

Policy and Programmes

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STREAMLINING INFRASTRUCTURE PLANNING WORKING PAPER CONSULTATION RESPONSE

Dear Sir/Madam,

This letter sets out the response of South Oxfordshire District Council (SODC) to the [Streamlining Infrastructure Planning Working Paper](#), published 26 January 2025.

The Working Paper proposes a number of measures that could be taken to streamline the consenting process for national infrastructure and to enable faster decision making, whilst ensuring the process is fair and certain.

The Working Paper asks a number of questions for stakeholders to respond to. This letter will address each of these in turn.

a. Would the package of measures being proposed in this paper support a more streamlined and modernised process? Are there any risks with this package taken as a whole or further legislative measures the Government should consider?

Overall, the approach is positive and would likely streamline the process. The changes to the National Policy Statement (NPS) regime and post-decision changes in particular would be very beneficial, with few potential negative aspects. However, there are some risks with what has been proposed, in particular regarding consultation, cost recovery

and the introduction of a further statutory duty. These concerns are explored further in below answers.

b. Are the proposed changes to NPSs the right approach and will this support greater policy certainty?

South Oxfordshire District Council supports the approach to require NPSs to be updated every five years. This would provide a degree of certainty to local authorities, applicants and other interested parties rather than relying on potentially out of date NPSs. Allowing simpler amendments to NPSs to reflect changes to legislation, policy and court decisions is also strongly supported to allow for effective and swift updates to be published which can then be implemented where appropriate without delay. Overall SODC are supportive of the changes to the NPS regime proposed in the Working Paper.

c. Do you think the proposals on consultation strike the right balance between a proportionate process and appropriate engagement with communities?

The Working Paper sets out its position that applicants often go above and beyond legislative requirements at the pre-application stage, which can slow the process. Effective consultation is an essential part of the process and should be strongly encouraged at all stages rather than watered down. In many cases, the engagement with communities is not effective and is not thorough enough. Continuous dialogue should be encouraged rather than, for example, just providing several set-piece consultation events. Encouraging applicants to engage effectively with affected communities would be more beneficial and could lead to opportunities to narrow down areas of disagreement prior to submission.

d. Do you agree with the proposal to create a new duty to narrow down areas of disagreement before applications are submitted? How should this duty be designed so as to align the incentives of different actors without delaying the process?

South Oxfordshire District Council supports the principle of narrowing down areas of disagreement early in the process, but do not agree with the introduction of a duty to require this prior to submission of the application.

At pre-application stage, it is often possible to identify areas of disagreement at an early point, however, it is very difficult to work through these areas without all the detail of a scheme, which is often only fully provided at application stage. This is then too late to address and agree on points of disagreement, leading to potential delays and other issues at examination/hearing stages. Earlier provision of detail, and having a "submission ready" scheme, with all of the information at pre-application stage to allow for these discussions to take place would be beneficial.

If a duty to narrow down areas of difference is created, then existing resourcing issues at Local Authorities would be exacerbated. Very few Local Authorities have the expertise to efficiently and effectively deal with an NSIP, given the extraordinary levels of officer time and specialist input required. If a statutory duty is implemented, then this has to be alongside a cost recovery process, government funding and an appropriate fee structure set out to ensure applicants are covering costs at an early stage.

One option would be to introduce a requirement for DCO submissions to set out fees as part of the Section 55 acceptance requirements. This would allow Local Authorities and applicants to agree to a fee structure prior to submission of the DCO application, covering the lifetime of the application. This would cover the DCO application period, but would not address the pre-application period, where much of the work is undertaken, and so an effective process for cost recovery should be put in place from inception of a new NSIP.

A new Duty to Cooperate/Engage between applicants and Local Authorities as a statutory requirement would introduce the potential for Judicial Review during the pre-application stage, before the application has even been submitted. This would result in further delays, which the Working Paper is seeking to avoid. The introduction of a duty as a statutory requirement could have unintended consequences, and should be considered very carefully.

e. Do you support the changes proposed to Category 3 persons?

There is a danger that those directly affected by an NSIP (i.e. Category 3 persons) would be disenfranchised given the reduction in direct consultation with them at pre-application stage. Maintaining an up to date list of Category 3 persons does appear to be somewhat onerous, so a change to this could be appropriate, maybe with updates to the list required at certain junctures. For example this could include a full list at the start of the pre-application process, an updated list on submission of the DCO, a further update following the decision and a final update prior to commencement of the development. This would provide enough opportunities to ensure every Category 3 person is considered.

f. With respect to improvements post-consent, have we identified the right areas to speed up delivery of infrastructure after planning consent is granted?

South Oxfordshire District Council supports the approach set out in the Working Paper. In particular, the introduction of a two-week “cooling off” period to allow for corrections to the DCO would be welcome, and would hopefully prevent errors resulting in superfluous further applications to make changes. The proposed arrangements to allow for post-

consent changes to be dealt with through a single process rather than multiple routes is sensible and would provide certainty for both Local Authorities and applicants.

g. What are the best ways to improve take-up of section 150 of the Planning Act? Do you think the approach of section 149A has the potential to be applied to other licences and consents more generally?

Encouraging applicants to provide detailed information as early as possible at pre-application stage would enable Local Authorities to work with applicants to improve take up of section 150 and allow for licences to be applied for concurrently. Having clear conditions and requirements as to when Sections 149A and 150 can and should be used would also encourage their uptake. Overall, we support the proposals set out in the Working Paper relating to this.

h. With respect to providing for additional flexibility, do you support the introduction of a power to enable Secretaries of State to direct projects out of the NSIP regime? Are there broader consequences for the planning system or safeguards we should consider?

Moving NSIP proposals from the NSIP regime to, for example, the regular planning process could be beneficial, but also has the potential to result in significant problems. The opportunities for cost recovery for Local Authorities is reduced outside of the NSIP regime, and given any proposal would remain complex and significant in scale regardless of the process it goes through, removing it from the NSIP regime could have significant resourcing implications.

There is scope for removing NSIPs from the regime, but given they are often controversial and have significant impacts on the local area, this should be carefully considered. Through the usual planning process, there is limited opportunity (beyond what is required by the NPPF and Planning legislation) to provide community benefits through s106. Given the scale and impact of NSIP-sized schemes, further community benefits are usually forthcoming outside of the planning process, and taking scheme outside the NSIP process could result in communities failing to derive benefits from an NSIP. It may be that the most appropriate method would be to remove an NSIP from the NSIP process where it is supported in the relevant Local Plan.

There are further issues with the potential for NSIPs to move the other way, with the Secretary of State directing difficult NSIPs into a hybrid Bill regime to limit opportunities for Judicial Review and reducing community consultation and local involvement. It does not appear that this is the intent of the Working Paper, but it does not specify, and clarity should be provided.

i. Do you believe there is a need for the consenting process to be modified or adapted to reflect the characteristics of a particular project or projects? Have we identified the main issues with existing projects and those likely to come forward in the near future? Can we address these challenges appropriately through secondary legislation and guidance; or is there a case for a broad power to enable variations in general? What scope should such a power have and what safeguards should accompany it? If a general process modification power is not necessary, what further targeted changes to the current regime would help ensure it can adequately deal with the complexity and volume of projects expected over the coming years?

The NSIP regime covers a huge variety of types of development, and therefore needs to be flexible to allow for all of the different infrastructure types. In some cases, there is potential for the consenting process to be altered, for example if there were multiple NSIPs in an area which are inextricably linked, or for long linear NSIPs like roads/railways. There is potential for linked NSIP applications, to be determined together rather than separately, but this would need to be on a case-by-case basis.

Any changes to the consenting process should not reduce the role of local authorities or communities.

Please do not hesitate to contact me should you need clarification on any of the points raised in this response.

Yours sincerely,



Nationally Significant Infrastructure Projects Officer