

National Infrastructure Planning Reform Programme

Friends of the Earth England, Wales and Northern Ireland Consultation Response

15 December 2021

Introduction

Friends of the Earth (FoE) is the UK's largest grassroots environmental campaigning community, with around 300 community groups across the country and devolved nations (excluding Scotland). We have long campaigned for a fair and transparent planning system that delivers sustainable development and equitable outcomes.

We welcome the opportunity to respond to the Department for Levelling Up, Housing & Communities (DLUHC) end-to-end review of the National Significant Infrastructure Planning (NSIP) process and its interactions. It is worth noting that the current system itself was supposed to have struck a balance between fairness and speed.

The planned reforms which intend to speed up the NSIP process and provide greater certainty to developers are concerning and we set out our position on the plans below.

In our view, the NSIP planning process must be based on the following principles to align with its core purpose:

- Based on ensuring sustainable outcomes, with **local voices and public interest at its heart**. It is the local communities and their local environment and biodiversity which are the most directly impacted by these schemes. It is also local planning authorities who enforce these developments. Therefore, despite their national scale, these schemes should be planned for with **local accountability**.
- Everyone has the **right to participate in decisions** that affect their lives which means a **right to be informed** and a **right to participate**. These rights are enshrined in the Aarhus Convention of which the UK is a signatory. Greater accountability on developers and local planning authorities is required to ensure everyone has a right to be heard in the decision-making process for NSIPs.
- A **legal duty to secure sustainable development incorporating the concept of environmental limits**, tackling climate change, and the health and well-being of all

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citizens. We need to tackle climate change in every planning decision. We must all be confident that the system is there for everyone, and not just private interests.

Background

The Planning Act 2008 was introduced by the UK government with the intention of speeding up and streamlining the decision-making process for determining major new infrastructure projects, otherwise known as the “Development Consent Order” (or DCO) process. The purpose of the NSIP regime was to essentially speed-up decision-making for major energy, transport, water, waste water, and waste infrastructure projects by establishing a framework for decision-making based on the case for a development (i.e. why it is needed) all whilst providing developers with more certainty that a decision will be made within a set period of time. The Planning Act 2008 introduced National Policy Statements (NPSs) which set out the ‘need for the development’ argument against which applications for new infrastructure would be judged. Thus, the process was able to be sped up on this basis because ultimately, big issues such as the need for certain types of major infrastructure had been predetermined in national policy and therefore taken out of the decision-making discussion.

The system represented a radical departure from the longstanding Town and Country planning system which governs the process for the majority of planning applications. Many viewed these changes to determining NSIPs, including compressing the decision-making process into a rigid timescale laid down in the Act and regulations, as **curtailing the rights of the public to influence the proposal and participate in the decision-making process.**

In November 2020 the government pledged to review the Planning Act 2008 with a view of **further cutting timescales for NSIP projects, stating that they would reduce timescales by up to 50% for some projects entering the system from September 2023.** A progress update was published in June 2021 and a consultation survey was published between August and December 2021. The progress update did not provide clarity on which specific project types would be affected or sped up by the reforms. However, we note that the NIPA letter stated that the NSIP process has a “strong record for offering high quality consents, robust to legal challenge and with certainty of timescales for investors”. In our view this is not true and is evidenced in recent decisions such as Stonehenge, Manston Airport, Norfolk Vanguard and A38 Derby Junction which were each quashed following High Court challenge.

These decisions further underscore the importance of the quality of information provided, in particular the need for compliance with environmental regulations and climate commitments, over the importance of the speed of the decision.

In response to the consultation announcement, FoE undertook a survey with local groups and allies who have had direct and wide ranging experience of the NSIP process. This included an online meeting to discuss these experiences and explore the concerns raised. We set out our findings below. We have also encouraged the groups we engaged with to respond directly to the departments online survey consultation.

FoE also wishes to draw the government’s attention to the following evidence that is relevant to the consultation and end-to-end review. We note that these reforms sit alongside other planned reforms to the planning system, particularly at local level and form part of a long list of major changes that have occurred over the last few years. It is also noteworthy that these

changes to the system do not reflect the reviews of the planning system generally, that have been conducted in recent years, or their conclusions or recommendations, particularly in respect of local government funding and public consultation.

We further suggest that the evidence of the 2070 Commission should be considered alongside the recommendations of the Committee on Climate Change, particularly supporting both DLUHC and local government to play a full role in the net zero transition (including resourcing, guidance, involvement in local area energy plans, statutory reporting on emissions and reforming the planning framework to enable delivery of and address barriers to deploying low-carbon and climate resilient measures at scale).

Consultation response

On 20 October 2021 FoE held an online meeting to discuss the government's NSIP Reform Programme. To inform the meeting, a survey was sent to our network to complete. The questions were based on the consultation survey questions listed below.

19 responses were received to the survey, all of which raised concerns regarding speeding up the process. The survey and meeting also highlighted that the Pre-application and Examination stages were of most interest to these groups. Of the responses 18 stated they felt the process should not be sped up. 12 respondents had experienced the process from start to decision.

The responses received reflect experiences gained from a range of different projects and proposal types, across the country, including:

- **Road proposals:** Stonehenge; A38 Derby Junction; Smart M4; A5036 Port of Liverpool Access Scheme (RIS2); A428 Black Cat to Caxton Gibbett; A417; A47; A27 Arundel Bypass; Norfolk NDR; Lower Thames crossing
- **Nuclear Power:** Bradwell nuclear plant; Sizewell C
- **Airports:** Heathrow 3rd Runway
- **Rail:** HS2
- **Wind energy:** Rampion Windfarm

The majority of respondents were from the South East, Central and Eastern regions. On 26 November 2021 FoE attended a meeting with officials from DLUHC, Department for Environment, Food & Rural Affairs (DEFRA) and the Planning Inspectorate (PINS) and a number of representatives from environmental and nature charities to discuss the NSIP reform programme. At this meeting FoE were invited to submit a response via email to be able to capture the discussions undertaken directly with our network.

Below, FoE set out answers to the specific questions set out in the survey (set against the relevant question number). As set out above, we expand where we have received relevant insights directly from our network survey and meeting. Three main issues were identified which we explain in greater depth below:

1. **Lack of clarity surrounding the true impacts of the development** – the documents are unwieldy, are not accessible or written for all people. They require considerable time and resource to engage with. Where opposition is raised in person or via emails applicants have also been said to become aggressive despite this being an opportunity for engagement.
2. **Wide ranging levels of acceptable consultation with the public** – which can feel like a paper exercise as experienced in Rimrose Valley (part of RIS2)– this is twofold – there isn't a strong enough duty on applicants to carry out detailed consultation or to demonstrate they have listened to concerns, and how these concerns have been addressed. In addition, local authorities are not required to fully represent their local communities as it is only voluntary to provide comments on the consultation undertaken, they also take a back seat (as they are not the decision-maker) in translating the application proposal and any potential issues, to the public. From my own experience of working at a LPA, the onus is on local communities to essentially fend for themselves.
3. The pre-application stage is already heavily front-loaded and is the only time to truly influence the proposal, yet the **opportunity, at this stage, to forensically test and interrogate the details of the proposal, are limited** – this means that once the proposal passes the acceptance stage, the principle is largely accepted (subject to modifications which are generally led by the Examining Authority) so the pre-application consultation ends up being focused more on how the project might go ahead rather than whether it should actually happen in the first instance.

Speeding up the process has led to a flurry of concern from communities and a rise in distrust that the government are trying to reduce the opportunities for the public to object to these proposals by further limiting the stages and timeframes for engaging in the process. This is not to say that all applicants/developers are the same (and we expand on this point below). However, the process must be made more equal and balanced between local and private/developer interests.

Local communities are best placed to provide detailed knowledge of their local area due to their understanding of how these areas function, relate and what is valued by their community. They are diverse, can vary widely geographically and hold a variety of talents. Their insights should not be ignored or reduced in terms of their importance and can be pivotal in helping to shape important solutions to issues raised. They should be listened to and considered in the balance of each decision at a national level because it is the local impacts that will be felt most.

We urge the government to ensure that the proposed reforms do not further exacerbate distrust, do not further burden communities and provide space for a solution focused collaborative engagement process allowing true consultation which shapes the end outcome.

We also wish to raise that the reform programme questions set out in the survey consultation by the government are not structured in order to comment on the reform programme as a whole (or user experience), but rather are targeted to the government's intentions to speed up delivery and to remove perceived barriers to gaining approval for developers. They read

as though the government has listened more intently to the developer/infrastructure industry. We have therefore expanded on our answers, where necessary, in order to capture the wider audience and feedback the government requires to ensure that these reforms benefit all, that they rebuild public trust and confidence in the planning system, and that the NSIP process delivers sustainable development with local accountability.

We welcome the offer by officials at the meeting to consult directly with affected communities and campaign groups and undertaken a review of their experience. It is disappointing that the government has not undertaken its own assessment and review of their experience to date to fully understand the impact and varied experience of the current framework or the potential impact of the planned reform proposals.

Q3. 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?

Whilst we do not agree that the system should be sped up in principle as these schemes vary in scale and environmental impacts which must be fully considered, there are opportunities to improve engagement and participation, reduce the amount of amendments developers can submit post-acceptance and update the framework which governs NSIP decisions which would reduce delays and costs for all parties involved in the consideration of each scheme. We believe that the following improvements would add value to the process and increase its integrity:

1. Require proper engagement and public consultation which has specific requirements and is managed appropriately for accountability.
2. Provide clarity on the number of amendments that can be reasonably introduced after the acceptance stage, and limit their scale and significance to uphold quality of submissions. By strongly discouraging amendments post-acceptance stage, PINS will be raising expectations and higher-quality submissions will result.
3. Commit to updating the suite of NPSs to reflect infrastructure needs and the direction of policies, with particular emphasis on our net zero and environmental commitments.

Engagement and public consultation

NSIP projects are often expressed as meeting a national problem/need, but this completely disregards the fact that NSIP projects have local impacts and rarely provide local solutions, often exacerbating existing issues during their construction and operational lifetime.

The engagement process and any consultations should be structured for clarity and enforceability. They need a clear approach for how they should be undertaken and must require a community representative as part of their stakeholder engagement project management to uphold accountability. Having an intermediary level of stakeholder management would benefit other issues such as perceived obstruction or rudeness experienced from developers when pushed on concerns and queries from the community.

Of those we engaged with who have some experience of the NSIP process, 95% stated they felt there should be more up-front engagement with members of the public, with 5% stating they were unsure. The majority also raised that the process should not be sped up, the most

popular reasons being that the process needs to be long to ensure the proposal is appropriately assessed and tested, that delays start as a result of inadequate submission documents and developers not providing sufficient information and to time, and also that the process is already stacked against the public (putting undue pressure on under-resourced objectors) with significant information being proposed with minimal time to understand, respond and influence the proposals under current legislation. The exception was the group for Sizewell C, where they felt the process was far too long (five consultations over nine years), with amendments to the scheme which should not have been allowed so far along the process.

Feedback also raised that the documents/reports and subsequent consultations, particularly post-acceptance, are not user-friendly for those who do not have an academic background or relevant, technical experience. As a result, many struggle to engage, understand how to contribute to assessment of the proposal, or understand how their voices can be heard.

Our feedback raised that consultations were not always adequately advertised. This is further exacerbated if people are not aware of or understand the significance of these projects and it is often the case that local people only truly understand the project once local campaign groups in the area raise the profile of the project or it makes local news. By this point in time, individuals generally have little opportunity to influence the proposal and the project is often already some way along the process in terms of open engagement opportunity and has reached Acceptance Stage.

Whilst our findings concluded that one local group Suffolk Coastal FoE (Sizewell C) felt they had been over consulted during the NSIP process this was in respect of the amount of information and changes they had to deal with. Despite these consultation opportunities, they did not feel that they had a clear influence on the project and felt ignored throughout the experience. On the other hand we also received feedback from Save The Rimrose Valley (Liverpool Port Access Road) who shared that they felt that the consultation process was a paper exercise, with sparse information and explanations. This includes failure to acknowledge the seriousness of concerns raised by stakeholders which can lead to subsequent delays, such as those experience for the A27 Arundel Bypass. It is therefore about improving the quality and opportunity to influence and shape the projects, not the sheer number of consultations that is important for better outcomes. Communities must be part of the 'journey' and life cycle of the project planning for NSIPs.

Often the pre-application consultation is led by one 'solution', there is no explanation or debate about alternatives to the chosen scheme (even where one alternative may have been less costly on the environment). This was particular clear for the Port of Liverpool Access Road, A57 and A38 schemes, Lower Thames Crossing and Stonehenge) We need engagement as part of the system. Communities should be able to speak directly to those who can make the decisions on the project and its design, feel listed to and see how their suggestions influenced the design, and where they cannot, be able to understand the reasons for why and the limitations of the project and its design. These projects must be based on the solutions they are bringing to existing issues, rather than creating additional burdens to local people (for example on air quality, congestion and visual landscape impacts).

The engagement process should be a chance for developers to clearly set out the national and local considerations of the project, how the project will solve identified issues (need, transport issues, air quality concerns etc) and an explanation or suggestion of their early identified options and solutions. There should then be an opportunity to invite local people to discuss their views on the project and this information to inform how the developer can or cannot solve these problems and what options they need to consider or the project to work in their local area.

There was general agreement from respondents that the design stage is the most important time and opportunity to engage in the process and to influence the proposal. Particularly for generating alternative options. Once a collective preferred option is identified, only then should a pre-application consultation take place. This is reflected in the responses we received with 95% of respondents stating there should be more up-front engagement with members of the public. 40% of respondents also felt engagement opportunities should be increased at all stages of the process.

One participant also felt Local Authorities should make the final decision, given these developments have the biggest impact locally, despite meeting a national need.

It was also highlighted that it is not always the case that Local Planning Authorities share their Statement of Community Engagement comments which they submit to PINS meaning that by the Examination Stage, the local community remain unclear as to whether their local council considers the consultation was adequate. A duty should be placed on the council to publish this statement to ensure transparency between the developer and community.

Amendments post-acceptance

The issue relates very closely to the level and quality of engagement currently undertaken for the NSIP process, and when this is undertaken. If proper consultation and engagement was undertaken prior to the submission of proposals, there would not be a significant need for amendments to be requested post-acceptance and during the examination stage. There is a clear difference between being consulted on 250 (minimum) page documents and being involved in an open table discussion or presentation on a proposed project. The NSIP regime requires clear set guidelines on what is considered an acceptable material change to be considered during the examination stage of the decision and for applications to be properly scrutinised at the acceptance stage to avoid a continuous loop of consultations taking place.

This was particularly the case for Sizewell C; an application we argue was only partially prepared when it was submitted to PINS and should not have been accepted. It has now been through the examining process and there is still a great deal of missing information. We cannot excuse this lack of detail and preparation just because it is a NSIP application. Speeding up the process will not assist with 'making proposals fit' when they are not acceptable. Instead, speeding up the process alone will result in further exclusion of NGOs and local people without solving the existing problems. These national projects are usually backed by big multinational businesses with the benefit of paid specialist project teams, and generally receive government support. The public, particularly campaigners, are usually unpaid volunteers who also have full time jobs and family responsibilities. Shortening the time involved in determining NSIPs does not affect developers, but instead places additional

stresses on the opponents, further tilting the power against the public. The system itself needs to be revised to improve the flow from scoping a proposal to its construction, it needs to be both fair and efficient and must be completed in collaboration across all sectors.

Updating NPSs and committing to a regular review process

First and foremost, we are in a climate emergency. All projects must be validated based on whether they are needed, and their programme/objectives meets our net zero commitments.

These national significant projects require sufficient time to be assessed, both in terms of the quality of their submission and in respect of their robustness when considered against the national framework. The Examining Authority, stakeholders and local communities must have sufficient time to comment on and reject those which fall below standard and the regime must support them in doing so with clear guidelines and expectations for how they will be assessed. There is therefore an urgent need to continue, and follow through on, the review of all NPSs and to put in place the remaining NPSs (such as for Water Resources Infrastructure). This relates to updating the NPSs to reflect topics such as climate change, net zero, biodiversity net gain, environmental net gain and new technologies to name a few.

Whilst we are concerned by the early consultation information and direction of the recent review of the Energy NPS by BEIS and the start of the review of the National Networks NPS by DfT we welcome the fact that these departments have taken this necessary step forward. However, other departments must now follow suit across the full range of NPSs to ensure we have a clear, national policy direction for infrastructure decisions and that the directions chosen are fit for purpose for our current climate and nature emergencies. Without such updates taking place, the NPSs will remain inadequate, leading to impulsive and poor decision making without appropriate scoping of options and alternatives in line with our commitments to the environment.

Please also refer to our response to the Energy NPS on the importance of updating these national statements.

Q4. Following submission, are there any aspects of the examination and decision process which might be enhanced, and how might these be improved?

A number of respondents raised that the examination stage is far too short for the number of changes currently allowed under existing legislation. The regime already runs to a tight timeframe. Therefore, amendments adds further pressure onto those submitting representations, particularly in having sufficient time to produce technical and detailed responses to questions. In the case of Sizewell C, this amounted to 19 changes made to the proposal, over 3,000 new documents being submitted after the application had been accepted and 5 consultations over 9 years. The process is too flexible beyond the acceptance point for developers, whilst putting huge demands and pressure on stakeholders. We would argue that this unequal balance is the root cause of many delays post-acceptance. Instead, any issues and concerns should be largely bottomed out, particularly in terms of design and layout to avoid the need for the consideration substantial amendments which slow down the process. This is particularly stark where a developer either misses agreed deadlines or delays submitting the requested information. This is sometimes because the changes are so significant there is substantive work required to make the amendments.

Clearer guidelines are therefore required on what cannot be changed once an application has been accepted. Such changes post submission can confuse all parties, result in outstanding or unresolved concerns later down the consenting process and subsequently extend the timescales of determining the application. We therefore suggest that post-application changes are strongly discouraged by PINS. A greater duty should also be placed on developers to answer all questions raised by interested parties.

Resourcing for local planning authorities is a necessity as is providing resources for locally affected communities to enable meaningful and informed engagement. Local planning authorities should be resourced and funded to support local groups and communities engaging with the process and this should be teamed with digital improvements to the PINS NSIP website for easy access to mapping and interactive diagrams / plans of the development, to be able to sign up to alerts of new proposals/changes to existing proposals and searching through the substantial information considered for each project. We also suggest greater resourcing on other stakeholders and consultees including Natural England and the Environment Agency.

In terms of positive elements of the examination stage which should be strengthened, we request that the ability to speak at examination is retained as this is considered a necessity for enabling the views of people most affected by the development to be heard. In particular, it was noted that local involvement in the Sizewell C examination was crucially important and a positive experience as significant changes to the application including improvements for designated habitats and wildlife were achieved. Improvements include:

- Improving the verbal transcriptions taken during hearings so that accurately reflect the debates which took place, are a useful reference tool for all parties and can be referred to in submissions and responses.
- Clear indication of the questions being posed to particular interested parties by the Examining Authority.
- Not assuming knowledge with interested parties – they are generally not planners or lawyers.
- Making the hearing sessions more accessible and less hierarchical so that if feedback or questions need to be raised at the time the issue or concern occurs, these can be dealt with appropriately.
- Time management of the sessions so that everyone has a fair share of time and opportunity to speak.
- Constructive debates. Those opposing planning applications should not be viewed as obstructive or as the enemy and they should not be treated as such through the NSIP process. Developers should not be able to act defensively towards any interested parties throughout the process. Local groups and communities are citizens with a passion and commitment to protecting the environment for future generations and are part of the solution and have to live with the outcomes of these decisions. If planning is to remain democratic opportunities to engage and have local voices heard must remain.

Q5. Where a development consent order has been made, what impediments are there to physically implementing a project which could be removed?

From our experience of the process, the physical impediments have related solely to financial or resource viability or, as a result of the time taken to reach an acceptable proposal, the circumstances changing, resulting in the development no longer being fit for purpose or meeting the needs originally identified.

We consider that alterations to the process are necessary (which we identify in our response), including enabling active and structured engagement of alternatives, options and solutions with stakeholders, the preparation of high quality application submission documents (supported by clear guidance from government on what should be submitted) alongside strengthened expectations and requirements on how far an application can be amended post-acceptance would go some way in resolving and improving the build out of NSIP permissions.

Q6. 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?

Increasing accessibility and understanding of the projects being proposed should be the core principle behind any digital improvements to the regime. This should be based on the user experience of relevant websites (PINS, Local Planning Authority and developer websites).

The main PINS website should be made more user-friendly for those not experienced in the planning system or those familiar to NSIP projects. Grouping documents by theme or having searchable tags would reduce the amount of confusion suffered once a project becomes dense with hundreds of relevant documents and evidence. A clearer alert system should be made available on registering for alerts of new applications by region or local authority area, and then alerts based on specific projects and any documents/changes which are published.

Digital visualisations and 3D mapping where local people can interact with a project in its setting, observing how it will function and appear during both construction and operation should become standard good practice when preparing engagement and consultation documents. These should not be limited to requests made by the Examining Authority during the examination stage.

A standard template for impacts, such as carbon emissions to be shown on the dashboard and used across all projects so that they are clear, equal and visually representative. A standard expectation or technical summaries to be provided and what they should include would also assist with benefiting engagement and understanding by everyone.

Whilst the Covid-19 pandemic has resulted in a global societal shift towards virtual meetings and events, the government and relevant bodies should remain mindful of the limitations of fully digitalised information. Not everyone has access to the internet and therefore opportunities to engage in person or access the substantial information and documentation via other means must be made available to everyone. This could include a forum at a locally suitable venue, such as the local council offices. However, we believe that hybrid hearings would allow greater accessibility to a wider group of interested parties and the communities

affected by these schemes, even if this was just to listen to proceedings. Any minutes, recordings and meeting representations should be made available for full transparency.

Consideration should also be given to standard working hours to ensure there is flexibility and variety in opportunities for those who wish to engage. PINS must be satisfied that the affected communities have had opportunities to raise concerns or comments, that this has been inclusive and a record of the Equalities Impact Assessment for the proposal has been published.

Q7. What issues are affecting current NSIPs that would benefit from enhanced cross-government co-ordination including Government Departments and Arms-Length Bodies?

The whole planning system needs to be more accessible, particularly to those who are most vulnerable (who are also arguably more affected by poor decision-making).

It is also widely understood that the planning process is a complex and mistrusted system. The government needs to consider opportunities to increase understanding and engagement of the process to have the best outcomes for the environment and for people. We would recommend that basic concepts about the planning system and framework are introduced into educational curriculum to ensure that the system does not feel closed to the general public in terms of engagement, understanding and

Finally, and as raised above under various questions, the foundation of all NSIP developments are the government-led NPSs which have a legal significance compared to their Town and Country Planning Act 1990 counterpart, the NPPF. This is positive and should be maintained as it provides a reliable framework for submissions, examination and decision-making. However, these statements become less reliable and meaningful as they age and would benefit from a structured and regular review process that ensure the policies are consistent across all infrastructure sectors and align in full with government ambitions, including important and necessary nature and climate emergency targets. Getting this policy framework right would also work towards reducing duplication and inconsistency between sectors and potentially delays resulting from unresolved concerns with wider environmental targets.

Q8. Does the NSIP regime successfully interact with other consenting and regulatory processes and the wider context within which infrastructure projects operate?

No.

We asked our network whether it was clear (for their particular NSIP) how the NSIP regime interacted with other consenting and regulatory processes. No respondents said it was clear. 42% said it was a little unclear and 58% said it was very unclear.

Particular concern was raised in respect of the level of transparency of developers seeking permit and other regulatory agreements. Half of respondents agreed with this point with a quarter stating they didn't have enough experience to fully comment. In addition, others found that it was unclear how the Environment Agency and Natural England fed into the regime, and how their reports and opinions are considered.

We request that these notifications are made available during the whole decision-making process on the relevant PINS project website. All parties should be able to monitor the requirements for a developer to obtain all relevant consents, noting whether the developer has confirmed the requirement for a permit, licence or other permission, what its status is, how these issues will be assessed and when the relevant permissions will be issued. At present groups experience infrequent information and/or meetings with relevant stakeholders (such as Environment Agency and Office for Nuclear Regulation). Often these stakeholders are also slow to respond and do not have resources to answer questions raised by interested parties. We provide further information in our answer to Q.9 below.

In addition, DCO/NSIPs require a significant suite of documents, the majority of which are compulsory, and are difficult for under resourced and under-funded parties to consider, engage with and comment on. Therefore, whilst we support the opportunity to reform and simplify the way documentation is prepared and shared publicly for each application, it is paramount that the process still emphasises the importance of environmental reporting and assessments (Environmental Impact Assessment, Habitats Regulations Assessment, Equalities Impact Assessment and Water Framework Directive Assessment) to properly consider the impacts of developments in full. These considerations must not be watered down in any reforms and must be retained.

Q9. 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?

The demands placed on participants of the process is unfairly weighted meaning individuals, groups and smaller, local organisations are effectively excluded from the process if they do not have sufficient resource, skill or financial assistance. The government should complete a review of experiences from the environment, charity and community sectors while undertaking this end-to-end review.

Under-resourced Local Planning Authorities results in a disconnect between people and the project at local level. Local Planning Authorities are expressed in PINS guidance as providing support (particularly during pre-application consultation stages) and local representation (have an opportunity to comment on the consultation exercise undertaken and can submit a Local Impact Report). However, experience demonstrates a different situation, where local groups cannot get the support they need, are having to lobby for a Local Impact Report to be submitted to fully represent their local area and being unfairly treated in the consultation process as a result of little to no monitoring or enforcement of this process.

Arguably Local Planning Authorities represent the voice of the local area and its communities, and yet our local campaigning groups find their Local Planning Authorities are dismissive of these types of applications as they are not the decision-maker. We think this is not correct and that Local Planning Authorities have the potential to be an intermediary to clearly and transparently set out the costs and benefits of NSIP proposals. As a minimum, they should have capacity and resource to appropriately update elected Members of the council to take forward information to their constituents who they have been elected to represent and are trusted in the community.

All Local Planning Authorities involved in the decision of NSIPs should also be required to have a dedicated webpage for the application to save relevant documents, links and progress updates for greater certainty for local people.

In addition, statutory bodies are becoming slower to respond and continue to be unable to assist with specific knowledge and impact concerns as a result of their resource limitations. This does not assist the Examining Authority in making a recommendation, the developer in making amendments to their scheme or local communities in understanding what the required standards are, expectations for mitigation or avoidance of any impacts or how the developer will be held accountable. The regime would also benefit from better use of and access to comprehensive, up-to-date baseline environmental datasets.

Finally, it is difficult for under-funded and under-resourced interested parties to engage with and understand the process. However, in our experience this does not delay a decision from taking place as these interested parties are required to follow the fast current and are subject to tight restrictions and timeframes set by each stage of the process. As a result, decisions continue to take place without interested party questions being fully answered and the information properly interrogated by the decision-makers. Therefore, we consider that due to the limited capacities across interested parties, worse outcomes are arising. Only with more support and appropriate and meaningful engagement with interested parties will decision outcomes be the best in terms of the environment and public interest.

Q10. 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?

The process must be transparent to maintain confidence in the system. The system should not encourage a hostile environment on the developer or objector side. Two cases we wish to raise to your attention surrounding these points are the A27 Arundel bypass and the Lower Thames Crossing. We would encourage you to consider the evidence put together by the Thames Crossing Action Group (published 19 November 2020, website: <https://www.thamescrossingactiongroup.com/inadequacies-of-ltc-consultation-process/>) which provides an insight into some of the inadequacies communities face when engaging with NSIP consultations.

It also remains very unclear how declared climate emergencies and adopted council Climate Action Plans will be considered in the local impacts vs national need balance of NSIP decisions. 74% of councils have now declared a climate emergency, with 84% having some form of adopted climate plan (Climate Emergency UK). These important plans should be given material weight in NSIP decisions.

Q11. Please confirm how you interact with the NSIP regime? (Promoter, Local Planning Authority, Statutory Consultee, Lawyer, Local Enterprise Partnership, Consultant, Member of affected community, other – please specify)

Environmental NGO supporting local communities and campaigners.

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