

# Review of the Revised Draft National Policy Statements – March 2023

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## Introduction

1. Following the announcement in the 2020 Energy White Paper, the National Policy Statements (NPS) EN-1 to EN-5 were updated to reflect a number of changes in government strategy and policy and other context. The public consultation held in 2021 provided the Draft NPS for EN-1 – EN-5 which, while not adopted, have been an important and relevant consideration for Development Consents Order (DCO) and TCPA energy projects.
2. To enable delivery of the commitments in the April 2022 ‘British Energy Security Strategy’, the department has reviewed and strengthened the NPSs.
3. DWD has produced this note to aid clients and others and provide a summary and review of the changes in the Revised Draft NPS suite (2023). DWD is increasingly focused on supporting the delivery of a range of low carbon and renewable energy projects across the country and is currently leading the planning for a number of solar DCO projects, carbon capture power station DCOs (including Keadby 3 – the first carbon capture power station to receive development consent in the UK), and hydrogen production and transport facilities. DWD has a strong understanding of solar, thermal, nuclear, Battery Energy Storage, synchronous compensators (grid stability facilities), wind, biomass, Energy from Waste and transmission development across all planning regimes.
4. We note that a test of soundness for local plans is defined in paragraph 35 of the NPPF as “Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant” (our underline). Compliance of local plans with these NPSs once published could be a ground for challenging local plans, for example, if they do not recognise the urgency or nature of the need for energy infrastructure in strategic or criteria based policies.

5. The consultation period for the Revised Draft NPS runs from 30<sup>th</sup> March 2023 – 25<sup>th</sup> May 2023, and the consultation materials highlight the following elements of the updates:
- clarifying that offshore wind is now a critical national priority, including the related onshore and offshore network infrastructure
  - to deliver the 50GW of offshore wind including 5GW of floating wind, we need to cut the process time by over half. The government therefore announced it was introducing the offshore wind environmental improvement package to help accelerate deployment of offshore wind, whilst protecting and enhancing the marine environment
  - strengthening the electricity networks NPS to include more detail on the role of strategic planning of networks, which considers the network as a whole, rather than just individual transmission projects
  - updating the civil and military aviation and defence interests to reflect the status of energy developments, including offshore wind, and how impacts to civil and military aviation, meteorological radars and other types of defence interests should be managed.

## Key Changes to Policy

### NPS EN-1 Overarching National Policy Statement for Energy

6. The most significant changes throughout EN-1 relate to the CNP for offshore wind and associated onshore transmission necessary for the development. Despite the strengthening of policy (2.4.4 - 2.4.9), to incentivise Power CCUS, there is to be no individual NPS for CCUS as the government states a lack of a CCUS NPS ‘has not created any barriers to date’. This seems sensible to DWD given that carbon capture and compression plants themselves are not NSIPs, and while onshore carbon dioxide pipelines of specified lengths are NSIPs the range of policies around natural gas pipelines in NPS EN-4 may possess relevance. Paragraph 1.3.3 remains and reserves the addition of technology specific NPSs “*if it becomes appropriate to do so*”. Furthermore, it is noted that para 1.5.2 states there will be an announcement on NPS reviews every five years.
7. There is a general theme of strengthening and updating policy surrounding the ‘urgency’ in which renewables should be delivered, including supporting text surrounding the diversity of technologies needed to achieve net zero. EN-1 also now discusses the importance of domestic energy security and supply in the context of COVID-19 and the Russian Invasion, including that we should remain ‘open

mind ed’ about our onshore gas reserves. New text also states that new unabated natural gas generating capacity will be needed to aid the transition to Net Zero.

8. Updates to the Applicants Assessment and mitigation including changes to biodiversity net gain, HRA, GHG are discussed below.

#### ***Changes to Policy on Energy and Energy Infrastructure Development***

9. Paragraph 2.3 (meeting Net Zero) identifies that fossil fuels account for 76% of energy supply 2020, down from 79% in 2019. A need to drastically increase volume of energy is stated, but no figures provided regarding the degree of increase required to meet targets.
10. Additionally, energy policy now references the rise on global energy costs due to COVID-19 and the Russian invasion of Ukraine. Specifically, the policy emphasises the importance of addressing our underlying vulnerability to international energy prices by reducing our dependence on imported oil and gas as well as remaining open-minded about our onshore reserves’ para 2.5.2 – 2.5.7.

#### ***Strengthened Need Case***

11. The policy surrounding the need for energy infrastructure projects has been strengthened, stating that such infrastructure is ‘urgent’ as opposed to ‘will often be urgent’ (para 3.1.1). As a result, the need statement in para 3.2.5 now states ‘which is urgent’ in respect of energy infrastructure outlined the NPS.
12. As stated previously, the introduction of CNP infrastructure is introduced in para 3.3.68, specifically relating to the urgent need for offshore wind. Additionally, applications for offshore wind above 100MW will be defined as NSIP, an increase from the previous 50MW threshold. The 50MW threshold remains the same for solar development.
13. Paragraph 3.3.13 (Delivering affordable decarbonisation) strengthens need policy for a diverse mix of electricity generation infrastructure. New policy supporting low carbon hydrogen production is found in para 3.3.49 which reflects the ambition of 10GW of low carbon hydrogen production capacity by 2030, as set out in The British Energy Security Strategy (2022). Additional text on hydrogen infrastructure is added in para 3.4.16-20 which includes the potential for ‘blending of up to 20% hydrogen by volume into the current natural gas distribution networks’ with a policy decision likely to be made in 2023.
14. Addition of para 3.4.6-9 outlines the government’s position on gas decarbonisation and explains that there is an expectation that both natural gas and oil demand to more than halve by 2037 while overall, energy demand reduces significantly through increased efficiency and fossil fuels are replaced by new sources of energy. Therefore, it is inferred that the evolution of gas markets is

ongoing (rather than urgent) and the government will continue to work with the gas industry to seek views which will inform future policies.

15. Para 3.5.17 states that, new unabated natural gas generating capacity will also be needed as it currently plays a critical role in keeping the electricity system secure and stable and will be required to ensure the transition to net zero. It is noted that new coal and oil-fired generation are not consistent with the trajectory of our carbon budgets and the transition to net zero and so are not included within the scope of the NPSs (para 3.3.61).

#### ***Updates to Assessment Principles***

16. Para 4.1.8 adds that Applicant may now seek the compulsory acquisition of land for the purposes of providing for mitigation, landscape enhancement and biodiversity net gain. The Secretary of State will consider any such application under the usual compulsory acquisition principles, taking into account the content of the NPSs. Additionally, 4.5.9 states that Biodiversity net gain can be delivered onsite or wholly or partially off-site. Any off-site delivery of biodiversity net gain should also be set out within the application for development consent. Also, relating to BNG, para 5.4.2 includes new policy documents to be considered for biodiversity, including the National Pollinator Strategy.
17. Early engagement is now encouraged both before as well as at the formal pre-application stage in para 4.1.19. This is particularly relevant in the case of HRA matters, as para 4.1.20 now states that the onus is on the applicant to submit sufficient information to enable the Secretary of State to conduct an Appropriate Assessment if required. There is an added threat of non-acceptance by the SoS if habitats are not dealt with properly.
18. New text on Secretary of State Decision Making process states that to develop a thermal generating station under the Planning Act 2008, applicants should refer to guidance issued by the then DTI in 2006.
19. With regard to CCS, new text in 4.8.18 recognises the hazardous substances required during the capture process and advises that Best Available Techniques (BAT) guidance, assessment tool Horizontal 1, and Environmental Assessment Levels should be used when assessing impacts from capture solvents.
20. The effects of climate change have on the UK have been changed from 'likely' effects to 'already altering UK's weather patterns and this will continue to accelerate'.
21. Additional text in para 5.2.6 the need for 'substantial mitigation' for projects near sensitive receptors.

22. Despite the requirement for a GHG Assessment within the ES, a GHG Reduction Strategy to be secured under the DCO (para 5.3.7). It is noted that the existing text that states that operational GHG emissions are not reasons to prohibit or restrict consent remains in 5.3.11.
23. A significant degree of new text in support of aviation and windfarms has been added in para 5.5.23-33 and contains an overarching theme of ensuring that aviation and energy (particularly wind farms) must seek to coexist. Para 5.5.25 mentions a “system of systems” approach address the impacts on air surveillance and routine air traffic control operations for those windfarms that exist when radar or other surveillance systems are procured.
24. New text on minimising construction emissions has been added in para 5.7.10, including the suggestion on making low emission methods and plant ‘mandatory’ through DCO requirements.
25. New text on mitigation for Heritage Assets in 5.9.16 explains that the ability to record evidence of an asset will not factor into deciding the loss of a heritage asset, nor will it contribute to the whether consent should be given or not. Heritage Coast protection has been strengthened with next text stating that development in these areas is unlikely to be appropriate, unless it is compatible with the natural beauty and special character of the area (para 5.10.10).
26. New text within the Applicants Assessment of LVIA impacts now states, that landscape impacts arise not only from the sensitivity of the landscape but also the nature and magnitude of change proposed by the development, whose specific siting and design make the assessment a ‘case-by-case judgement’. Additional text now requires that applicants use BAT to justify cooling systems that include ‘visible steam plumes or has a high visible structures’ (para 5.10.22).
27. A new requirement for tree compensation schemes where there is a loss woodland is found in para 5.11.27. It also states that the long-term management and maintenance of newly planted trees should be secured.
28. Para 5.11.37 states that low carbon and renewable energy generation may constitute ‘very special circumstances’ in the context of greenbelt development.

#### **NPS EN-2 Natural Gas Electricity Generating Infrastructure**

29. No significant changes to NPS EN-2 have been made. The introductory paragraph (1.1.1) remains the same, acknowledging that the majoring of new energy generating capacity will need to be low carbon but new unabated natural gas generating capacity will also be needed during the transition to net zero. CCC’s Technical Report recognised that there will be a role for gas peaking plant in 2050 for peak periods where intermittent generation sources cannot supply, and hence it is unsurprising that

some new plant will be required, since much of the gas generation infrastructure currently operating in 2023 could be life expired by 2050. This stance has also been added to EN-1.

### ***Changes***

30. The Secretary of State decision making guidance now states that ‘substantial weight’ should ‘generally’ be given to air quality and emissions considerations.

### **NPS EN-3 Renewable Energy Infrastructure**

31. Significant changes have been made to EN-3, including the structure of the documents itself and clarification of various forms of energy and their position within the NPS. The new changes acknowledge biomass sustainability as renewable and low carbon and allude to a forthcoming Biomass Strategy. In contrast, the NPS states that non-biogenic material feeding Energy from Waste plant is not renewable or low carbon.
32. The support for solar energy infrastructure has been strengthened with the mention of the 70 GW domestic ambition as well as the acknowledgment that development may need to be site on higher grade agricultural land. Furthermore, it is acknowledged that agriculture (as well as other low carbon technologies) can co-exist with solar development. Further support for the justification of the siting of solar development is provided in new text surrounding proximity to network connection, including an acknowledgement of the impact of these factors on commercial feasibility.

### ***Changes***

33. An amendment from low carbon electricity generation being ‘essential’ to ‘urgent’ has been made in para 1.1.3.
34. A new section – Flexibility in the project details, has been added in 3.6 which states that applicants must state why certain elements of a proposal have not been finalised. If flexibility is sought, applicants should assess the worst-case scenarios for environmental, social and economic effects of the proposals development. This section reflects the Rochdale Envelope Approach and references Section 4.2 of EN-1 for more guidance.
35. A new mention of delivering negative emissions through Bioenergy with Carbon Capture & Storage (BECCS) has been added under Carbon-Capture Readiness. The previously mentioned forthcoming Biomass Strategy will outline the role in which BECCS could play in decarbonisation. Para 3.7.23 adds, as part of the Biomass Strategy, the UK’s Biomass sustainability criteria will be reviewed.
36. Several additions have been made to reflect the British Energy Security Strategy and the new CNP for offshore wind development. New mentions of the ambitions of 50 GW of offshore wind by 2030 including 5 GW of floating wind with a recognition to speed up the consenting process. Section 3.8

on offshore wind and onshore transmission ends on para 3.8.368. It is noted that consultation is imminent on offshore wind application standards (para 3.8.103-106)

37. In light of the new CNP for offshore wind, para 3.8.15-3.8.17 states, that the SoS will take as a starting point in decision making that CNP infrastructure (that is non-HRA) is to be treated as if it has met any test requiring a clear outweighing of harm. Therefore, CNP infrastructure will meet the following list of tests:

- where development within a Green Belt requires very special circumstances to justify development;
- where development within or near a Site of Special Scientific Interest (SSSI) requires the benefits (including need) of the development in the location proposed to clearly outweigh the harm;
- where development affecting irreplaceable habitats requires the benefits (including need) to clearly outweigh the harm. Where development is, exceptionally, necessary in coastal change areas, flood risk areas or where an increase in flood risk elsewhere cannot be avoided or mitigated;
- where development in nationally designated landscapes requires exceptional circumstances; and
- where substantial harm to or loss of significance to heritage assets should be exceptional or wholly exceptional.

38. Para 3.8.69-74 provides new guidance on the grid connection process, particularly for round 4 onwards. It is noted that connection agreements will be limited to connection points proposed through strategic network design exercises such as those undertaken by the National Grid Electricity System Operator, including the Holistic Network Design for offshoreonshore transmission under the OTNR.

39. Synonymous with the addition to EN-5 regarding simplifying the consenting of onshore transmission for offshore wind farms, the applicant can now make a request to the SoS to prepare separate applications for transmission and wind farms. The SoS will make their decision to grant the direction under Section 35 of the Planning Act 2008.

40. A Site Integrity plan (SIP) is now suggested allow the cumulative impacts of underwater noise to be reviewed closer to the construction date, when there is more certainty in other plans and projects.

41. Para 3.8.154 requires that applicants undertake 'appropriate assessments' to reduce parameters and ornithological impacts. It is later stated in para 3.8.157-3.8.158 that applicants must undertake

collision risk modelling, as well as displacement and population viability assessments for certain species of birds. Advice can be sought from SNCBs and where necessary, applicants should assess collision risk using survey data collected from the site at the pre-application EIA stage.

42. Additional text on the mitigation hierarchy, ecological mitigation and compensation can be found in para 8.229-328. It is noted that there is now a requirement to provide HRA information if requested by SNCBs. This may be requested at the pre-application stage or at later stages of development consent process and should be provided as 'soon as reasonably practical' (Para 3.8.284).
43. New supporting text for electricity storage is provided in 3.9.1 which states it is 'essential for a net zero energy system'. Although stated under 'Pumped Hydro Storage', the text is relevant for promoters of BESS, Synchronous compensators, and similar development whether as part of DCO applications (as associated development) or the regular planning regime, as it references the role of storing electricity when it is abundant for periods when it is scarce, as well as providing a range of services to help maintain the resilience and stability of the grid. Para 3.9.3 states the increasing need for development of this nature as we increase the volume of variable renewables and increase peak demand through the electrification of heat and transport.
44. Additional text on solar development is added throughout 10.13-39, 3.10.114-125 and 3.10.132-146. Additional text relates largely to the siting of development on agricultural land, PRow and accessibility, lighting and security and biodiversity.
45. A Public Rights of Way Management Plan should be submitted to outline how they are managed to ensure they are safe to use.
46. Para 3.10.47 notes that AC installed export capacity should not be seen as an appropriate tool to constrain the impacts of a solar farm. Applicants should use other measurements, such as panel size, total area and percentage of ground cover to set the maximum extent of development when determining the planning impacts of an application. It is later added that (para 3.10.55) in the case of underground cabling, applicants are expected to provide a method statement describing cable trench design, installation methodology, as well as details of the operation and maintenance regime.
47. Some additional guidance on glint and glare assessments is added in 3.10.94 -3.10.97 as well as 3.10.149-3.10.150.
48. The final section on Tidal Energy has been redrafted and shortened.



#### **NPS EN-4 Natural Gas Supply Infrastructure and Gas and Oil Pipelines**

49. The NPS title has been updated to include 'Natural' to emphasise the support for gas supply infrastructure that is low carbon. It has been added in para 1.1.5 that there is continued need for natural gas leading to 2050 and potentially beyond.
50. It is explained at 1.6.6 that “the guidance that follows in this NPS has been drafted in respect of, and has effect only in relation to, natural gas infrastructure. It does not have effect for hydrogen infrastructure but may contain information that is important and relevant to the Secretary of State’s decision on applications for hydrogen infrastructure”. This could be a missed opportunity to provide directly effective policy support to hydrogen pipelines, which will tend to be of a similar built form and impacts to natural gas pipelines. Taken with the lack of direct policy for carbon dioxide pipelines, onshore CCUS networks (typically containing both carbon dioxide and hydrogen pipelines) will not benefit from a directly effective policy framework for assessing impacts.
51. There is additional text on vibration and noise (para 2.22.3-2.22.8), including that application should undertake modelling to predict and understand both dredging and construction impact on hydrology, habitat loss and impacts on species from increased water noise. Similar to EN-1, early engagement with relevant SNCB with the aim at exploring impacts and potential mitigation measures for Marine Protection areas.

#### **NPS EN-5 Electricity Networks Infrastructure**

52. Changes to EN-5 are largely focused around onshore-offshore transmission in the context of the critical national priority of offshore wind development outlined in EN-1. Also reflecting the new additions to EN-1, there is helpful text on the power of the applicant to acquire land for the purpose of biodiversity net gain under compulsory purchase powers (Para 2.6.6).
53. The presumption that that overhead lines should be located outside protected landscapes clearly emphasised in para 2.9.20. If they are to be located within protected landscapes, they should be underground. Applicants are now required to consider the criteria for 'good design' at an early stage of project development.
54. Applicants should now consider the selection of quieter cost-effective plants as per para 2.10.10. in the context of overhead lines, para 2.9.35 adds clarification that 'crackle is a sound containing a random mixture of frequencies over a wide range, typically 1kHz to 10kHz and has a generally similar spectral content to the sound of rainfall' and 'Hum is a sound consisting of a single pure tone or

tones'. Additionally, para 2.9.43 requires that when assessing the noise generated by OHL in weather, varying background sounds should be considered due to rainfall.

55. The NPS now specifically requires that for applications with identified biodiversity impacts, the SoS should be satisfied that all feasible options for mitigation have been considered and evaluated appropriately.
56. Additional text surrounding the onshore-offshore transmission in the context of the CNP for Wind Farms and the urgency to deliver infrastructure of this nature 'as quickly as possible'. The consenting process adds that some transmission proposals will require separate applications to wind farm applications which would need to be granted by the SoS under a Section 35 direction (Planning Act 2008).