

## Insights

# RE-CONSULTATION ON THE DRAFT ENERGY NPS: KEY POLICY CHANGES

Apr 26, 2023

## SUMMARY

Significant revisions to the draft energy NPS published for consultation align with other strands of government energy policy and legislative amendments being introduced via the Energy Bill. They strengthen the need case for energy infrastructure and support its faster deployment, with a particular focus on offshore wind, which is identified as a critical national priority, and new electricity network infrastructure. Alongside these revisions, the government is also consulting on proposals to introduce a community benefit scheme to ensure that communities that host electricity transmission network infrastructure are able to positively benefit from it.

The energy NPS suite was put in place in 2011, with updated versions of most parts of the NPS (save for EN-6, nuclear, which was dealt with separately) published and consulted on in 2021.

Further revisions to the draft energy NPS have been published which reflect the Government's energy objectives in the Net Zero Strategy (October 2021) and the British Energy Security Strategy (April 2022) and are currently under consultation (which closes on 25 May 2023).

These updates will assist project promoters as they strengthen the need case for energy infrastructure in the Overarching NPS EN-1 and supports its faster deployment, particularly for offshore wind which is identified as a critical national priority and for new electricity network infrastructure, and they promote a more collaborative and strategic approach to planning and include detail on how conflicts between aviation, defence and meteorological interests should be dealt with.

## KEY POLICY UPDATES

In summary, the key policy updates include:

### **Need case in the Overarching NPS for Energy EN-1**

- A clearer policy statement that confirms the Secretary of State is not required to consider separately the specific contribution of any individual project to satisfying the need established in the energy NPS.

### **Offshore wind in EN-1 and the NPS for Renewable Energy Infrastructure EN-3**

- Identification of offshore wind projects and supporting onshore and offshore network infrastructure and reinforcements as a **critical national priority** (CNP) with introduction of a new policy presumption which means that, subject to any legal requirements, the need for CNP Infrastructure will in general outweigh residual impacts that cannot be addressed by application of the mitigation hierarchy.
- A new policy requirement that CNP Infrastructure should be progressed as quickly as possible.
- New policy support to accelerate the deployment of offshore wind infrastructure through the government's Offshore Wind Environmental Improvement Package (OWEIP) which, with legislative amendments to be introduced via the Energy Bill, aim to reduce the consenting time from up to four years to one year with a more tailored approach to the assessment of environmental impacts, strategic measures to compensate for marine impacts across multiple projects and a marine recovery fund to help deliver these strategic measures.
- A requirement to apply the Offshore Wind Environmental Standards (which will be consulted on by DEFRA later this year) to wind farm applications.
- Promotion of a more collaborative approach between developers and the government and other relevant bodies, identification of co-existence/co-location opportunities, shared mitigation, compensation and monitoring (which will also apply to projects already in the system).

### **Civil and military aviation and defence interests in EN-1**

- An extension of the policy on aviation and defence interests to include meteorological radar.
- In recognition of the conflict between offshore wind farms and aviation, defence and meteorological operations, a requirement for a balance between these different interests, with a focus on collaboration and co-existence between stakeholders who should strive for scenarios such that neither is unduly compromised.

### **Need for new electricity network infrastructure in the NPS for Electricity Network Infrastructure EN-5**

- More explicit emphasis on the criticality of network infrastructure in achieving net zero.

- More detail on the ongoing government reform programmes to co-ordinate the approach to the strategic planning of networks.
- A presumption that offshore transmission will be co-ordinated and radial options should only be proposed where options assessment work following four criteria identifies that a co-ordinated solution is not feasible.
- Greater clarity for developers on the evidence applicants are expected to submit with applications and recognition that whilst the needs case for the infrastructure identified in National Grid ESO's Network Options Assessment (NOA) Refresh 2022 is established, infrastructure applications must still be subject to the appropriate environmental and community impact assessments.

## COMMENT

The Government is also currently consulting on the introduction of a community benefit scheme (CBS) for electricity transmission network infrastructure (ETNI) to ensure that communities that host ETNI feel that they positively benefit (i.e. receive a direct payment) from doing so. Onshore ETNIs (long distance transfer of electricity at voltages above 132kV via overhead or undergrounded lines), onshore ETNIs associated with offshore wind and interconnectors and offshore radial connections (including substations, converter stations and cabling from foreshore) are included in the scope of the CBS. The proposed CBS will be separate to the planning process and delivered voluntarily between communities and project developers. This consultation also closes on 25 May 2023.

There is still no indication of when the new energy NPS will be designated, but it is imperative that the legislative provisions introduced via the Energy Bill and other strands of government energy policy align, to ensure energy projects pursued pursuant to the Planning Act 2008 are, where the relevant legal and policy tests have been met, not unduly delayed by the planning process.

## RELATED PRACTICE AREAS

- Planning & Zoning
- Infrastructure
- Energy & Natural Resources

## MEET THE TEAM



### **Clare Eccles**

London

[clare.eccles@bclplaw.com](mailto:clare.eccles@bclplaw.com)

+44 (0) 20 3400 4267



### **James Parker**

London

[james.parker@bclplaw.com](mailto:james.parker@bclplaw.com)

+44 (0) 20 3400 4132

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