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Date: 14<sup>th</sup> December 2021

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**Consultation: National Infrastructure Planning Reform Programme – Response from Suffolk County Council**

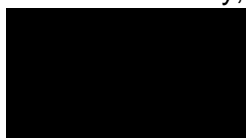
Suffolk County Council welcomes the opportunity to contribute to the National Infrastructure Planning Reform Programme. The Council has a long record of engagement with projects consented under the Planning Act 2008, beginning with one of the earliest consents, the Ipswich Rail Chord, in 2011. Subsequently, the Council has been a statutory consultee for nuclear and offshore wind projects and is currently engaging with the largest solar farm proposal in the UK, as well as multiple transmission projects both on and offshore. It has also been a project promoter, for the Lowestoft Lake Lothing Crossing, or “Gullwing” project.

The Council's principal issues in respect of this consultation are as follows:

- The funding of Local Authorities and other statutory consultees, to engage effectively in the NSIP consenting and post-consent processes.
- The ability of local communities to engage effectively and maintain their confidence in the NSIP process.
- The adverse cumulative impacts of project proposals; on the ability and capacity of local authorities and communities to engage effectively, and on public confidence in the NSIP process.
- The ability of the NSIP process to deliver multiple energy generation and transmission projects, rapidly and effectively by 2030. To secure the UK's Paris Agreement Nationally Determined Contribution, (NDC) whilst maintaining public confidence.

The questionnaire responses are appended to this letter

Yours sincerely,



Mark Ash

Executive Director for Growth Highways and  
Infrastructure  
Suffolk County Council

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## 1. Contact Name

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3. What could government, its arms-length bodies and other statutory bodies do to accelerate the speed at which NSIP applications can be prepared and more generally to enhance the quality of submissions? (No more than 300 words)

**i. The pre-application stage** – Up to submission, developers are in control of their project and any consultation undertaken. The duration and effectiveness of engagement is dependent on the promoters' willingness to resource the process and the value, or otherwise, that they place on it. In general, established, and regulated businesses such as National Grid are broadly competent and effective (but see Q3ii), however other promoters, not having a long-term interest in the locality, may be less willing to engage effectively. This is notwithstanding the [Planning Act 2008: Guidance on the pre-application process](#) paragraphs 18 – 19.

This stage provides a vital opportunity for all stakeholders, especially local communities, to engage and help shape a project. Public confidence will be undermined if acceleration of this is not combined with high-quality engagement. Therefore, expectations of the scope, length, and process of pre-application, should be agreed with PINS; based on the size, complexity, and type of development. The existing pre-app guidance<sup>1</sup> and support offered by PINS should be updated, this is also essential to support the delivery of Net Zero and the interim targets, including 40GW of offshore wind by 2030<sup>2</sup>, and decarbonisation of the Grid by 2035<sup>3</sup>.

**ii. Planning Performance Agreements (PPA)** – Engagement with developers during the pre-application phase of a project puts considerable strain on the local authority's resources. Work relating to NSIPS are not defined as new duties for Authorities<sup>4</sup> and so are not supported new burdens<sup>5</sup>. Therefore, promoters should be required to enter a PPA, or alternative forms of funding agreement. For the benefit of all parties, a template PPA should be provided. Local authorities should be supported during all the stages of the NSIP

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<sup>1</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/05/NSIP-prospectus\\_May2014.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/05/NSIP-prospectus_May2014.pdf)

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945899/201216\\_BEIS\\_EWP\\_Command\\_Paper\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945899/201216_BEIS_EWP_Command_Paper_Accessible.pdf)

<sup>3</sup> <https://www.gov.uk/government/news/plans-unveiled-to-decarbonise-uk-power-system-by-2035>

<sup>4</sup> <https://hansard.parliament.uk/Lords/2010-03-10/debates/10031084001332/InfrastructurePlanningFunding#contribution-10031084001369>

<sup>5</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5960/1926282.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5960/1926282.pdf)

process, the pre-application phase, during the examination, and during the post consent phase (see Q5 i.). A regular sum, rather than reclaim processes, would allow the local authority to plan and manage resources more effectively, employing additional staff if necessary.

4. Following submission, are there any aspects of the examination and decision process which might be enhanced, and how might these be improved? (No more than 300 words)

**i. Examination** -This is very resource intensive for local authorities. There is a need to draft a Local Impact Report, attend and fully engage with hearings, respond to information requests, submit written responses at deadlines, and simultaneously continue dialogue with the applicant and other stakeholders. See Q3 ii

**ii. The examination is primarily a written process;** Issue Specific hearings should only be used where specific matters cannot be adequately addressed through written exchange. When hearings are held, early notification and clear details regarding the topics to be covered is essential. The hearings should be managed to ensure that relevant technical detail is discussed in an organised manner. Detailed agendas to be published at least five days prior and hearing agendas should not be updated the night before, or on the morning of a hearing. The Examining Authority (ExA) should aim to publish agendas for the entire week simultaneously. However, Open Floor Hearings are highly valued, particularly in person, as members of the community welcome the opportunity to express their views verbally, and this supports confidence in the process. (see 4 vi.)

**iii. Publication of submission documentation:** Currently, the submission documentation is only published once accepted by the Planning Inspectorate, and there is no obligation on the Applicant to share this with local authorities or other stakeholders, in advance of publication. This puts very tight time pressures on local authorities to seek political approval of its Relevant Representation. This means that there may not be a clear political mandate at this critical point, which builds in future complications. It is recommended that there should be an obligation for applications to be published (or at least shared with local authorities) at the point of submission. See also Q6

**iv.** The Planning Inspectorate should create **mechanisms to support local stakeholders** during the examination process. Priority for this support should be given where there are simultaneous or successive examinations in the same area.

**v.** When the same Panel can **examine two projects concurrently** it should do so. This is efficient and supports understanding of in-combination effects. If separate examinations, with separate panels, are held in the same locality, careful consideration needs to be given to the scheduling, as local authorities and communities will struggle to serve more than one examination at the same time.

**vi. Using a virtual platform;** it is considered that the advantages have significantly outweighed any disadvantages. This virtual format, or a hybrid version, should be continued, although we note that Open Floor Hearings may be helpful to be held in person

as members of the community may find this an easier way to engage (see 4 ii.).

**vii. Decision process** There is a need to ensure applicants provide the information required within the examination period. Post-examination questions and consultations place an unexpected burden on local authorities and stakeholders, as well as the Secretary of State.

5. Where a development consent order has been made, what impediments are there to physically implementing a project which could be removed? (No more than 300 words)

**i. Funding for Discharging Requirements and Other Processes** – Development Consent Orders (DCOs) often contain numerous requirements which need discharging by the local planning authority and have implications for statutory consultees. This process, dependent on the number of requirements to discharge and the level of the up-front engagement, can put a strain on local authority resources. For other processes, such as reviewing details for other authorities to discharge requirements, additional resources might be necessary to engage effectively. There is no fee in relation to this activity, and therefore local authorities can struggle, unless resources are secured through a Section 106, or other Deed of Obligation.

6. How might digitalisation support the wider improvements to the regime, for example are there any specific aspects that you feel could benefit from digital enhancements? (No more than 300 words)

**i. The publication of all the documents.** The speed at which these documents are uploaded to the website can, on occasion, be quite slow. Any delays during the uploading process, particularly during examinations, reduces the length of time stakeholders have, to provide comments to the Examining Authority. This can be particularly challenging when the deadlines are very short. It is therefore essential that the Planning Inspectorate has all the resource they require.

**ii. The documents associated with past projects** are an invaluable resource for future projects. The loss of these from the PINS website with no clear direction to an online archive is an important missed opportunity for consultees and examiners to embed learning and have access to important reference material and precedent of argument, and approaches to resolving issues.

**iii. The PINS document library** is not always easy to navigate or to find key documents. Further consideration should be given to how this could be improved.

7. What issues are affecting current NSIPs that would benefit from enhanced cross-government co-ordination including government departments and arms-length bodies? (No more than 300 words)

**i. Cumulative effects of related project programs** such as 40GW of offshore wind by 2030, and the 15 associated NGET transmission projects, needed to support this. (See 7 ii.; 9-i.; & 10-iii.) As this issue cannot be resolved by individual applicants, Government should play a role in dealing with such issues.

**ii. Reform of the NSIP process will need to mesh with strategic plan making initiatives.** A fundamental challenge currently being faced in East Anglia is the lack of coordination being demonstrated by energy NSIPs proposed in the UK, but specifically within this region. Greater coordination of projects and a strategic planning regime, both on and offshore, as proposed in both the Future System Operator<sup>6</sup> and the Centralised Strategic Network Plan<sup>7</sup> consultations, could underpin the consenting process for onshore and offshore transmission, recognise wider adverse cumulative effects, and support more effective outcomes in both consenting and project delivery.

**iii Delivering Local Benefits, Social Value and Levelling Up:** The NSIP process seeks primarily to mitigate impacts on, rather than identify opportunities to benefit, communities. There is the potential for promoters to deliver social value by identifying opportunities during the pre-application stage. There needs to be clarity as to how this process should be undertaken, as this will provide supporting evidence for adequacy of consultation, particularly where there are strong linkages between mitigation and benefits.

8. Does the NSIP regime successfully interact with other consenting and regulatory processes and the wider context within which infrastructure projects operate? (No more than 300 words)

No comments

9. Are there areas where limits in the capacity or capability of NSIP applicants, interested parties and other participants are resulting in either delays or adversely affecting outcomes? (No more than 300 words)

**i. Cumulative Impacts** - The NSIP regime does not currently secure full consideration of the cumulative impacts of multiple projects in a robust way. The cumulative assessment is undertaken on a first-come-first-served-basis, regardless of whether the first project provides the anchor development setting a precedent, making it easier for later projects to gain consent. Cumulative impacts need to be fully and robustly considered from the outset, using all available information. The lack of credible consideration of cumulative impacts has, and will continue to have, the potential to cause delay during the consenting process.

**ii. Sharing of Information** – The unwillingness of developers to share information with each other causes significant duplication and as a result causes delays in the examination and increases project costs. It is considered that there should be greater sharing of information in relation to specific constraints and interaction between projects.

**iii. Statutory Consultee Capacity** -The inability of one key statutory stakeholder to fully engage with NSIPs, can cause significant direct and indirect delays to others.

**iv. PPAs & medium-term financial certainty:** As set out above, without PPAs that provide medium term certainty of resources being available, it is impossible for local authorities to recruit the staff to deal with the NSIPs. Without resolution of this issue, difficult decisions

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<sup>6</sup> <https://www.gov.uk/government/consultations/proposals-for-a-future-system-operator-role>

<sup>7</sup> <https://www.ofgem.gov.uk/publications/consultation-initial-findings-our-electricity-transmission-network-planning-review>

will be faced by local authorities, about whether to fully engage in the NSIP process or reduce services elsewhere to create necessary capacity. (See 3ii.)

10. Is there anything else you think we should be investigating or considering as part of our end-to-end operational review of the NSIP process? (No more than 300 words)

**i. Non-Material Changes** – There is currently no statutory time within which the Secretary of State is required to determine an application for a Non-Material Change. It is considered that this could deter some developers from making amendments using this mechanism, which leads to the submission of sometimes multiple planning applications (TCPA). The provision of a statutory time for this process may make it more appealing to developers and reduce the burden on local planning authorities.

**ii. Flexibility** - There is potential for the option of greater coordination and consolidation of projects post consent with the NSIP process. The 'Rochdale Envelope' in theory provides flexibility for consolidation of related and adjacent projects post consent, providing the impacts and order limits do not exceed that of the consented project, or projects. This flexibility is especially important at present, with regulatory and technological change occurring as projects are brought forward and consented.

**iii. The strategic context** – The NSIP planning process has been largely successful in delivering projects to consent in a timelier manner than the public enquiry system that it replaced. There are a range of changes that can be made to improve how the system operates, some of which are outlined in this response.

However, **it should be recognised that the NSIP process is now being asked to do something which was not originally envisaged**, that is, to deliver a programme of energy generation and transmission projects to meet specific Government targets, and to do so very quickly. Reform of the NSIP process needs to recognise this as a departure from business as usual, in terms of infrastructure consenting and delivery. The speed and geographical clustering of these projects, in regions or sub-regions, is also a new challenge. Therefore, statutory consultees, examining panels, and communities, need to be appropriately resourced, and supported by revised guidance and processes, to deal with this new situation.

11. Please confirm how you interact with the NSIP regime?

Suffolk County Council is a statutory consultee including as; Minerals and Waste Planning Authority, Highway Authority, Lead Local Flood Authority, Public Health Authority and in the County Council's role as community leader, representing its local communities and seeking to minimise negative impacts, and maximise local opportunities and benefits, arising from NSIPs.