

NIPA Autumn and Winter 2020 Newsletter

Introduction from NIPA Board Member Sarah Drijaca

Welcome to the latest edition of our NIPA Newsletter designed to keep you informed of national infrastructure developments and NIPA's activities.



The COVID-19 pandemic continues to change everyday life for us all, personally and professionally. This newsletter will take you through the work NIPA has been doing to support members, Government and the Planning Inspectorate during this time and looks ahead to how we can support 'build back better'.

As many of you will no doubt attest to, the way in which we communicate and engage with each other has changed dramatically over the last nine months. NIPA is no different and, as an organisation, we have engaged members, Government and the Planning Inspectorate in new and exciting ways. Our webinar series, *NIPA Matters*, continues to provide an excellent platform for discussing the planning and environmental regimes which underpin the future of infrastructure development and has informed the preparation of NIPA responses to policy consultations (further details below). We are grateful to all members who have taken the time to engage with this work and on behalf of the NIPA Board, we look forward to continuing to work with you in the weeks and months to come.

Due to continued restrictions associated with the Covid-19 pandemic, the NIPA Board made the difficult but necessary decision to cancel the 2020 NIPA Annual Dinner which is usually held annually in November. The 2020 NIPA Annual Conference was also cancelled. We hope to be able to host the next NIPA Annual Conference on 1st July 2021 and the next NIPA Annual Dinner on 18th November 2021. Sponsorship packages will be available, and we look forward to welcoming attendees (hopefully in person!).

So, to introduce the rest of the newsletter, it has been a busy few months of government announcements! The long-awaited National Infrastructure Strategy came as Chancellor Rishi Sunak announced the establishment of a National Infrastructure Bank during his Spending Review. Project Speed offers a great opportunity to review the Planning Act 2008 regime; to take the varied and extensive experience gained to date and make the regime even more effective. And even more recently the Government's Energy White Paper was published setting out the policy agenda for energy and decarbonisation for the foreseeable future. There may be a long way to go to achieve the broad objective of 'build back better', but we should grab this opportunity to reassess the way we work together, the planning regime and the projects which we seek to deliver with both hands. With this in mind, there are several requests for member feedback and engagement in this newsletter – will you help shape the 'new normal'?

I hope you find this edition of our newsletter interesting and informative, and if you have any suggestions on items you would like us to cover in future editions, please contact us on info@nipa-org.uk.

Since this is our last newsletter of 2020, I and the Board would like to take this opportunity to wish all our members an enjoyable break over the festive season.

Sarah Drljaca
December 2020

Thank you to Jane Smith!

In September 2020, Jane Smith who had been acting as Administrator and Policy Adviser to NIPA for the past two years, began a well-earned retirement.



The NIPA Board would like to take this opportunity to thank Jane for her sterling work and to wish her a very happy and fulfilling retirement. Jane provided great support to the NIPA Board and Council, and she helped shape NIPA into the organisation it is today – driving forward the appointment of Political Intelligence to provide a more consistent and responsive service to our members, supporting various initiatives regarding member benefits and NIPA events as well as facilitating our regular Government meetings.

Jane, we thank you and hope that we still get to see you at some NIPA events in the future!

NIPA Initiatives

The Board recognises the significant expertise across the NIPA membership and the value to members of being able to share knowledge and best practice. Our membership is drawn from a wide range of professional disciplines, including planners, solicitors and barristers, communications experts, project managers, environmental specialists, chartered surveyors, engineers, economists and architects to name a few. Our members cover promoters, local authorities, consultancies, academic institutions and more and it is that breadth and depth that makes NIPA unique.

We continue to look for opportunities to provide even better value for members and attract new members who can support NIPA's vision by increasing member engagement. We would like to hear from Members on ways in which we can do this. In the meantime, here are some of the current initiatives we are working on:

NIPA Matters

Two sessions of our webinar series, NIPA Matters, focusing on “Digitalisation of Environmental Impact Assessment Virtual Meeting” and “Infrastructure Planning Reforms” were held in September 2020.

The next session, focusing on “Wellbeing in the DCO Process” is planned for Monday 11th January (4 – 5 pm). NIPA views its role in disseminating learning and best practice as extending to help all involved with nationally significant infrastructure projects participate fully and in a way that maintains their wellbeing. Wellbeing is the state of being comfortable, healthy or happy. This webinar will include a case study outlining how wellbeing was managed on a recent large and newsworthy DCO application through appropriate systems, resourcing and a people-focused working environment. There also will be other contributions outlining how coaching and a focus on diversity and inclusion can support better experiences of a challenging process.

We hope that this will be the start of a conversation. In a current policy context of “fairer, faster, greener”, we are interested in members’ views on how to balance a renewed drive towards delivery with a people-focused approach. The session will be hosted by Board member Anna Pickering on Microsoft Teams, and invites have recently been sent out to NIPA members.

We are grateful to all members who have taken the time to engage with *NIPA Matters* and on behalf of the NIPA Board, we look forward to continuing discussions with you in the months to come. If you have any recommendations for topics to be discussed in a *NIPA Matters* session, please do get in touch at info@nipa-org.uk.

NIPA Bursary - Supporting a Pipeline of Talent

In the 2020/2021 academic year, NIPA will be piloting a Bursary Programme at three universities (University College London, University of Sheffield and University of the West of England) to establish a way in which we can support the development of early talent, and at the same time bring fresh perspectives and research to live issues in the regime. Recipients of the bursary will undertake a dissertation relating to the infrastructure sector which, subject to permissions as well as review and approval by the NIPA Board, can be shared with the NIPA membership through the NIPA website.

We are keen to provide recipients of the bursary with an insight into the world of national infrastructure. Although precise topics have yet to be determined, if any members would be willing to be interviewed as part of the student dissertations please get in contact with Sarah Drljaca via info@nipa-org.uk.

Introduction to the Planning Act 2008 Regime

To complement the NIPA bursary and support the continued development of talent in the infrastructure sector, the Board is developing a set of knowledge sharing tools which provide a high level introduction to the DCO process and each of the professional roles which contribute to it. This is aimed at supporting those who may

have recently started, or are looking to enter, a career in infrastructure as well as those who may simply be less familiar with the regime.

These tools are to take the form of an introductory webinar to each, or multiple roles involved in the DCO process, accompanied by a stand-alone PowerPoint which could be used for individual learning at a later date. We invite members with an interest or expertise in a particular role to get in touch if they, or members of their team, would be willing to contribute to the preparation of such materials (e.g. Land Surveyors, Environmental Consultants, Planning Consultants, Local Planning Authority). Please contact Sarah Drljaca via info@nipa-org.uk.

Diversifying the NIPA Membership

Although the NIPA membership is predominantly drawn from the legal and town planning professions, with a notable number drawn from professions associated with Development Consent Orders including environmental, communications and lands specialists, the Board recognises the broad range of professions which may consider NIPA to be relevant to their work and/or interests. It is NIPA's collective expertise and experience which offers a different and complementary perspective to those of the professional institutes focused on a particular profession, such as the RTPI and RICS, and other associations such as PEBA and the CPA. As such, the NIPA Board continue to develop initiatives to grow NIPA's membership, not only in terms of increasing numbers but also to diversify the background of members that can contribute to our work and further drive up knowledge and standards across the national infrastructure sector.

We would welcome your feedback on any sectors which you may feel are under-represented within NIPA as well any ideas you may have on how to further enhance the NIPA membership - please do send bullet points to Sarah Drljaca at info@nipa-org.uk on what you think we should be prioritising as a member organisation.

NIPA Council

Related to this, NIPA's Council exists to act as a sounding board for the performance of the infrastructure planning regime and its future direction as well as that of NIPA. It is aimed at reflecting a combination of all the main disciplines and sectors involved in the regime, and indeed its diversity, as well as representatives from other organisations that are relevant to its work such as the RTPI and TCPA.

Having operated successfully for several years, it is time to refresh the roles on the Council to ensure that it continues to reflect these aims. Accordingly, as a first step NIPA Board Chair Angus Walker would welcome suggestions as to what disciplines and sectors should be represented on the Council (rather than individuals at this stage) and would welcome thoughts at info@nipa-org.uk

Government Liaison updates

In recent months, NIPA's Board Chair Angus Walker; Board Secretary Robbie Owen and other Board and Council colleagues have been regularly engaging with Government departments in response to their increasing desire to hear from a range of voices on policy matters.

A meeting with DfT was held in August 2020 with the key topic being the ongoing development of the Transport Decarbonisation Plan. Attendees from NIPA outlined potential implications and opportunities for the NSIPs regime in respect of the six strategic priorities as set out in the ["Decarbonising Transport: Setting the Challenge"](#) Document, published by DfT in March 2020.

NIPA also met with BEIS in October 2020 as part of a regular programme of quarterly meetings, with key topics being the potential inclusion of business and commercial developments within the NSIPs regime, implications of 'Project Speed', and emerging markets in hydrogen and carbon capture. The next meeting is scheduled for Q1 2021, with recent announcements (as set out under UK Government Announcements below) likely to be key topic areas.

We are keen to use member input and evidence to feed into these meetings; if you have a view to input please do send bullet points to Board Chair Angus Walker at info@nipa-uk.org.

COVID-19 UPDATES

Following our COVID-19 paper we have acted as a sounding board for MHCLG and the Planning Inspectorate on an ongoing basis. Earlier in December MHCLG made a further Statutory Instrument and issued related Guidance to facilitate the DCO process continuing virtually, as a permanent feature.

In September 2020 the Planning Inspectorate issued a new advice note number 8.6, on 'virtual examination events'. It covers preliminary meetings as well as hearings (and mentions other things such as site visits). The Planning Inspectorate initially developed virtual events in response to Government advice about limiting the spread of COVID-19 by maintaining social distancing and avoiding non-essential travel. However, the advice note indicates that the Planning Inspectorate is considering how virtual events may offer wider efficiency benefits, including time and cost savings, for the people and organisations involved in the examinations, hearings and inquiries that the Inspectorate carries out. On this basis, it is reasonable to consider that virtual events may be used more broadly, even after there are no COVID-19 restrictions in force.

Consultations

The consultation period for the Planning White Paper closed on 29 October 2020. The consultation covered a package of proposals for reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals. Although primarily focused on the

town and country planning regime, it is not exclusively, and contains two infrastructure planning-related sections regarding delivery of new settlements under the Nationally Significant Infrastructure Projects regime and the near-abolition of section 106 agreements. NIPA held two events to discuss the White Paper and received various comments from members for which it is grateful. It responded to the consultation – along with over 40,000 others – and its consultation response can be found on the NIPA website www.nipa-uk.org.

UK Government Announcements

Prime Minister's Conservative Party Conference Speech

The Prime Minister gave his Conservative Party conference speech in October 2020, where he said that the government were increasing the target for offshore wind generation by 2030 from 30 gigawatts to 40 gigawatts. He also targeted the delivery of 1 gigawatt of offshore wind utilising floating foundations by 2030.

He pledged investment of £160m in ports and factories across the country to manufacture the next generation of turbines and mentioned upgrades to infrastructure in such places as Teesside and Humber and Scotland and Wales. The Prime Minister indicated this investment would create 60,000 jobs in this country – and help us to get to net zero carbon emissions by 2050.

The UK's Ten Point Plan for a Green Industrial Revolution

The Prime Minister published his "[Ten Point Plan for a Green Industry Revolution](#)" on 18th November 2020. One key theme was the Prime Minister linking action on climate change with his agenda to create jobs and to 'level up the UK' and provide investments in disadvantaged regions in the UK. In addition to reconfirming the 40GW offshore wind target (which was a commitment in the Conservative 2019 manifesto and was the subject of a pledge by Boris Johnson on 6 October), it included a target for 5GW of annual hydrogen production by 2030 and the creation of low-carbon hubs in the UK, including clusters based around CCS facilities.

A measure that received significant attention in the press was the new target to end the sale of new petrol and diesel cars by 2030, and to invest in the production of electric vehicles and batteries in the UK and to invest in recharging infrastructure. Both CCS and nuclear were also identified as areas which are to receive support (the latter of which is at odds with the National Infrastructure Assessment which says only one more nuclear power plant should be authorised), and there will be early-stage funding for the decarbonisation of shipping and aviation.

The full 10 Point Plan for a Green Recovery is:

1. **Offshore wind:** Producing enough offshore wind to power every home, quadrupling how much we produce to 40GW by 2030, supporting up to 60,000 jobs.

2. **Hydrogen:** Working with industry aiming to generate 5GW of low carbon hydrogen production capacity by 2030 for industry, transport, power and homes, and aiming to develop the first town heated entirely by hydrogen by the end of the decade.
3. **Nuclear:** Advancing nuclear as a clean energy source, across large scale nuclear and developing the next generation of small and advanced reactors, which could support 10,000 jobs.
4. **Electric vehicles:** Backing our world-leading car manufacturing bases including in the West Midlands, North East and North Wales to accelerate the transition to electric vehicles, and transforming our national infrastructure to better support electric vehicles.
5. **Public transport, cycling and walking:** Making cycling and walking more attractive ways to travel and investing in zero-emission public transport of the future.
6. **Jet Zero and greener maritime:** Supporting difficult-to-decarbonise industries to become greener through research projects for zero-emission planes and ships.
7. **Homes and public buildings:** Making our homes, schools and hospitals greener, warmer and more energy efficient, whilst creating 50,000 jobs by 2030, and a target to install 600,000 heat pumps every year by 2028.
8. **Carbon capture:** Becoming a world-leader in technology to capture and store harmful emissions away from the atmosphere, with a target to remove 10MT of carbon dioxide by 2030, equivalent to all emissions of the industrial Humber today.
9. **Nature:** Protecting and restoring our natural environment, planting 30,000 hectares of trees every year, whilst creating and retaining thousands of jobs.
10. **Innovation and finance:** Developing the cutting-edge technologies needed to reach these new energy ambitions and make the City of London the global centre of green finance.

Chancellor of the Exchequer - Spending Review

The Chancellor of the Exchequer made an announcement on 25th November 2020 on the outcome of the UK [Government's Spending Review](#). Although this had originally been planned as a Comprehensive Spending Review – a fundamental review that would set the spending budgets for Government departments for the next 4-5 years - due to the impact of Covid-19 the Chancellor instead announced budgets for one year only, with the plan to undertake a comprehensive review in 2021.

Key announcements in the Spending Review relating to infrastructure were as follows:

- **The economic forecast:** Indication that the UK economy will contract by 11.3% this year, the biggest fall in GDP for 300 years. Whilst the economy is predicted to recover over the next 3 years, it will leave a large hole in public finances, with the UK expected to borrow £394bn this year, 19% of GDP. Unemployment is expected to peak next year at 7.5%. The UK will still have a £100bn annual deficit by 2024 on its current tax and spend trajectory.
- **Infrastructure and 'Levelling up':** Spending in 2021 to increase by a third to £100bn. A new National Infrastructure Strategy has been published setting out the Government's long-term plans in more detail. A new £4 billion Levelling Up

Fund will be launched to invest in local infrastructure projects, managed jointly by the Treasury, the Department for Transport, and the Ministry of Housing, Communities & Local Government. The Government has published a refreshed Green Book to ensure that project appraisals properly analyse how proposals deliver key priorities, including levelling up, and how they will impact different places. It will also set up a National Infrastructure Bank to catalyse private investment. This will be located in the North of England to focus attention on investment outside of London and the South East of England. £20 billion will be invested in housebuilding, including £7.1 billion for a National Home Building Fund and over £12 billion for the existing Affordable Homes Programme

- **Renewable Energy and the green recovery:** The Chancellor repeated the announcements made the previous week by the Prime Minister reconfirming the 40GW target for offshore wind, investment in port infrastructure and funding for low-carbon hydrogen and CCS. Total investment to support a “green industrial revolution” will be £12 billion, as previously announced by the Prime Minister. To grow the UK manufacturing base for offshore wind, £160 million will be invested in modern ports and manufacturing infrastructure. A £240 million Net Zero Hydrogen Fund will be set up, as well as £81 million for hydrogen heating trials. £1.9 billion will be provided to fund electric vehicle charging infrastructure and consumer incentives, with an additional £1.1 billion to decarbonise homes and buildings. £125 million will be provided for nuclear technologies, as part of the £525 million funding set out in the Ten Point Plan. £1 billion will be invested in a Carbon Capture and Storage Infrastructure Fund, which will establish four “CCS clusters” by 2030. £120 million will be provided for zero emission buses. R&D funding for low and zero emission transport technologies will increase by £81 million.

National Infrastructure Strategy

The first ever [National Infrastructure Strategy](#) (NIS) was due to be published alongside the spring Budget on 11 March 2020. However, it was delayed to allow Sunak – who had just taken over from Javid – time to reflect on the Strategy. On Wednesday 25 November just after the Chancellor issued the results of his spending review, the NIS was published. There are five main chapters covering the COVID-19 recovery, levelling up the economy, decarbonisation, private investment and acceleration of infrastructure delivery. Many of the points announced in the Ten Point Plan and the Chancellor’s Spending Review make an appearance in the early chapters of the NIS, albeit in a different format or order. A [‘Response to the National Infrastructure Assessment’](#) was published alongside the NIS.

Of particular interest to those working within the Planning Act 2008 regime is Chapter 5 of the NIS, which focuses on ‘Project Speed’. It says *‘The NSIP regime is well-respected but is currently not being implemented as effectively as possible, leading to slower delivery times and more uncertainty’*. The NIS announces that the Government is establishing a National Infrastructure Planning Reform Programme which will seek to refresh how the NSIP regime operates, making it more effective and to deliver more certainty in the process and better and faster outcomes. One target specifically

identified is to “cut timescales by up to 50% for some projects entering the system from September 2023”.

Board member Tom Carpen, of Barton Wilmore, has been seconded to MHCLG's NSIP Delivery Team, working as part of the ‘Project Speed’ team; as a result, he has stepped back from his role on the NIPA Board for the duration of the secondment.

The National Infrastructure Commission has said it will analyse the NIS and publish its analysis in its Annual Monitoring Report due in Spring 2021. NIPA has a role not only to shape the NSIP process, but the relationship between NSIPs, wider infrastructure and the planning system, and we will continue to advise Government drawing on our collective experiences and engaging members.

Energy White Paper

The [Energy White Paper](#) was published on 14th December 2020 after a lengthy delay. It had originally been planned for 2019, but was delayed, most recently due to the impact of Covid-19.

Many key announcements relating to energy and climate change had already been made (as set out above), meaning that many of the commitments in the White Paper were not new. What the paper does deliver is clarity that all decisions relating to the energy system will be made within the framework of reaching net-zero by 2050, and the recognition that this is an economy-wide endeavour. The Paper is yet another very clear statement of the Government’s commitment to clean energy, including a substantial reduction in emissions by 2030, primarily by electrification and increased deployment of renewables.

Many of the next steps set out in the White Paper, not least a review of the Energy NPSs, will require consultation and future announcements in 2021 – it is going to be a busy year for UK energy policy!

Look Forward

National Infrastructure Commission

On 29 September 2020, the Chancellor appointed Neale Coleman CBE as an expert commissioner on the National Infrastructure Commission, alongside reappointing Professor Sir Tim Besley, Professor Sadie Morgan and Bridget Rosewell for a further term. An intention to launch a competition to appoint additional new commissioners to the NIC was also announced, with a view to further strengthen its expertise and diversity.

Post-pandemic economic growth

The House of Commons BEIS Committee's inquiry into Post-Pandemic Economic Growth is looking at the options available to Government to secure economic recovery from the impact of the coronavirus pandemic, covering investment, industrial strategy,

jobs, skills, exports and sustainable growth. An evidence session to scrutinise the government's strategy was held on Thursday 8 October. Ahead of this, the BEIS Committee published written submissions which are available [online](#).

Port Infrastructure Fund

In October 2020, the government launched the Port Infrastructure Fund, ramping up its preparations for the end of the Brexit Transition Period. The fund provides up to £200 million funding in on-off grants to ports, to facilitate the building of new facilities at the border. New infrastructure will be needed regardless of whether the UK secures a negotiated agreement with the EU due to the departure from the Customs Union and Single Market, as well the introduction of new procedures.

Development Consent Orders Update

This year has seen a number of significant decisions, including delays to decisions and a number of NSIPs granted development consent despite recommendations from Examining Authorities to refuse it. Here is a summary of what has been happening, and some insights into recent decisions.

VPI Immingham OCGT

On 07 August 2020, the Secretary of State for Business, Energy and Industrial Strategy granted an application by VPI Immingham B Limited for an OCGT power station with a gross electrical output of up to 299 megawatts. The Development would be located on land to the north of the existing VPI Immingham Combined Heat and Power Plant in Immingham. The Development is intended to operate as a peaking plant, and the Secretary of State agreed with the ExA that it would positively contribute towards a secure, flexible energy supply facilitating the roll out of renewable energy, ultimately assisting with the decarbonisation of the economy in line with the UK's legal obligations in the Paris Agreement under the United Nations Framework Convention on Climate Change and the Climate Change Act 2008 (as amended).

Great Yarmouth Third River Crossing

On 24 September 2020, the Secretary of State for Transport granted an application by Norfolk County Council for a highway project in Great Yarmouth – the Third River Crossing. The project was not automatically a nationally significant infrastructure project as it does not directly relate to the strategic road network, and thus was brought into the regime via section 35.

Wylfa Newydd Nuclear Power Station

On 30 September 2020, it was announced that the decision on the development consent order for Wylfa Newydd Nuclear Power Station would be delayed a third time

until 31 December 2020, following requests from the applicant, Horizon Nuclear Power. Horizon's parent company Hitachi announced that it was abandoning the project earlier in September, but Horizon is 'engaged in discussions with third parties that have expressed an interest in progressing with the development'.

Southampton to London Pipeline Project

On 07 October 2020, the Secretary of State for Business, Energy and Industrial Strategy granted an application by Esso Petroleum Company Limited for a Southampton to London pipeline of approximately 97 km in length to carry aviation fuel from the Fawley oil refinery near Southampton to the Applicant's West London Terminal at Hounslow. The ExA concluded that the landscape and visual impacts of the proposed Development would have a negative effect in the planning balance; however, their overall conclusion was that the impacts were not so great as to offset its significant benefits and that the substantial weight for the need for the project as set out in the National Policy Statements outweigh the harm.

A303 Amesbury to Berwick Down (aka A303 Stonehenge)

On 12 November, the Secretary of State for Transport granted an application by Highways England for the A303 Amesbury to Berwick Down Development Consent Order, a day before its twice-delayed deadline. The panel of inspectors had recommended refusal, primarily on the basis of cultural heritage and the historic environment; however, the Secretary of State preferred the view of Historic England, Wiltshire Council, the English Heritage Trust, the National Trust and the Department for Culture, Media and Sport, and concluded there would be less than substantial harm.

The next decision will be the four-times delayed deadline for the Hornsea Three offshore windfarm DCO application on 31 December, which has a 'minded to approve' letter. The A303 Sparkford to Ilchester project, which is on the same road as the A303 Stonehenge but further west, was due to have its decision issued on 20 November, but the decision deadline has been extended for a fourth time, to January 2021.

NSIPs Regime Judicial Reviews

Earlier in the year, several legal challenges relating to national infrastructure, were either brought or determined. Here is a summary of what has been happening in the courts:

Energy National Policy Statements

In March, a letter before claim was sent to the Secretary of State with a view to a proposed challenge to the suite of Energy NPSs, as to whether they should be reviewed in light of the change of circumstances since their designation in 2011, and that to not undertake such a review would be unlawful. Following further correspondence between Government and claimants, judicial review proceedings commenced. The outcome of these proceedings may affect whether the Energy NPSs

are considered lawful, and highlights the importance, and challenge, of maintaining up to date National Policy Statements, which our paper to Government has sought to help address.

In October 2020, the Secretary of State made a "provisional decision" to review the Energy NPSs, and that the documents would not be suspended during this review. The judicial review was due to be heard in the week commencing 10 November but the Government obtained a postponement of the case on the basis that it was going to formally announce its decision whether to review the NPSs in 'late November / early December' (which it subsequently did in the Energy White Paper). The hearing is due to resume in January.

Airports National Policy Statement

In February, the Court of Appeal decided that the Government had acted unlawfully by not taking explicit account of the Paris Agreement before designating the Airports National Policy Statement (NPS). The Court did not quash the Airports National Policy Statement but ordered that it was of no effect unless and until the Secretary of State had undertaken a review of it in accordance with the relevant provisions of the Planning Act (i.e. section 6). On Wednesday 7 and Thursday 8 October, the Supreme Court duly heard the appeal by Heathrow Airport Ltd against the Court of Appeal's decision. The Judgment arrived early on 16th December 2020 and the court ruled that the NPS was legitimately based on previous, less stringent, climate targets at the time it was designated. Heathrow Airport Ltd, the promoter behind the Heathrow Expansion scheme, is therefore now free to seek development consent for the third runway.

Drax Repower

As covered in previous NIPA newsletters, the Examining Authority for the Drax Re-Power proposal – a 'carbon-capture ready, 3.6 GW gas-fired power station, with associated infrastructure and two battery storage units' - recommended withholding development consent on the grounds that, to paraphrase, it would be incompatible with the Government's commitments to de-carbonise, enshrined in the Climate Change Act. However, the Secretary of State disagreed and gave primacy to the National Policy Statements concerned and considered that there was a range of pathways to achieving targets in the Climate Change Act. On 3 June 2020, the High Court found in favour of the Government and clarified how 'need' should be considered in the context of an NPS. On 17 and 18 November, the Court of Appeal heard the appeal by Client Earth and judgment is expected in the New Year.

Road Investment Strategy 2

In July, Transport Action Network was successful in getting permission to bring a judicial review of the second Road Investment Strategy (2020 – 2025) on a climate change ground, and in October it renewed its application for permission to be given on its other three grounds.

Riverside Energy Park DCO

A challenge by the Greater London Authority to the granting of the Riverside Energy Park DCO in south-east London was due to be heard in the High Court on 6 and 7 October, but it was withdrawn at the last minute. According to Planning magazine, a spokesperson for the mayor said: *‘After further legal advice the mayor has taken the difficult decision to withdraw his claim, mindful of the substantial costs of proceeding to a full hearing.’*

Norfolk Vanguard

The High Court has accepted a judicial review of the Secretary of State for Business, Energy and Industrial Strategy’s approval for the 1.8GW Norfolk Vanguard offshore wind farm off the East Anglia coast. The claimant, local resident Ray Pearce, believed the Secretary of State unlawfully excluded from consideration the cumulative effects of the Norfolk Vanguard wind farm taken together with Vattenfall’s adjacent 1.8GW Norfolk Boreas development, which is currently in Examination. Both wind farms will share some onshore infrastructure but were subject to separate applications for development consent. The judicial review is due to be heard early next year.

Review of Consents – Southern North Sea SAC

In February 2019, the Government designated the Southern North Sea Special Area of Conservation (SAC) for the protection of harbour porpoise. When a new SAC is designated, The Conservation of Habitats and Species Regulations 2017 and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (“Habitats Regulations”) require certain decisions to be reviewed by the relevant Competent Authority, to take account of new protections afforded to it.

On 25 September 2020, the Secretary of State for Business, Energy and Industrial Strategy published the HRA undertaken for the purpose of this review. The HRA concluded that all consents reviewed will not have an adverse effect of the Southern North Sea SAC, provided modifications are made to some deemed Marine Licences. For projects that have already been constructed (Gallopier, Greater Gabbard and Dudgeon Offshore Wind Farms), this conclusion has been reached without the requirement for any new mitigation. For projects that are not yet constructed, or currently under construction (which includes Dogger Bank Teesside A and B, Dogger Bank Creyke Beck A and B, and Hornsea Project Two Offshore Wind Farm), the Appropriate Assessment’s conclusions were underpinned by a new condition within the deemed Marine Licence which requires those projects to produce (and gain approval from the Marine Management Organisation) and implement a Site Integrity Plan before the commencement of any offshore activities with the potential to adversely affect the Southern North Sea SAC.

NIPA Member Services

Finally, just a reminder that NIPA has a full-time administrative support service for members, provided by Political Intelligence. The team is working successfully to

respond to member queries, for example about membership renewals and about our events. The services on offer to you are:

- responses to queries from members - full-time support service available between 9am to 5.30pm Monday to Friday:
 - E-mail: info@nipa-uk.org to speak to Michaela Zamenova or Phil Reid.
 - Phone: 020 3951 7551 (dedicated NIPA number);
- membership renewal process - managing the annual membership renewal process; and
- proactive and regular communications to members - informing you about events, policy updates, etc.