

Insights

MINI-BUDGET: REFORMS ANNOUNCED TO MAJOR INFRASTRUCTURE PLANNING

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SUMMARY

The chancellor's 'mini-budget' on 23 September introduced some significant planning reforms. In a separate blog we discussed the [new Investment Zones](#) announced that will benefit from tax reliefs and liberalised planning laws. In this blog we discuss the new government's proposals to reform the planning regime for major infrastructure projects.

The previous government set in motion reforms to infrastructure planning through its National Infrastructure Planning Reform Programme, which it established in 2021 to accelerate the delivery of major infrastructure projects. A detailed consultation on its proposals in 2021 and a policy paper published in August 2022 paved the way for introduction of a new fast-track consenting route for certain DCO cases through shorter examination timetables, faster post consent changes and the implementation of charging frameworks for expert input via the Levelling Up and Regeneration Bill.

However, the new government's proposals set out in its "Growth Plan 2022" go further with proposed new legislation, non-legislative changes and a published list of 138 major infrastructure projects to be prioritised and accelerated.

PLANNING AND INFRASTRUCTURE BILL

A new standalone Planning and Infrastructure Bill will be introduced to make changes to accelerate the granting of development consents that will:

- reduce the burden of environmental assessments
- make consultation requirements more proportionate
- reform habitats and species regulation; and
- increase flexibility to make changes to a DCO once it has been submitted.

No further details are provided so the practical implications of these proposed changes is not clear. Nor is it clear where this new Planning Bill leaves the Levelling Up and Regeneration Bill that has gained significant traction.

What is clear is that any changes to existing EU derived environmental and habitats legislation will be heavily scrutinised, and if they weaken environmental standards they are unlikely to survive in Parliament. However, the Retained EU Law (Reform and Revocation) Bill^[1] will make it easier to replace retained EU law with new domestic legislation, subject to the non-regression commitments on environmental standards in the 2020 Trade and Co-operation Agreement between the EU and UK. Delivering the changes proposed above will need to be finely balanced to avoid conflict with the environment and climate agendas. At this point in economic, environmental and political history this could be a challenge.

NON-LEGISLATIVE CHANGES

Sector specific changes to accelerate infrastructure delivery also announced in the Growth Plan include:

- prioritising the National Policy Statements (NPS) for energy (consulted on in 2021), water resources (consulted on in 2018) and national networks and of a cross-government action plan for NSIP planning reforms;
- bringing onshore wind planning policy in line with other infrastructure to allow it to be deployed more easily in England;
- reforms to accelerate roads delivery, including by consenting more through the Highways Act 1980;
- potential changes to Judicial Review to avoid claims which cause unnecessary delays to delivery; and
- amendments to the Product Security and Telecommunications Infrastructure Bill to give telecoms operators easier access to telegraph poles on private land to support broadband expansion.

The NPS's have previously been consulted on and the commitment to a cross-government action plan aligns with the National Infrastructure Strategy 2020.

The British Energy Security Strategy ('BESS') published in April 2022 focussed on increasing and accelerating capacity from all sources of 'home-grown' energy, but with the greatest proportion coming from new offshore wind and nuclear energy projects. However, there was no specified target or particular policy support given for onshore wind. The intention to align onshore wind planning policy with other infrastructure will be welcomed by those in the renewable sector.

In relation to potential changes to Judicial Review, the recent [Independent Review of Administrative Law in 2020](#) strongly rejected any need for radical reform to judicial review powers. Reference to potential changes indicates the government wants to revisit this avenue.

PRIORITY PROJECTS

A non-exhaustive list of 138 transport, energy and digital infrastructure projects is included in the Growth Plan which the government says it will prioritise and accelerate with the aim of getting "the vast majority starting construction by the end of 2023".

Whilst this list seems ambitiously long, the majority of the projects in the list are road building and safety schemes, many of which are already well-advanced on their journeys including through the consenting stage. However, naming projects in this way could improve investor confidence, but may leave projects not on the list feeling out in the cold.

Wider infrastructure priorities, including HS2 and the wider nuclear strategy which will be delivered through both legislative and non-legislative reforms, are also confirmed as remaining a focus.

CONCLUDING COMMENT

The government has signified with its mini-budget a willingness to take bold (and radical) decisions and its commitment to infrastructure delivery. Looking beyond the current market volatility, investors should be buoyed by this especially those with interests or potential interest in the projects named on the infrastructure list.

However, absent from the mini-budget announcement was any increased funding for PINs and other stakeholders. Acceleration in the delivery of consents will not be possible without resources to accelerate the processing and administration of applications, and this is unrealistic without an increase in funding. Perhaps this will be addressed in the chancellor's Autumn Budget in November?

[1] Introduced in Parliament on 22 September

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