



## CHAPTER 8

# Planning

**The planning system plays an important role in delivering the necessary energy infrastructure to meet our national needs. In so doing, it has to integrate national, regional and local benefits; economic, environmental and social objectives; and possible tensions between the interests of individuals or local communities and the needs of society as a whole. In The Energy Challenge, the Government set out the importance of the energy planning system<sup>277</sup> to the delivery of our energy policy goals and set out proposals we would take forward to make improvements.**

8.1 This chapter sets out:

- The cost, delay and uncertainty created by the energy planning system and the impact on our energy policy goals;
- the causes of this cost, delay and uncertainty;
- the progress we have made in implementing the package of planning measures set out in The Energy Challenge; and
- how the further and wide ranging planning reforms proposed in the planning White Paper 2007, *Planning for a Sustainable Future*<sup>278</sup>, will impact on the energy planning system.

## The impact of the energy planning system on our energy policy goals

8.2 We face a significant challenge in delivering substantial new energy infrastructure. In electricity, we will need around 30-35GW of new generating capacity over the next two decades with two thirds of this by 2020. There will also need to be substantial investment in transmission and distribution networks. To the extent that low carbon electricity projects are stalled by the planning process, this would slow progress in tackling climate change.

8.3 In gas, as our reliance on imports increases, we need more import and storage infrastructure if we are to maintain reliable and affordable supplies of energy. If developers cannot secure planning permission for electricity generation projects and gas supply infrastructure projects in sufficient numbers in a timely fashion, the UK could be exposed to rising security of supply risks, with the potential for upward pressure on energy prices.

<sup>277</sup> This report uses the term “energy planning system” to refer to the sum of all the different regimes under which energy infrastructure projects secure consents. In many instances these consents will be deemed to also grant planning permission.

<sup>278</sup> <http://www.communities.gov.uk/planningwhitepaper>

8.4 The Government has made a number of improvements to the planning system in recent years, both for decisions taken by local authorities and those taken by central Government. However it is clear that the context for the planning system is becoming even more challenging. Although progress has been made by local authorities in handling planning decisions, more than 65% of firms in the UK believe that more should be done, and the recent Barker Review on land-use planning found that there were still major delays associated with central Government decisions<sup>279</sup>.

8.5 Planning is consistently one of the top six concerns for inward investors in the UK<sup>280</sup>. A 2006 report by Ernst and Young on the relative attractiveness of countries for investment in renewables found that the UK's position had fallen because of concerns about planning issues<sup>281</sup>.

8.6 The current energy planning system is delivering decisions that have been extensively considered, and provides for public participation in decision-making, but there are several key challenges that present risks to achieving our energy policy goals:

- **It can take too long.** On average, where a public inquiry has been held it has taken 3 years to secure consent for electricity infrastructure projects<sup>282</sup>;
- **It can create too much uncertainty for communities, business and developers.** While consent applications remain undecided it can blight the local community, affecting local property prices and the potential for other development. Additional uncertainty is created where planning committees in local authorities ignore the advice of their planning officers;
- **It can be difficult and costly for local government, NGOs and local people – and particularly people from hard-to-reach groups – to participate effectively in the process and make their views heard.** This is in part because of the length of time inquiries can take and the expense involved in participating in them. For example, the direct inquiry costs for the Sizewell B public inquiry were £30 million<sup>283</sup>. This means that those with the most resources, or the best knowledge of the system, can sometimes have the greatest say in decisions. For other participants, such as local authorities and community groups, the cost of participation can act as a disincentive to involvement in the process, reducing the accessibility of the energy planning system; and
- **It can have knock-on effects for the UK energy market and wider economy.** In extreme cases, the cost and uncertainty can deter the private sector from proposing projects that would improve the reliability of our supplies and in some cases reduce carbon emissions. Investors may instead choose to make their investments in other countries, to invest in lower-risk options such as gas-fired power stations, for which planning consent has historically been easier to secure, or to delay or postpone investments. The costs of inquiries ultimately feed into higher prices for

279 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf))

280 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf))

281 Ernst and Young LLP: *Renewable Country Attractiveness Indices*, November 2006

282 DTI Analysis: Electricity Development Consents Team

283 The Energy Challenge, DTI, July 2006, Cmd 6887. The inquiry for this project was especially lengthy and is considered by some to be longer than might be anticipated in the future, given subsequent improvements in inquiry procedures



electricity and gas for consumers, with potential adverse effects on international competitiveness.

8.7 There are inherent difficulties in making accurate assessments of the cost, delay and uncertainty created by the planning process. Not all delays in the completion of new infrastructure can be attributed to planning hold-ups, for example:

- Projects might experience technical delays or financing problems;
- developers sometimes do not provide all the information and environmental analysis necessary to support the proposed development<sup>284</sup>; and
- local community engagement on projects is not always well handled by developers.

8.8 However, the evidence the Government identified through the Energy Review process suggests that obtaining planning permission can be a significant problem<sup>285</sup>, and that the current planning system is a key contributing factor.

### Impact on gas supply infrastructure projects

8.9 The market is already responding to our need for new infrastructure to help us import gas, and to store it until it is needed, with some £10 billion in planned and actual private investment in gas supply infrastructure between 2005 and 2010.

8.10 However, there is a risk that planning delays or unpredictable decisions will prevent new infrastructure of national significance coming on line in a timely fashion. In 2006 there were four major decisions<sup>286</sup> made on gas supply infrastructure projects, with three of these being refused by local authorities. One of these decisions is currently being appealed, and others may be in the future. As with any appeal, the reasons for refusal will need to be examined within the specific circumstances of the planning decision.

8.11 Of recent applications that have been considered by local authorities for gas storage developments, it has taken an average of 25 months from an application being made to a final decision on a project (including inquiry processes)<sup>287</sup>. However, in one case, a decision is still outstanding 36 months after application<sup>288</sup>. Extensive delays can create a climate of uncertainty, which often makes it hard to secure capital for a project, or to continue financing a project that may be subject to years of delay before a final decision is made. Delays to new infrastructure projects can also affect the demand/supply balance for gas, which although not necessarily leading to shortages, can contribute to higher energy prices.

284 An obligation under European legislation: Consolidated EIA Directive. Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC

285 The Energy Challenge, HMG Cmd 6887, July 2006

286 Stublach gas storage project granted permission by Local Authority June 2006, Caythorpe gas storage project application refused by Local Authority June 2006; Welton gas storage project refused by Local Authority February 2006; Canvey Island LNG project refused by Local Authority September 2006

287 Aldbrough submitted June 98, final decision February 00 (approved); Holford submitted February 02, decision May 04 (approved); Welton submitted November 03, decision February 06 (refused)

288 It is important to note that a major factor causing delay in this case (Preesall) was that there were specific concerns raised about the original environmental information provided by the developer and whether it was compliant with European requirements.

## Impact on electricity infrastructure projects

8.12 Although securing planning permission can be difficult for all types of electricity generation, our analysis<sup>289</sup> shows that low carbon technologies face particular difficulties. For example it takes on average over 20 months to secure planning consent for a large onshore windfarm<sup>290</sup>. In March 2006, there were 24 wind projects, with a combined capacity of 1.2GW that had already been under consideration in the consent regime for more than 21 months<sup>291</sup>. In fact at the start of 2007, 7.2GW of windfarms were awaiting a consent decision<sup>292</sup>.

8.13 The 7.2GW figure covers all sizes of windfarms and the problem of delay, cost and uncertainty applies to smaller windfarms as much as bigger ones. Smaller projects (under 50MW) are consented under the Town and Country Planning Act system. On average, decisions for smaller windfarms are taking 10 months in England, 27 months in Wales and 14 months in Scotland<sup>293</sup>, against a target in England for local authorities to determine 60% of all "major applications"<sup>294</sup> within 13 weeks.

8.14 As part of our analysis of the nuclear question for the Energy Review and the consultation document published alongside this White Paper, we examined the evidence on planning inquiries for nuclear power stations and found that proposals in the past have also encountered significant delays in securing planning consent<sup>295</sup>. For example, the Hinkley Point C public inquiry lasted more than 180 days and covered many of the same generic health and safety issues as the Sizewell B inquiry even though it was based on the same power station design.

## What causes the cost, uncertainties and delays?

8.15 Since the Energy Review Report was published, two further reviews commissioned by Government have reported<sup>296</sup>. Both included an examination of the issue of planning for major infrastructure. They concurred with the findings of the Energy Review Report in identifying a number of major causes of delay, uncertainty and cost in the planning systems for major infrastructure projects:

- **The relative significance of Government policies and the balance of priorities can be unclear.** Although the Government has taken action to articulate national energy policy, inspectors and other participants in the planning system must balance this against the full suite

289 DTI Analysis 2006: Electricity Development Consents Team

290 DTI Analysis 2006: Electricity Development Consents Team

291 BWEA: *Onshore Wind – Powering Ahead*, March 2006

292 BWEA: *Real Power: Issue 8*, December 2006. This figure represents projects awaiting consent under both the Electricity Act and Town and Country Planning Act across all of the UK. A significant number of these projects are in Scotland. Scotland already has developed plans to modernise their planning system to make it more efficient, avoiding delays and uncertainty where possible, while ensuring community interests are fully considered.

293 BWEA: *Onshore Wind – Powering Ahead*, March 2006

294 For non-residential developments, a major application is one where the floorspace to be built is 1,000 square metres or more, or the site area is 1 hectare or more, [http://www.communities.gov.uk/pub/642/DevelopmentcontrolstatisticsEngland200506\\_id1503642.pdf](http://www.communities.gov.uk/pub/642/DevelopmentcontrolstatisticsEngland200506_id1503642.pdf)

295 As indicated in chapter 5, Government is consulting on whether new nuclear build should have a role to play.

296 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf)); Eddington Transport Study: [http://www.hm-treasury.gov.uk/independent\\_reviews/eddington\\_transport\\_study/eddington\\_index.cfm](http://www.hm-treasury.gov.uk/independent_reviews/eddington_transport_study/eddington_index.cfm)



of Planning Policy Statements when assessing the need for and the environmental consequences of a project. It is not always clear which elements of this framework should carry the most weight in the assessment of any given case. Moreover, the costs of energy developments tend to be local, tangible and short-term, whereas the benefits are *diffuse* (gas storage projects provide benefits for users of gas across the entire country), *intangible* (it is difficult to associate reliability of the entire UK electricity system with the building of a single power station) and *long-term* (power stations produce electricity for a long period of time, whereas the main impact on the local community is during the construction period). This situation creates uncertainty for developers as to how local authority decision makers and consultees will balance the local impact of a project against the national benefits.

- **The system is cumbersome and complex with multiple decision makers.** As highlighted in the Energy Review Report<sup>297</sup>, the energy planning system is a complex mix of consent regimes, with different local and national accountabilities. For example, offshore windfarms require consent under the Electricity Act from the Secretary of State for Trade and Industry, and consent from the Secretary of State for Environment, Food and Rural Affairs for a “FEPA licence<sup>298</sup>”. Sometimes separate consent will also be sought from the local planning authority for onshore infrastructure needed to connect the windfarm to the grid.
- **Lengthy inquiry periods.** The current system, whether decisions are made by Ministers or local authorities, is based on often lengthy adversarial cross-examination, and it is difficult to fully exclude certain issues from inquiry, even if they have been established as Government policy, for example the national need for certain types of development.
- **Two separate phases of decision-making: recommendations by inspectors and then final Ministerial decision.** Both the preparation of the Inspector’s report of a public inquiry and the subsequent Ministerial decision can be subject to delay, and new matters and evidence that arise during this period may need to be considered. For example, it took the judge appointed as inspector for the Sizewell B power station inquiry over 22 months from the close of the inquiry to provide his report to the Secretary of State, and then a further four months for the final decision.
- **Legal challenge.** Legal challenges can also be costly and time consuming and create extra uncertainty for local communities and developers. However, there is a clear need to allow legal challenge to ensure decisions are made in accordance with legal principles and that procedures operated by decision-makers are fair.
- **Quality of applications.** At present, most applications for consent to construct infrastructure of national significance are well prepared. However, some inquiries can be delayed because of poor preparation or inadequate consultation. Thorough preparation by the developer and early engagement with key parties including affected local communities, local

297 The Energy Challenge, Table 7.1, Pages 138-141

298 A FEPA licence is a licence under the Food and Environmental Protection Act 1985

authorities, and relevant public bodies such as the Environment Agency, English Heritage and the Highways Agency, as well as with the determining body, are essential if the project development process is to be effective and the planning system is able to deliver decisions efficiently.

## Immediate improvements to the Energy Planning System

8.16 The Energy Review Report, in 2006 set out a comprehensive package of measures that could be implemented swiftly while the Government considered proposals for a more fundamental overhaul of the planning system for nationally significant infrastructure. Work has progressed according to plan. The package was based on three principles:

- Improving the strategic (i.e. national policy) context against which individual planning decisions should be made;
- introducing more efficient inquiry procedures within the current consent regimes; and
- more timely decision-making.

8.17 Since the Energy Review Report was published in July 2006 we have already put in place the following:

- The statement of need on renewable generation which was published as part of the Energy Review Report (and which is included in the renewables section of chapter five);
- improved guidance for developers on Combined Heat and Power (CHP);
- the commitment to appoint high-powered inspectors for the most complex and controversial energy proposals; and
- updated rules for inquiries held to consider applications for large electricity projects.

### Improving the strategic context

#### Planning Policy Statement on Climate Change

8.18 We committed to preparing a wide-ranging Planning Policy Statement (PPS) on Climate Change. It will provide clarity on national policy on climate change issues. Regional and local planning bodies will be expected to take the policies in the PPS into account in the preparation of regional spatial strategies (including the spatial development strategy for London) and local development documents. We have recently consulted on a draft of the Statement which puts the national need to cut carbon emissions and to secure renewable and low carbon energy, centre stage of what is expected from planning. It does this through the following:

- Underlining that applicants will no longer have to demonstrate either the overall need for renewable energy or for their particular proposal to be sited in a particular location;
- creating the expectation amongst applicants that any substantial new proposed developments would need to source a significant proportion of their energy supply from low carbon sources (including on and off-site renewables);



- encouraging planners to help create an attractive environment for innovation and in which the private sector can bring forward investment in renewable and low carbon technologies; and
- giving a clear steer to planning professionals and local authority decision-makers, that in considering applications they should look favourably on renewable and energy developments.

8.19 The Government is currently considering responses to the consultation on the draft PPS, which closed on 8 March 2007, and will publish the final PPS later in 2007. Following publication of the final PPS, the Government will be publishing best practice guidance to accompany the Statement. In finalising the PPS and accompanying guidance, we will look to ensure consistency with the Government's energy policies for tackling climate change set out in this White Paper.

### **Guidance for developers of electricity infrastructure projects**

8.20 There is clear evidence that where developers properly understand how the consenting system operates, and grasp the benefit of early engagement with local communities, that this is reflected in lower costs, fewer delays and less uncertainty in the planning process<sup>299</sup>. Therefore, we gave a commitment in the Energy Review Report to prepare guidance on the electricity consents process.

8.21 Although the procedures set out in the guidance are not new, it is the first time they will have been set out in this consolidated form. It is also intended that the guidance should be of use to statutory consultees<sup>300</sup>, environmental interest groups, and anyone with an interest in the energy planning system, including members of the public.

8.22 We recently launched a consultation on this guidance, which covers a number of important areas:

- Flowcharts of how the process operates, from pre-application to decision;
- best practice advice for developers;
- an explanation of the scope and requirements of the Environmental Impact Assessment Directive<sup>301</sup>;
- applications, publicity and consultation requirements;
- planning conditions and associated works; and
- the decision making and appeals processes.

8.23 The Government believes that proposals for grid upgrades, where they relate specifically to new generating capacity, should be considered as part of the same project. Although there are separate application processes for each, where possible such applications should be considered side-by-side. This assists the consents process and will help to ensure the timely construction of both power stations and the overhead lines needed to connect them to the grid. It also means that where practical, both applications can be considered under the same public inquiry. The guidance explains how developers should approach this issue.

299 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf))

300 Statutory consultees will differ depending on the consent regime and the location of the development. They are the parties with which the developer must consult, for example, the Environment Agency

301 Transposed into legislation for England and Wales in the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000

8.24 We plan to issue the final version of the guidance in autumn 2007.

### **Guidance for power station developers on Combined Heat and Power**

8.25 As part of Government policy to promote good quality CHP where viable, there is an obligation on developers of large power stations to consider opportunities for CHP, including community heating, when submitting their applications for consent.

8.26 In December 2006, the Government issued new guidance for developers on meeting their CHP obligations<sup>302</sup>. The guidance takes into account comments gathered during the formal consultation process in 2004, and also informal discussions with stakeholders since the publication of The Energy Challenge. It is designed to make it easier to identify opportunities for CHP and where it is clear there are no nearby potential heat customers, to help developers more efficiently meet their obligation. The key improvements to the guidance are:

- Providing more information on “heat maps” to allow developers to explore opportunities for CHP more easily;
- setting out more clearly how developers can demonstrate that they have considered the opportunities for CHP;
- rationalising the number of contacts to discuss how best to exploit CHP opportunities; and
- providing case study examples of how developers have in the past successfully exploited CHP opportunities.

### **Improving the resilience of overhead power networks**

8.27 The resilience of the electricity networks is important in ensuring the reliability of our energy supplies. The vast majority of interruptions to electricity supplies that do occur in the UK are as a result of transmission or distribution issues. The Government believes that a better balance can be struck between a flexible approach for modest changes to existing overhead lines and the need for new consents for more significant works. Although minor upgrades are often controversial and do not have significant environmental effects, they are currently required to comply with the full consent process.

8.28 In December 2006, the Government launched a consultation that sought views on, amongst other things:

- Allowing the use of “design successors” without the need for a renewed consent<sup>303</sup>;
- allowing minor changes to existing infrastructure in National Parks and Areas of Outstanding Natural Beauty with the acquiescence of the local planning authority, without requiring fresh consent;
- maintaining the current requirement for lines within Sites of Special Scientific Interest to be subject to the full consent process; and
- the costs and benefits assessment of such changes.

302 <http://www.dti.gov.uk/energy/markets/consents/guidance/page27939.html> (an English and Welsh version is available)

303 The term “design successors” is used to refer to the introduction of new components that perform broadly the same function as their predecessors, but improve the resilience of overhead lines because of the designs of the new components. Key examples are insulated conductor systems such as Aerial Bundled Conductors or Compact Covered Conductors.





8.29 The proposals in this consultation are intended to allow for better maintenance of the existing overhead transmission and distribution lines, and will allow some minor upgrades to be undertaken without the administrative burdens and potential delays of requiring a new consent under Section 37 of Electricity Act 1989.

8.30 Following this consultation, the Government will issue a response to views expressed by consultees. The intention is to finalise this response during 2007, and then to prepare Exemption Regulations to take effect as soon as reasonably possible thereafter.

## Introducing more efficient inquiry procedures

### Updated inquiry rules for large electricity projects

8.31 In 2006, we committed to introducing streamlined inquiry rules in England and Wales in April 2007 that took recent best practice<sup>304</sup> into account. On 9 November 2006, we launched a consultation on proposed new rules for these inquiries<sup>305</sup>. In the light of the consultation, we made amendments and laid the new Rules, "The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007", in Parliament. The Rules came into force on 6 April 2007<sup>306</sup>.

8.32 The improvements to the Rules focus on the following areas:

- **Increasing the information made available to the Inspector and inquiry participants at the pre-inquiry stage.** For example by requiring those who objected to the application to register at an early stage (indicating the intended degree of participation), in order to be automatically entitled to appear at the inquiry. This will help the inspector propose or set a realistic timetable for the inquiry, and help it to be run more efficiently.
- **Designing improved pre-inquiry procedures.** For example, by enabling the Secretary of State to require that the applicant and relevant planning authority prepare a statement of common ground. This will clearly identify issues on which common agreement has been reached and therefore should not need to be discussed in depth in the inquiry proper.
- **Giving the Inspector more discretion to design a fit-for-purpose inquiry procedure.** For example, giving him the power to direct that evidence on certain specified issues is given primarily in writing (although participants may make limited oral submissions on these issues at inquiry). This should help lead to shorter and more efficient inquiries; and
- **Enabling e-communication to help reduce administrative burdens of inquiries.**
- **Reducing the standard periods between the receipt of the application and commencement of the inquiry, although these periods may, in individual cases, be extended.**

8.33 The new Rules also include specific new provisions to cater for inquiries into applications under the Electricity Act for offshore generating stations.

304 In 2005, the Government introduced new inquiry rules for Major Infrastructure Projects considered under the Town and Country Planning Act regime. <http://www.opsi.gov.uk/si/si2005/20052115.htm>

305 <http://www.dti.gov.uk/energy/review/implementation/electricity-act-inquiry/page35205.html>

306 These Rules can be found at <http://www.opsi.gov.uk/si/si2007/20070841.htm> and Guidance to accompany them at <http://www.dti.gov.uk/files/file38845.pdf>

### **Streamlining of onshore gas consents regimes**

8.34 The current process for securing consent for gas infrastructure projects is complex, with various consents routes, and can be very protracted. There is also concern that not enough weight is placed on the national need for such infrastructure projects<sup>307</sup>. Industry cite the number of decisions that have had to be appealed as evidence of this, although there may be additional reasons for applications being turned down.

8.35 The Government is consulting on proposals to address this need for simplification as part of the planning White Paper 2007, *Planning for a Sustainable Future*. This sets out proposals for the new planning system and consults on rationalising the regime for nationally significant gas supply infrastructure projects in England to bring all decision making under the proposed independent infrastructure planning commission<sup>308</sup>. This is discussed later in this chapter.

8.36 We recognise that any changes to legislation would not aid those projects that are already engaged in the planning system, or which are close to engaging in it, because we expect it will be two years before the new regime is operational. However, we remain committed to taking any action now where we can to make the consenting arrangements more efficient.

8.37 Some developers are exploring an alternative approach by consenting applications for gas storage developments under the Gas Act 1965<sup>309</sup>. There is currently no existing guidance on this legislation, which is creating difficulties for an increasing number of developers. The regime is also unfamiliar to other interested parties, for example, those living in areas in which a storage facility is proposed. Therefore, we are publishing alongside this White Paper, a consultation seeking views on new draft guidance on the Gas Act 1965. Based on this consultation, we will aim to publish guidance later this year. Our objective is to help all parties to engage in the consenting process so that it can be more efficient in considering applications.

### **Appointment of inspectors**

8.38 The appointment of an individual to act as inspector for an inquiry is an important decision that can have a significant impact on the timely and efficient running of an inquiry. Any inspector needs to be well versed in the running of inquiries or similar processes; if they do not adhere to the procedures as set down in legislation there is a high risk of successful challenge to the decision on whether or not to grant consent for the project.

8.39 Based on feedback gathered during the Energy Review, in particular from potential developers, we believe that there could be benefits under some circumstances in appointing a high court judge, barrister or similar individual, who would be able to bring particular rigour to the timetable of any planning inquiry, without compromising the ability of the inquiry to address all the relevant issues. We will take forward our proposal as set out in The Energy Review report to appoint a high-powered inspector from outside of the

307 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf))

308 In the light of the wider proposals for planning reform, the planning White Paper 2007, *Planning for a Sustainable Future*, consultation question on this topic replaces the proposal made in the Energy Challenge to consult this autumn on gas supply infrastructure.

309 The scope of the Gas Act 1965 is limited to the underground storage of gas by a licensed gas transporter in natural porous strata (i.e. partially depleted oil/gas fields or aquifers, but not salt caverns).



immediate planning community for especially complex and controversial inquiries, if we are satisfied that it would bring benefits.

### Timely decision making

8.40 In The Energy Review Report, the Government highlighted that it was considering a number of options for ensuring timely decision making of applications for consent to construct important energy infrastructure. The time taken for Government to make a decision can add considerably to the overall time needed to secure planning consent. For example, it took over four months for a decision to be made on granting consent for the Hinkley Point C power station. An especially lengthy delay followed the second inquiry into the North-Yorks overhead line, where the Inspector submitted his report in December 1995 but a decision was not taken until March 1998.

8.41 We have considered a number of options to provide more timely decision making and more certainty surrounding the decision making process. In the long-term, timetabling of the inquiry and decision making process will be a key element of the fundamental reforms (see below).

8.42 In the short-term, we are giving a voluntary commitment to take decisions on whether to grant consent for applications made under s36 and s37 of the Electricity Act for large electricity infrastructure projects within three months of receipt of the inspector's recommendations. This reflects the time-limit for the determination of applications to construct nationally significant infrastructure projects proposed in the planning White Paper 2007, *Planning for a Sustainable Future*. This should lead to more timely decisions and, combined with the requirement for the inspector to set a timetable for the inquiry, greater certainty over how long the planning process should last for individual projects.

8.43 We would, in certain circumstances, where cases were especially complex, announce a longer decision making deadline as soon as possible upon receipt of the inspector's recommendations. However, we are committed to making decisions as quickly as possible and would expect in most cases to give a decision within the three month deadline.

## Fundamental reform of planning for nationally significant infrastructure projects

8.44 The Energy Challenge made a commitment to providing more information on reforms for major projects later in 2006, taking into account cross Whitehall work on planning. The Eddington Study was published on 1 December 2006 and the Barker Review on 5 December<sup>310</sup>. In the Pre-Budget Report, the Government gave a positive response to the proposals in both reports on infrastructure and planning. It also gave a commitment to publish a planning White Paper in Spring 2007, setting out its proposals to take forward their recommendations for reform of major infrastructure planning, including nationally important energy projects. This commitment was reinforced in the 2007 Budget.

310 Barker Review of Land-Use Planning: Final Report – Recommendations ([http://www.hm-treasury.gov.uk/media/4EB/AF/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf)) Eddington Transport Study: [http://www.hmtreasury.gov.uk/independent\\_reviews/eddington\\_transport\\_study/eddington\\_index.cfm](http://www.hmtreasury.gov.uk/independent_reviews/eddington_transport_study/eddington_index.cfm)

8.45 The planning White Paper 2007, *Planning for a Sustainable Future*<sup>311</sup>, was published in May 2007. The remainder of this chapter summarises some of its key proposals that bear on the energy sector.

8.46 A key component of the reforms proposed in the planning White Paper 2007, *Planning for a Sustainable Future*, is the creation of an independent infrastructure planning commission (hereafter referred to as “the commission”). The commission would examine and take decisions on applications for nationally significant infrastructure projects above statutory thresholds, as well as projects designated by national policy statements or Ministers. Under these proposals there would be three main phases for nationally significant infrastructure:

- **The strategic phase.** The Government would produce national policy statements which would establish the national case for infrastructure development and set the policy framework for infrastructure planning commission decisions. The statements would explain how they integrated strategic economic, social and environmental policy objectives to deliver sustainable development. There would be public consultation on national policy statements, and an opportunity for Parliamentary scrutiny before they were finally adopted. National policy statements would be the primary, but not the only, consideration for the infrastructure planning commission in determining applications for development consent for nationally significant infrastructure projects.
- **The project development phase.** An active pre-application phase that would provide greater certainty for promoters of infrastructure projects and will help ensure all developers more thoroughly prepare applications by:
  - making better advice available to them;
  - requiring them to consult publicly on proposals for development; and
  - encouraging early and effective engagement with key parties such as local authorities and statutory bodies.
- **The decision-making phase.** The commission would examine and take decisions on applications for development consent for nationally significant infrastructure projects, within the framework of the relevant national policy statement. The planning White Paper 2007, *Planning for a Sustainable Future*, envisages that, other than for particularly difficult cases, the commission would work to a statutory time limit of nine months for its examination and decision: six months for examination of the project and three months for determination.

8.47 In addition, the planning White Paper 2007, *Planning for a Sustainable Future*, proposes:

- Harmonising as far as possible, the different consent regimes to create a single application process for these major infrastructure projects;
- streamlining the procedures for examining infrastructure projects of national significance by improving inquiry procedures; and
- improving public participation across the entire process by providing better opportunities for public consultation and engagement.



### The strategic phase

8.48 Under the proposals Ministers would have responsibility for developing national policy statements and the extensive work that will go into consulting on and refining them. National policy statements would establish the national case for new energy infrastructure to meet our energy policy goals.

They would also:

- Integrate government objectives and help deliver sustainable development;
- provide a more certain and stable base for investment in infrastructure;
- provide a clear and focused opportunity for consultation and debate on national infrastructure development; and
- enhance ministerial accountability for policy setting.

8.49 National policy statements would be the primary consideration for the infrastructure planning commission in reaching decisions and provide a platform for more efficient inquiries and decisions.

8.50 Given their fundamental role in the proposed new system for nationally significant infrastructure applications, national policy statements will play an important role in providing certainty to developers of the national case for new infrastructure. To achieve this they would need to be credible and well-considered, helping to give them a degree of longevity, given the life of energy infrastructure. However, they would also need to be sufficiently flexible to respond to developments in the market. It will be important for the legitimacy of national policy statements that they are subject to thorough and effective consultation and to Parliamentary scrutiny. Proposals on this are set out in the planning White Paper 2007, *Planning for a Sustainable Future*.

8.51 National policy statements 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. The way in which these objectives would be considered and integrated may require Strategic Environmental Assessment, which could be incorporated in a wider Sustainability Appraisal. They would also:

- 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; and
- consider relevant issues in relation to safety or technology, indicate any circumstances where it was particularly important to address adverse impacts of development, and include any other particular policies or circumstances that Ministers consider should be taken into account in decisions on infrastructure development.

8.52 Although it is expected that a number of national policy statements will be produced for the energy sector, some high level issues covered by them will be overarching in nature. Of particular relevance is the fact that it is the Government's policy for the market to decide what energy proposals to bring forward in terms of specific technologies and locations to deliver the Government's objectives of ensuring security of energy supplies and tackling climate change by reducing carbon emissions.

8.53 The final structure of the suite of statements likely to be required for the energy industry has not yet been determined. However, it is expected that an overarching framework for energy national policy statements, and some sub-sectoral national policy statements for specific energy technologies, would be put in place during 2009. Individual statements would contain more information on, for example, the need for a particular technology, as well as the generic safety, economic and performance aspects of that technology. New and emerging technologies, such as carbon capture and storage (CCS), would, where appropriate, be covered within the suite of energy national policy statements, when the case for national treatment of such significant projects has been established. Further details on the Government's proposals for the form and timing of national policy statements will be set out after the consultation on the planning White Paper 2007, *Planning for a Sustainable Future* has concluded.

8.54 Where possible, statements will also contain spatially-specific information on developments, but this will vary from technology to technology. It may be possible to offer generic criteria that will help clarify the required locations for certain technologies – for example, underground gas storage facilities, which require certain geological conditions.

8.55 However, energy national policy statements are likely to be less specific in certain respects than for other sectors, because it will not be possible to be capacity and location-specific; these are matters for potential developers to consider as part of the Government's market based approach to energy policy and energy infrastructure development. With regard to offshore energy, we will aim to dovetail the national policy statements and the Marine Policy Statement envisaged under the Marine White Paper, published in March 2007.

8.56 National policy statements will be the primary consideration for the commission in determining applications for development consent for nationally significant infrastructure projects. They will also have important implications for local and regional planning. Where appropriate, national policy statements would set out the contribution the town and country planning system would be expected to make to facilitate the delivery of infrastructure. They will therefore influence planning decisions taken under the Town and Country Planning Act, such as smaller onshore windfarm projects.

8.57 The current statutory framework for planning requires the preparation of regional spatial strategies and local development plan documents. At present, regional planning bodies and local planning authorities must have regard to national policies and guidance when preparing these regional and local development plans. The planning White Paper 2007, *Planning for a Sustainable Future* proposes that this should be extended to ensure that they also have regard to proposed national policy statements on infrastructure.

8.58 The Government intends that any national policy statements for the energy sector would be developed for the whole of Great Britain or the UK as appropriate. There would be no change to the various devolution settlements on planning and the management of consent responsibilities in each of the devolved administrations. The relevant national policies would be developed



with the full involvement of the Devolved Administrations so as to inform strategy for this infrastructure throughout Great Britain or the UK. Welsh, Scottish and Northern Ireland Ministers would be statutory consultees in the development of relevant national policy statements. The Government anticipates that close working in the development of Great Britain or UK wide policy will mean that the national policy statements will also be reflected in policy and decisions in the Devolved Administrations.

### **The pre-application stage: Improving the preparation of applications**

8.59 The Government believes that public consultation on proposals for major infrastructure projects and early engagement with key parties such as local authorities and relevant public bodies such as statutory environmental and heritage bodies is extremely important.

8.60 The planning White Paper 2007, *Planning for a Sustainable Future*, therefore proposes that before promoters submit an application, they should be required to:

- Consult the public and, in particular, affected land owners and local communities on their proposals before submitting an application to the commission;
- engage with the affected local authority or authorities on their proposals from early in the project development process; and
- consult other public bodies, such as statutory environmental and heritage bodies, regional directors of public health, and relevant highway authorities, as appropriate.

8.61 The infrastructure planning commission must satisfy itself that the promoter has carried out adequate consultation before agreeing to consider an application for development consent for nationally significant infrastructure.

8.62 Where the promoter is required to consult an organisation, that organisation has a responsibility to give its views promptly and not cause unnecessary delays. The planning White Paper 2007, *Planning for a Sustainable Future*, therefore proposes that legislation should impose an upper limit on the time the statutory consultees have to respond to a promoter's consultation.

8.63 The Government proposes that the infrastructure planning commission would issue written guidance on the application process, procedural requirements and consultation, and be able to advise promoters and other interested parties on consultation and the application process as a whole. To ensure that applications are thoroughly prepared and can be considered efficiently, the commission would be able to send back applications which had either not been adequately prepared or not been adequately consulted on.

### **The decision phase**

8.64 The planning White Paper 2007, *Planning for a Sustainable Future* proposes that the infrastructure planning commission would deal with development consent applications for nationally significant energy infrastructure in England and Wales, which exceeded statutory thresholds set out in Box 8.1.

## **BOX 8.1 ILLUSTRATIVE THRESHOLDS FOR ENERGY INFRASTRUCTURE PROJECTS FOR REFERRAL TO THE INFRASTRUCTURE PLANNING COMMISSION**

### **Nationally significant energy projects**

The following energy projects will automatically be referred to the Commission for a consent decision:

(a) Power stations generating more than 50MW onshore – the existing Electricity Act 1989 threshold – and 100MW 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 of a length that puts them above the existing Pipelines Act 1962 threshold of 16.093 kilometres/10 miles and licensed gas transporter pipelines necessary to the operational effectiveness, reliability and resilience of the gas transmission and distribution network.

### **Associated works**

For energy, the main component of the project (for instance, a gas storage facility, power station or windfarm) is likely to require associated works such as gas pipelines, power lines or sub-stations. The planning White Paper 2007, *Planning for a Sustainable Future* proposes that the commission would be able to treat major projects holistically, considering associated works essential to their construction and operation. For instance overhead lines for power stations or surface access infrastructure would be considered alongside the main project, where these had been agreed with network providers. This would simplify matters for developers and also ensure that the project could be considered in a holistic way by interested parties.

Technological developments (such as the use of carbon capture and storage with electricity generation projects) and changing sectoral circumstances (such as increased dependency on gas imports) can mean that there may also be other types of projects that become nationally significant, and may require a national view.

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





8.66 The commission would be composed of experts in fields such as national and local government, community engagement, planning, law, engineering, economics, business, security, environment, heritage, and health as well as, if necessary, specialist technical expertise related to the particular sector. The commissioners would be appointed for their individual expertise, experience, ability and diversity of background. They would not be appointed as representatives of particular organisations, interests or political parties.

8.67 The secretariat to the commission would employ individuals with the necessary technical expertise across the infrastructure sectors that the infrastructure planning commission would consider. The commission would also be able to draw on specialist technical advice from external sources where necessary to assist it in the consideration of particular cases. The complexity of energy infrastructure may mean that the commission might need to have dedicated energy planning expertise within its secretariat.

8.68 In considering applications, the commission would gather the majority of evidence in writing, probe it by means of direct questioning, and work to a strict timetable. A specific open-floor stage would be introduced to inquiries to allow interested parties who wished to express their views about the project the opportunity to do so within a defined period of time.

8.69 We expect that the commission would consider around 10 major infrastructure projects a year in total (including energy, transport, water and waste projects) as well as a larger number of less complex cases, such as works necessary to ensure the operational effectiveness and resilience of the electricity transmission and distribution network. However, it is hard to be specific because of the likelihood of fluctuations in the frequency with which major infrastructure projects are brought forward, and there might potentially be peaks of anywhere up to 25 major projects in some years. If, following the consultation on the future of nuclear power in the UK, launched alongside this white paper, the Government concludes that it is in the public interest to allow companies the option to invest in new nuclear power stations, we would expect the commission to determine such cases.

8.70 Technological developments (such as the use of carbon capture and storage with electricity generation projects) and changing sectoral circumstances (such as increased dependency on gas imports) can mean that there may also be other types of projects that become nationally significant, and therefore may require a national view. We would expect the commission to be the decision maker for these types of project. It might also be appropriate for the commission to consider applications that on their own were below the normal thresholds, because they had potential cumulative impacts with other applications above the thresholds. It is therefore likely that a small number of other projects, not covered by the thresholds set out in Box 8.1, might require national decision making.

8.71 DTI Ministers currently take decisions on overhead power line consents and wayleaves. There is a particular issue regarding the future treatment of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network, which is a critical factor in the security of our energy supplies.

8.72 The electricity network needs to be robust as new, renewable sources of electricity generation start to be developed to meet our climate change objectives. The energy planning system must be able to take into account and allow for the full implications of the drive towards a greater role for renewable energy and for a more localised pattern of generation and distribution. Each link of the electricity network is critical to the effectiveness and resilience of the network as a whole, and thus to ensuring that we can sustainably and cheaply transport power from generating stations to customers.

8.73 In these circumstances, the Government sees no obvious way to draw a line between national and local projects, although the Government would be interested in views on where such a line could be drawn. The Government is consulting on this issue, as part of the consultation on the proposals contained in the planning White Paper 2007, *Planning for a Sustainable Future* and whether all of these projects should be considered by the infrastructure planning commission.

8.74 The Marine (Bill) White Paper published on 15 March set out a new regime for integrated management of the UK's seas which complements the proposals in the planning White Paper 2007, *Planning for a Sustainable Future*. A new Marine Management Organisation would generally operate as the consenting body for smaller projects in the marine area. The infrastructure planning commission would be responsible for decision on proposed offshore renewable energy developments over a threshold of 100MW. Both bodies will take decisions within the framework of the marine policy statement and relevant national policy statements.

### Transitional arrangements

8.75 The energy planning system is complex, with a number of different consenting regimes, which have evolved over time and are not all tailored to the energy sector as it now stands<sup>312</sup>. Simply transferring the current suite of development consent regimes to the infrastructure planning commission unchanged would be problematic. It would mean the process would remain complex and time consuming, potentially limiting the efficiency improvements that the new system could deliver. Therefore, the Government proposes to rationalise the different development consent regimes and create, as far as possible, a unified, single consent regime with a harmonised set of requirements and procedures.

8.76 Finally, the Government believes that the move to a reformed planning system will require careful management of transitional arrangements to ensure that interested parties, including investors, understand the framework within which they are operating at any given moment and retain confidence both in the current system and the emerging new system. It is critical to energy security of supply that investment is not undermined or delayed at a time when the UK needs significant amounts of new energy infrastructure.

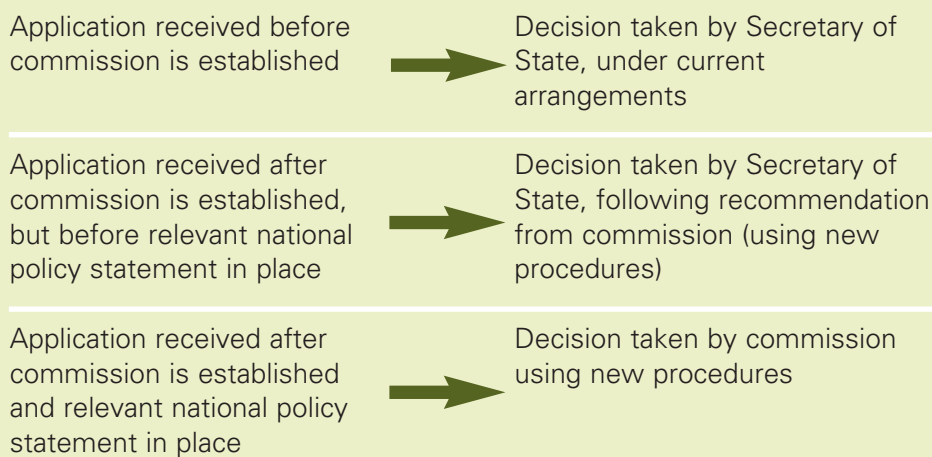
8.77 Establishing the infrastructure planning commission will need primary legislation which we will propose to at the earliest opportunity. The need for legislation means that the commission is unlikely to be in place before April 2009. Nationally significant infrastructure applications received before the

<sup>312</sup> An overview of the energy planning system is available in The Energy Challenge, HMG Cmd 6887, July 2006, Table 7.1, Pages 138-141



commission is established would be decided by the relevant Secretary of State. Decisions on these applications would not be transferred to the commission. We expect to put national policy statements for infrastructure sectors in place before any applications in a sector are submitted to the infrastructure planning commission. However if applications come forward before the relevant national policy statement is in place the commission would consider the application using the procedures proposed in this white paper but would make a recommendation to Ministers for decision.

### **BOX: 8.2 TRANSITIONAL ARRANGEMENTS FOR PLANNING DECISIONS ON NATIONALLY SIGNIFICANT INFRASTRUCTURE**



## **Improving Town and Country Planning for the national level**

8.78 The Town and Country Planning system is “plan-led”. Broadly speaking, this means that the planning authorities prepare a development framework and spatial plans that help determine what can be built and where. There are two levels of plans. The Regional Spatial Strategy is the top tier of the development plan. It is drawn up by the regional planning body and provides a broad development strategy for a 15-20 year period (in London, the Mayor prepares a Spatial Development Strategy). It looks at a range of regional issues such as transport and housing and the potential impact of such developments. The second level of plan is the Local Development Framework, which is prepared by every local planning authority. They comprise a series of documents that outline the spatial strategy for the area, core policies and a monitoring and implementation framework. It is supplemented by various documents such as site specific allocations and a design guide and must also contain a statement of community involvement<sup>313</sup>.

8.79 In considering applications under the Town and Country Planning system, decision makers (primarily local authorities) will consider if the

313 More information about the planning system in the UK is available at [www.planningportal.gov.uk](http://www.planningportal.gov.uk) and <http://www.communities.gov.uk/index.asp?id=1143104>

proposal is in line with the relevant regional and local plans and any other material considerations. National planning policy is set out in Planning Policy Statements (PPS). PPSs are prepared by the government after public consultation to explain statutory provisions and provide guidance to local authorities and others on planning policy and the operation of the planning system.

8.80 The Government has already carried out significant reforms of town and country planning. These have improved the effectiveness of plan making and development control, but we recognise that there is scope to make further improvements to the Town and Country Planning system. This is of particular relevance to the energy sector, given that planning decisions for energy infrastructure are taken both at a national level and by local authorities.

8.81 The Government therefore proposes to:

- Simplify the national planning policy framework, clearly stating policy requirements and separating these from supporting guidance and best practice;
- strengthen the role of local planning authorities in shaping their communities; and
- streamline the system as a whole to make it more accessible for all who need to use it.

8.82 The specific context for smaller renewable and low carbon energy developments will also be strengthened through the draft climate change PPS, once finalised (see earlier in this chapter).

8.83 The planning White Paper 2007, *Planning for a Sustainable Future*, also considers how local planning authorities can be supported to ensure that the local planning decisions on smaller renewable energy projects are made effectively and help to deliver national policy. As set out in that White Paper:

- Regional and local development plans would be expected to have regard to proposed national policy statements on infrastructure;
- the Government will work with local authorities and with the industry to: ensure that high quality renewable energy schemes are prepared; resolve potential local impact problems; and improve the engagement with local communities on the case for renewable energy;
- the Government will provide additional training for planning inspectors on the policy context for determining appeals on renewable energy schemes, including the need to deal with such cases promptly; and
- Ministers would have the power to direct that smaller projects which are below the normal thresholds but are nevertheless of national significance, or which have potential cumulative impacts with other applications above the thresholds, should be treated as nationally significant infrastructure projects and determined by the infrastructure planning commission.

8.84 The Government is also consulting on proposals to encourage inspectors to award costs where appeals have been required on unreasonable grounds.



8.85 The Government is also looking at ways to reduce the burdens on the planning system by removing the need for planning permission for certain developments within defined parameters. For example, the Government proposes that broadly all forms of householder micro generation equipment, should be permitted, subject to safeguards to minimise the impact on others, without the need to apply for planning permission. These proposals have been set out in a consultation paper<sup>314</sup>. The Government is also proposing to extend permitted development rights on micro generation to other types of land use including commercial and agricultural development. Given the wide variety of types of non-residential use, we will take a staged approach, with consultation on detailed proposals for some types of non-residential building later this year.

8.86 As well as removing the need for planning permission in certain cases, the Government is looking at ways to better resource the planning system overall. For example, it proposes to consult on allowing the Planning Inspectorate to charge for planning appeals. The Government is also considering undertaking a pilot study with a small group of local planning authorities who would be able to offer a premium service to applicants. This approach would, for example, allow a local planning authority to charge an enhanced fee for a planning application where it guaranteed that the applicant would receive a decision in less than 13 weeks for major applications (8 weeks for minor or other applications).

## Planning Summary of Measures

### **We have:**

- **taken forward the suite of reforms as highlighted in The Energy Challenge in 2006, these have:**
  - **provided clarity on Government policy on the strategic need for energy infrastructure. We have achieved this through:**
    - **consulting on a new Planning Policy Statement on Climate Change, which will be finalised later in 2007;**
    - **publishing a Statement of Need for Renewable Generation;**
    - **consulting on new guidance for developers on the Electricity Act consenting regime;**
    - **publishing updated guidance for developers on Combined Heat and Power projects; and**
    - **consulting on proposals to allow minor upgrades to existing overhead electricity networks without requiring the full consents process.**
  - **created more efficient procedures for planning inquiries. We have achieved this by updating the inquiry procedure for projects considered under the Electricity Act consenting regime. The regulations came into force in April 2007.**
  - **provided for shorter and more predictable timescales. We have achieved this by giving a voluntary commitment to make decisions under the Electricity Act regime within 3 months of receipt of the inspector's recommendations.**

314 <http://www.communities.gov.uk/index.asp?id=1508888>

**We will:**

- **Following the consultation on the planning White Paper 2007, Planning for a Sustainable Future, and subject to Parliamentary approval, establish a new development consent regime for nationally significant energy infrastructure. This new consenting regime would focus on:**
  - **ensuring that there is a clear policy framework for nationally significant infrastructure;**
  - **helping promoters improve the way that they prepare and consult on applications;**
  - **streamlining the procedures for infrastructure projects of national significance by rationalising the different consent regimes and improving the inquiry procedures for all of them;**
  - **clarifying the decision making process, and achieving a clear separation of policy and decision making, by creating an independent commission to take the decisions on nationally significant infrastructure cases within the framework of the relevant national policy statement; and**
  - **improving public participation across the entire process.**

**Reducing costs, delays and uncertainties will help create the right market framework for the private sector to make the investments in new energy infrastructure necessary to maintain the security of our energy supplies, and help reduce carbon emissions. The changes that we propose will, at the same time, improve the accountability of the system, the transparency of decision-making and the ability of individuals and communities to participate effectively in the planning process.**