implication is that “experts” know best. But the truth is, of course, that expertise is not value-free but comes with its ideological baggage -that is why the public inquiry system fields expert witnesses from both sides of the fence, very often saying the opposite thing. A commission of government-appointed experts is a panel of people who think they know best and whom the Government thinks know best. An Inspector is a non-expert who assesses the evidence of conflicting experts on the merits of the evidence they present, and as such is more likely to exercise his judgement impartially.

The fact that not only the judgement but also cross-examination of witnesses will be carried out by this panel, rather than by advocates representing opposite viewpoints, makes this proposed process look even more like a charade. We are told that the commission will “focus its examination of the application on the points that it feels are at the core of the issue, rather than being dependent on the parties and their advocates to pick up on these points and test them via cross-examination. It should also improve the openness of the process and create a much more level playing field for all parties.”(5.33)

How can a procedure where the advocate is also the judge ever be open and fair? This is not an Inquiry, it is more like an Inquisition. One can imagine Objector 131, whose home may be scheduled for demolition, listening for ninety minutes to the panel interrogating the developers’ witness, without hearing any of the questions he wants asked. Exasperated and sensing that the examination is coming to an end he stands up: “Mr Chairman sir”, he says as politely as he can, “I would be grateful if you would kindly ask the witness how he expects. ..”

Mr 131,“ interrupts the chairman wearily, “please be quiet. You can have your say at the open floor session at the end of these proceedings.”

The chairman is referring to the “open floor” session at the end of the process where “interested parties could have their say about the application within a defined period of time.

We can guess what kind of sop this will be. Anyone who has spoken at a District Council committee meeting or a County Council scrutiny committee knows what “having your say” means. You are allowed to speak for exactly three minutes, usually right at the beginning to get you out of the way (whereas with the commission it will be right at the end when everyone wants to go home). Not uncommonly, the chair, in a gesture of quite gobsmacking rudeness, will cut you off in mid sentence if you go one second over time. The committee listens, or not, and then carries on with its business without being under any obligation to address the points that you have made. Committee members can contradict, misinterpret or ignore what you say, and you have no opportunity to take them up on it.

The only arenas within the planning system where the public can engage in a proper exchange, and where equal time is given and equal weight attached to the spoken evidence of ordinary people, are hearings and public inquiries. Hearings have their place, but they are too cosy and polite for searching cross-examination and are inappropriate for major infrastructure applications. In a well-conducted public inquiry -and often they are very ably conducted - an ordinary member of the public can deliver his or her own evidence, answer questions on it posed by his own advocate tackle cross-examination from the opposition, and (either on his own or via his advocate) cross-examine his opponents. If he asks the Inspector whether he may present some new evidence then usually the Inspector will say yes, provided the other side has no objection.

The public inquiry system may not be perfect, and it can be abused (as it certainly was by the Department of Transport in the 1980s). But it often does a good job of treating people as equals and it is by far the most accessible decision-making forum within the planning system. As a democratic institution it is worth every penny spent on it, and only a government that aspired to dictatorship by stealth would wish to replace it with the system that is before us in the White Paper.

If this system is introduced, it is not hard to guess what will happen. Members of the public like Objector 131 will become increasingly angry at the unaccountability of the procedure and some will resort to the sort of direct action which disrupted several of the DfT’s bogus inquiries and eventually led to the complete abandonment of the Conservative government’s road programme.

### **Chapter 7 A Positive Framework**

We are in favour of the increased emphasis on climate change and broadly support the measures introduced in the Changes to Permitted Development Consultation Paper No 1.

Q. (7.25) What types of non-residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?

A. Rural property, especially farms and smallholdings.

(7.45) We are sceptical about the need for a PPS on Planning for Economic Development. The economy is growing already, and we obviously do not need more employment since we are having to import workers from abroad. Since the UK's ecological footprint is far too high, and we consume more than our share of the world's resources, we are more in need of a PPS on Reducing Consumption.

Whilst we recognize that Section 54A of the 1990 Act makes it difficult for some highly sustainable developments to take place, we are worried about the proposal that "applications should be considered favourably unless there is good reason to believe that the economic, social and/or environmental costs of development are likely to outweigh the benefits."

This will result in more development when, in view of the environmental challenges that face us and our over-consumption of resources, what is needed is better development, more equitably distributed. A rewriting of Section 54A, if necessary at all, should allow development which doesn't conform with the plan only when it is demonstrably more sustainable.

7.54 We are reassured by the observation in 7.54 that simply to remove the "needs test" would place town centres at risk. Strengthening town centres and reducing the numbers of car-dependent out of town retail developments must remain the primary objective.

### **Chapter 8: Strengthening the Role of Local Authorities**

8.4 "In-line with the principle of giving greater freedom to local authorities, we want to give them more flexibility. ...We want to enable local authorities, where they wish, to allocate to the executive responsibility for determining planning applications that are particularly significant in implementing the local development framework."

The above is a fundamentally undemocratic move which echoes at a local level the proposal to do away with public inquiries for major infrastructure projects. We are bitterly opposed to this. To introduce, in the name of "freedom" and "flexibility" a measure which makes decision-making more unaccountable is blatant hypocrisy. We despair.

### **Chapter 9: Making the Planning System More Efficient**

We will be making a separate response in respect of the Appeals procedures proposed in Chapter 9.

### A3.6 Model text 6 from a local NGO

Dear Sir/Madam,

#### **Planning White Paper**

I am writing to advocate that National Policy Statements should include specific provision to ensure the highest levels of safety in regard to the development of infrastructure projects. In relation to nuclear power stations I believe the following guidance should be included.

- (1) Regional passenger airports should not be located close to nuclear power stations as:
  - (a) the risk of crash damage is too great;
  - (b) the accessibility for terrorist attack is increased
- (2) The 2 nautical mile no-fly zones around nuclear power stations should be strictly enforced with no special flight exemptions granted for commercial passenger aircraft.

The conflicts are illustrated by the proposed expansion of Lydd Airport which is located less than 3 miles from the Dungeness Nuclear Complex in Kent, housing Dungeness A&B and a possible Dungeness C. The airport is planning to increase passenger numbers from less than 3,000 passengers per annum in 2006 to 2 million passengers per annum (2mppa) in 2011/2014 and 6mppa by 2021. A planning application for the first phase of the development to accommodate 500,000ppa has been submitted, involving a 444m runway extension and a new terminal. The outcome has yet to be determined.

The change of use at Lydd Airport creates a major safety issue. Currently the airport is mainly used by the local flying club although a few business jets were introduced recently – movements remain low for this class of aircraft. The small aircraft weight less than 5.7 tonnes, whereas if the Airport achieves its regional passenger airport ambitions there would be passenger jets such as the Boeing 737 and Airbus A320 weighing 70 tonnes fully loaded, flying at frequent intervals.

The nuclear safety consultant John Large of Large & Associates believes that both the Dungeness A & B nuclear power stations are vulnerable to aircraft crash damage with the potential for radioactive release and that Lydd Airport's proposed development to a capacity of 500,000 would exceed the nuclear regulator's minimum acceptable risk criteria by a factor of 14.5X and at 2mppa by a factor of 24.4X. This compares with the guidelines set by the Nuclear Installations Inspectorate of 1:10,000,000. This is clearly not acceptable.

Further, the more complex landing and take-off procedures at Lydd Airport raise the risk of pilot error in the vicinity of these nuclear power stations. Lydd Airport is the only civil airport in the UK having an ILS with a 5 degree offset from the centre line which means a manual flight path adjustment must be made 900 metres from touchdown. Hence, Lydd Airport will have a more difficult ILS landing procedure than other airports. Further, aircraft taking off towards the South West (over Lydd town) would be required to make a sharp right hand turn to avoid the Lydd Military Ranges and the Dungeness Nuclear Power Complex. This procedure would be challenging for fully loaded passenger aircraft because of the requirement to simultaneously meet the CAA's noise abatement' procedures while avoiding the Lydd Military Ranges.

On the subject of no-fly zones, aircraft taking off and landing at Lydd Airport have special dispensation to fly within 1.5nm of the Dungeness Nuclear Power Complex. This is a grandfather right and one which has caused little concern as the airport has largely catered for light aircraft. If Lydd becomes a regional passenger airport this exemption is unacceptable.

Had there been a principle in place today TO STOP REGIONAL AIRPORTS BEING CONSTRUCTED CLOSE TO NUCLEAR POWER STATIONS, then (a) British Energy would not be incurring the cost of an unnecessary safety case in response to the planning application -nuclear power stations must demonstrate to the Nuclear Inspectorate that a development will not compromise safety, (b) the airport would not have spent £15m, which it will be forced to write off if the airport expansion is rejected – the owners were given a strong steer by the local MP and local councillors that they would succeed in getting planning permission, (c) the planning department at Shepway District Council would not have wasted valuable time and resources and (d) the funds raised so far by the local action group (Lydd Airport Action Group) and other organisations such as the RSPB to fight this campaign would have been put to better use.

Yours faithfully

## A3.7 Model text 7 from an unknown source

### **White Paper – ‘Planning for a Sustainable Future’**

Please register with your team and with the Minister concerned my serious objection to the provisions in the White Paper ‘Planning for a Sustainable Future’ which threaten local control and accountability in planning matters.

Chapter 9; Sections 34 & 35 appear to give ministers the option to characterize housing developments as falling into the category of ‘Significant National Infrastructure’ projects thereby removing planning authority from Local Councils and assigning that authority to a centralized, government-appointed body.

This is a threat to local democracy particularly in the light of the Minister of Housing’s announcement that the Government intends to build 3,000,000 homes in the next 12 years. What is such an objective if it is not a ‘Significant National Infrastructure’ objective?

On the one hand, the White Paper claims to want to ‘improve public participation across the entire (planning) process’; on the other, it proposes granting powers to ministers that would make such participation inaccessible to concerned citizens.

When local authority governs local planning, at least individuals have the option of attending relevant meetings and making their views known. Where are the resources going to come from for ordinary citizens to attend the deliberations of a central body which will conduct its hearings in a venue that may be far away from the site concerned? It is a formula heavily weighted in favour of the developer and against the ordinary voter.

In this respect, the White Paper is manifestly unfair and undemocratic. I appeal to the Minister concerned not to allow these ill-considered provisions to stand

Sincerely,

## A3.8 Model text 8 from an unknown source

Dear Sirs

### **Planning White Paper Consultation**

I am very concerned that the Government is planning to take decisions for major infrastructure projects away from local authorities and place such decisions with an unelected Independent Planning Commission.

I am opposed to this as it would appear to be an attempt to stop concerns about specific developments in specific areas from being fully considered.

The proposed Independent Planning Commission's processes are not transparent and open and the lack of a right of appeal, both for developer and objectors, is unacceptable and an opportunity for the Commission to have authority without responsibility or accountability. The nature of these proposals is not in accordance with current public service values and is not what we expect to see as a governmental process in a liberal democracy such as Great Britain.

I urge the Government to drop these proposals and adopt sensible adjustments to the Town & Country Planning regime which ensure that the country approves its infrastructure projects in a timely way but ensures that the processes are public and democratic, with decisions taken by our elected peers.

Yours faithfully

### A3.9 Model text 9 from two NGOs

To the Planning Reform Team:

I wish to register my objection to the proposal in the Planning White Paper to remove major infrastructure projects from the public inquiry system and have them assessed by an appointed commission in-line with predetermined policies. This is an undemocratic procedure, at odds with everything that a Labour government ought to stand for.

If this measure is introduced and major developments are granted permission without allowing the public to present all the arguments against them, then objectors will have no alternative but to resort to the kind of direct action campaigns that led to the abandonment of the Conservative Government's road programme in the early 1990s – and I will be supportive of such campaigns.

I therefore request that this proposal is immediately dropped, and that the Government devotes its attention to ensuring that the existing public inquiry system allows members of the public to present their views about proposed developments, in the confidence that all such views, whatever they may be, will be given full and fair consideration by the Secretary of State.

### A3.10 Model text 10 from one NGO and a consortium of national NGOs

#### **My Right to be Heard**

Dear Sir/Madam

I am writing in response to the consultation on the current Planning White Paper. I am very worried about the effects its proposals will have on local democracy and the environment.

Specifically, I object to:

- the reduction of people's right to have a say in nationally significant infrastructure projects and local plans
- the presumption in favour of development that would prioritise economic growth over the environment
- the removal of the need test, which will give even more power to large supermarkets

Please amend the White Paper so that it can deliver truly sustainable development, with a strong voice for local communities.



## A3.11 Model text 11 from a national NGO

### **My right to be heard**

Dear Sir/Madam,

I am writing in response to the consultation on the Planning White Paper. I am very worried about the effects the proposals will have on local democracy communities and the environment. Specifically, I object to:

- national statements on nationally significant infrastructure projects that do not properly involve people
- the restriction of people's involvement in Public Inquiries
- the removal of the initial consultation stages of local plan-making
- the presumption in favour of development
- the removal of the need test

Please review the proposals and make changes that give people a meaningful voice in delivering sustainable development.

## A3.12 Model text 12 from a national NGO

Please respond to the Planning White Paper consultation by 17 August 2007, asking that changes to the planning system include:

- A duty for sustainable development in legislation for nationally significant infrastructure projects
- An advisory Infrastructure Planning Commission, which reports to ministers, has ecological expertise and guarantees local people the right to be heard at inquiries, and the right to challenge the need for development
- Robust environmental assessment. All national policy statements must have Strategic Environmental Assessment. Where Natura 2000 sites are affected, both policy and projects must be rigorously assessed under the Habitats Directive
- Stronger, not streamlined, biodiversity policy. The proposed review of national planning policy must not weaken current planning policy for biodiversity. Policy on biodiversity adaptation to climate change must be strengthened





