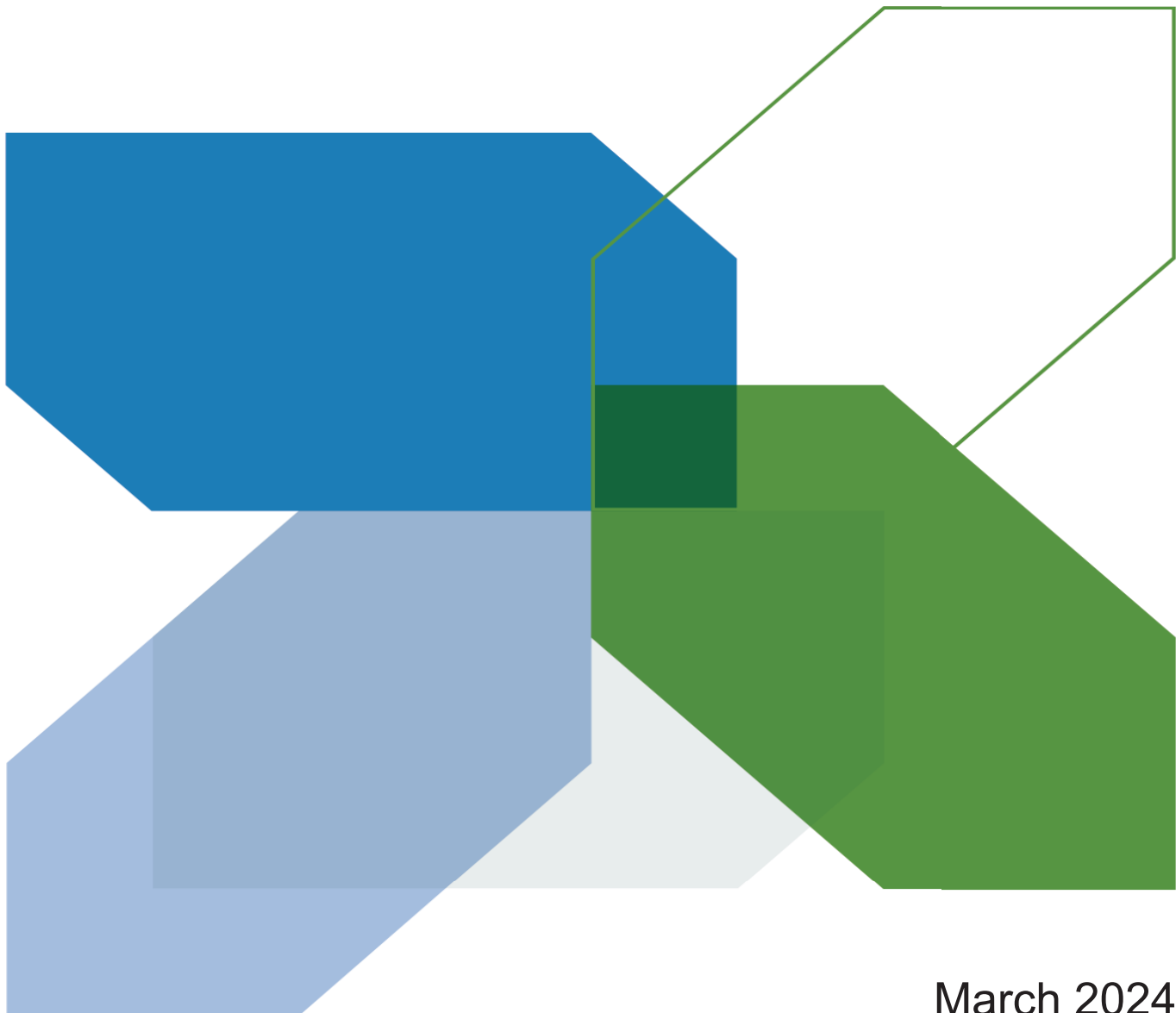




Department
for Transport

Government Response to the Transport Select Committee's Report on the draft revised National Networks National Policy Statement



March 2024

Government Response to the Transport Select Committee's Report on the draft revised National Networks National Policy Statement

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Section 9(5) of the Planning Act 2008

March 2024



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Introduction

The government welcomes the Transport Select Committee's (TSC) recommendations published on 20 October 2023, following its inquiry into the National Networks National Policy Statement (NNNPS). We are grateful to the Committee and to all those who provided evidence for its work.

National Policy Statements (NPSs) were created under the Planning Act 2008 to provide guidance for applicants when applying for, and decision-makers when determining applications for, development consent for major infrastructure. The thresholds for transport projects considered to be “nationally significant” are set out in sections 22 to 26 of the Act. Projects which meet the respective thresholds are known as Nationally Significant Infrastructure Projects (NSIPs). NPSs set out the need for the infrastructure and the impacts that a proposed development must address.

The NNNPS provides guidance to applicants in preparing, and the Secretary of State in determining, applications for Development Consent Orders (DCO) for nationally significant road, rail and Strategic Rail Freight

Interchange (SRFI) schemes. The existing NNNPS was laid before Parliament in December 2014 and designated in January 2015.

In July 2021 the Department for Transport announced that the NNNPS would be reviewed to ensure it remained fit-for-purpose and reflected the government's environmental commitments. A draft revised NNNPS was consulted upon from 14 March 2023 to 6 June 2023 and the process of parliamentary scrutiny undertaken in parallel with the consultation. The consultation version of the NNNPS has been revised, where appropriate, to take account of consultation responses and recommendations from Parliamentary scrutiny and is referred to in this document as "the revised NNNPS".

Having carefully considered the Committee's report, and the evidence provided, the government's response to the Committee's recommendations is set out below.

Government Response to Transport Select Committee's recommendations

Recommendation 1

Transport Select Committee recommendation

“The Government should introduce five-year review periods for the NNNPS, with a shorter term where changes in policy decisions or policy drivers warrant it. This does not necessarily mean that wholesale revisions should be made to the NNNPS every five years, but the reviews would provide an opportunity for the Department for Transport to consider the wider policy environment and Government priorities. The Government could also consider the modular approach suggested by the National Infrastructure Commission.”

Government response

As set out in the NSIP Reform Action Plan and the government's response to the National Infrastructure

Commission's (NIC) report on improving nationally significant infrastructure planning, the government recognises the important role that NPSs play in the NSIP regime and the need to keep them up-to-date through timely reviews. In its response to the NIC report, the government has agreed with the NIC's recommendation that there should be at least 5 yearly reviews of NPSs to consider whether amendments to that NPS are necessary at that point in time. The text in the revised NNNPS has been updated to reflect this commitment, with paragraph 1.14 saying:

“It will be subject to review by the Secretary of State at least every 5 years or earlier if necessary, in order to ensure that it remains appropriate”

The government also recognises the need to ensure that the review process itself is made more flexible and streamlined. The government agrees with the NIC that there needs to be a more effective approach to reviewing NPSs. Through the response to the NIC, the government has committed to commissioning an external review of the current NPS review and designation process, to explore options for reconfiguring the NPS framework. A modular approach to NPSs is likely to form part of this solution but further work is required before the government can commit to this approach.

The government also indicated that as part of guidance reviews, we will consider whether NPS review guidance

could be updated to set out the changes that could potentially trigger whether a review of an NPS is needed.

The Department for Transport is fully engaged with the NSIP reform programme.

Recommendation 2

Transport Select Committee recommendation

“The Government should respond to the Climate Change Committee’s recommendation on reviewing the roads programme and explain why this recommendation will or will not be taken forward. The Climate Change Committee’s recommendations do not relate directly to the NNNPS, but acceptance of them would change the policy environment in which the NNNPS operates and, presumably, prompt further review. Obtaining clarity on this issue is important for establishing whether challenges to NSIPs on climate grounds are likely to continue.”
(Paragraph 28)

Government response

The government issued a response to the Climate Change Committee’s (CCC) report on 26 October 2023¹.

1 HM Government. ‘Responding to the Climate Change Committee’s (CCC) 2023 Annual Progress Report to Parliament’

On the recommendation to review the roads programme, the government is committed to ensuring that transport plays its part in decarbonising the economy and protecting the environment. National Highways undertakes comprehensive environmental impact assessments to establish the likely significant effects of a road project on the natural, built and social environment, to allow consenting authorities to assess a project's consistency with the government's environment goals and legislation. In making decisions on the Roads Investment Strategy 3 (RIS3), the government will ensure that it is in line with its legal obligations relating to Carbon Budgets, net zero, Environment Act 2021 targets and the duty to have regard to the Environmental Principles Policy Statement. The government has also ensured that "Improved environmental outcomes" is one of six strategic objectives in the RIS3 process which will shape the initial evidence gathering for RIS3. This will conclude with the publication of the draft RIS due shortly. As set out in the Transport Decarbonisation Plan, the government will continue to adapt and take further action if needed to decarbonise transport.

The response provided to the CCC on 26 October 2023 sets out government's progress to achieving net zero emissions by 2050. Given the action already being taken across the economy and transport to reduce emissions, some of which has been acknowledged in the revised NNNPS, we do not anticipate the need for further review of the NNNPS in light of the CCC's advice.

Recommendation 3

Transport Select Committee recommendation

“The draft revised NNNPS should be amended to provide a definition of, and clear and comprehensive guidance on, “residual” greenhouse gas emissions. This definition must make it possible to distinguish clearly between “residual” and unacceptable increases in emissions from an NSIP.” (Paragraph 32)

Government response

It is not possible to provide a clear definition of when residual emissions are acceptable and when they are unacceptable, as this depends on progress with decarbonisation within the whole economy at the moment in time a development consent decision is being taken. The UK’s climate change framework sets targets at the national level and it is for Government to determine how carbon reductions should best be balanced across the economy. Therefore, it is for Ministers to determine at the time they are required to grant or not grant development consent whether residual emissions are acceptable or not. This is the approach that has been taken with the Overarching National Policy Statement for Energy and as such the government does not accept this recommendation.

Recommendation 4

Transport Select Committee recommendation

“The draft revised NNNPS should be amended to explicitly state the Government’s understanding of the legal precedent for permitting major infrastructure schemes which result in an increase in emissions, where that increase is judged as not likely to harm the achievement of a national target.” (Paragraph 35)

Government response

Any residual emissions that cannot be avoided in a way that is efficient and cost-effective are managed within the government’s overall strategy for meeting carbon budgets and the net zero target, as part of an economy-wide transition. This is acknowledged in paragraph 5.30 of the revised NNNPS to explain why emissions from national network infrastructure is allowable.

However, for added clarity, we have reinstated text from the current NNNPS (para 5.42 of the revised NNNPS) which states that “where the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of government to achieve its statutory carbon budgets, the Secretary of State should refuse consent”. This approach has been approved in caselaw, which accepts that a decision-maker may use carbon budgets

as a benchmark in order to help arrive at a judgment on the significance of carbon emissions from a particular scheme, by looking at the scale of its emissions relative to the carbon budgets before reaching a judgment about the likelihood of the scheme harming the achievement of that budget.

Recommendation 5

Transport Select Committee recommendation

“The Department for Transport must do more to provide transparency on its approach to assessment and decision making. Specifically, it should:

- *publish the National Transport Model so that it can be independently tested and verified, or model and report on a wider range of scenarios where traffic levels on the SRN are a) reduced and b) maintained at current levels and ambition for rail patronage is increased, as we recommended in our report on strategic road investment;*
- *publish its own estimated congestion forecasts for the Strategic Road Network;*
- *be more transparent in the decision-making process for potential alternatives to NSIP scheme choices, for example at Project Control Framework stages 0 and 1 for road schemes.*

- *provide a list of “exceptional circumstances” which would necessitate consideration of alternative schemes during the Development Consent Order examination process; and*
- *provide examples of how the draft revised NNNPS supports a move away from the ‘predict and provide’ approach to developing NSIPs.” (Paragraph 49)*

Government response

The Department for Transport believes that the decision-making process for schemes is robust and transparent. The process provides many opportunities for stakeholders and the public to influence options, and the DCO process is conducted in public in order to be transparent. However, it is right that democratically elected ministers take the ultimate decisions on preferred options for major schemes, taking into account all the relevant considerations.

National Transport Model

The model that is used to produce the National Road Traffic Projections 22 (NRTP22) is the National Transport Model (NTM).

The purpose of the National Road Traffic Projections is to inform and shape strategic policy development, to provide a common and consistent basis against which policy options can be compared, and to further our understanding of the drivers of travel demand and how they impact on traffic levels, congestion and emissions

in different plausible scenarios. The future is inherently uncertain so the NRTP22 has utilised the core scenario and seven Common Analytical Scenarios which have been deliberately designed to consider a range of futures based on the biggest drivers of uncertainty. The Common Analytical Scenarios explore uncertainties in demography, economic growth, regional redistribution, behavioural change, emerging technologies, and decarbonisation. This is based on careful engagement about which uncertainties should be considered and prioritised. The Department for Transport considers this to be a proportionate and representative approach to modelling future scenarios. Full details and explanations of the Common Analytical Scenarios are published in the Uncertainty Toolkit², as part of the Transport Analysis Guidance.

Due to the considerable level of complexity, the digital infrastructure used and some of the sensitive inputs, it is not appropriate to make the model fully available to the public. However, there are various reports published on the NRTP22, including inputs, assumptions, outputs and validation of the results. The outputs of the modelling are published in summary tables³, and in a format that allows others to manipulate the data into the format most useful to them. There are also multiple reports available on the

2 GOV.UK Guidance. 'TAG uncertainty toolkit'

3 Department for Transport. 'National Road Traffic Projections 2022'

NTM⁴, including details of the modelling structure, peer reviews and quality reports.

The Department for Transport is committed to upholding the highest analytical standards and practices and regularly reviews modelling with external experts. This includes ongoing collaborative discussions with the Joint Analysis Development Panel (JADP). JADP was established in 2015 and brings together academic and professional experts with senior departmental analysts. The panel provides expert advice to the Department for Transport on its modelling and appraisal methods and strategies. There are annual reports of the panel's activities published online.

Regarding the committee's recommendation to model a wider range of scenarios where traffic levels on the SRN are reduced or maintained at current levels, our current analysis shows that it is likely that demand management policies would be necessary for this to be realised. Otherwise, projected changes in the three main drivers of traffic growth (GDP, population and motoring costs) lead to a projected increase in road demand (although the low economy scenario projects reducing trips for the last 15 years of the series, and if the trend continued would lead to reduced traffic levels). The government's policy is not to stop people travelling but to enable people to do the same things differently and more sustainably while still

4 Department for Transport. 'Transport and appraisal modelling tools'

realising transport's social and economic benefits. For this reason, the Department for Transport does not model scenarios which incorporate policies designed to reduce demand.

Congestion forecasts

The NRTP22 includes datasets on Lost Time (in seconds) by road type which is used to generate projected motorway congestion figures in the NRTP22 report. The outputs have been published in summary tables⁵ alongside data that can be easily manipulated for the user's purposes.

Additionally, the Department for Transport produces statistics which show historic road congestion and travel times on the SRN⁶.

Project control framework

Alternatives and options are considered at various stages of the decision-making process for road schemes and are often shaped by engagement with stakeholders or public consultation.

The Department for Transport's Transport Appraisal Guidance (TAG) requires scheme developers to consider alternative options for schemes from the start of scheme

5 Department for Transport. 'National Road Traffic Projections 2022', accessible data, worksheet 3.

6 Department for Transport. 'Road congestion and travel times'

development, including consideration of multi modal alternatives. Development of analysis using TAG is a requirement for all interventions that require government approval. The technical appraisal report is published as part of the DCO submission and includes the options assessment.

For road schemes, National Highways conduct detailed route strategies. These are a rolling programme of research which underpins the Road Investment Strategies. Information about these route strategies is published on National Highway's website and involves active consultation of interested parties, in particular Local Authorities, sub-national transport bodies and local enterprise partnerships. The route strategies inform the Road Investment Strategies, which identify investment priorities for the relevant 5-year period, including identifying potential schemes. The draft RIS is also subject to public consultation.

Where an individual scheme is taken forward, the Project Control Framework (PCF) applies. Schemes which entered PCF Stage 0 prior to December 2022 were subject to an "Alternative Modes Assessment" which considers whether there are alternative options to road building available which could solve the network issues. This Assessment has since been strengthened and has now become an "Integrated Network Solutions Assessment". The Alternative Modes Assessment details are reviewed as part of the Scheme Overview

Assessment Report which is published as part of the Preferred Route Announcement.

Options for developing the details of a scheme are developed at PCF stage 1 and these are narrowed down on grounds such as feasibility before going to public consultation. Once this is complete, National Highways does further work before making a Preferred Route Announcement (PCF stage 2) with the reasoning of why the preferred route was chosen following consultation being published in a leaflet for stakeholders and the press.

“Exceptional circumstances” for DCOs

The text on alternatives within the revised NNNPS recognises that there are circumstances where alternatives need to be considered, for legislative or policy reasons (for example under the habitats regulations or green belt policy). The text has been updated following the legal judgment on the A303 Amesbury to Berwick Down case, which found that in the case of that scheme, there were wholly exceptional circumstances which meant alternatives needed to be considered. The Department consider this approach is reflective of current case law. The revised NNNPS has not provided an illustrative list of what might be considered exceptional. It is difficult to pre-define the exceptional circumstances where alternatives may be relevant because the relevance of alternatives will depend on the particular scheme and its impacts and any

alternatives proposed during Examination. The process for considering alternatives at options appraisal stage is independently scrutinised because Examining Authorities will consider whether the options appraisal process has been carried out. They also have the ability to interrogate alternatives if they consider it relevant to do so or the law requires as part of their reporting to the Secretary of State.

Move away from “predict and provide”

The department does not agree that the revised NNNPS is based on a predict and provide approach. The revised NNNPS moves away from the focus on congestion in the existing NNNPS to identify a range of challenges which may necessitate the development of infrastructure. Network performance is one of those challenges but there may be other, often locally driven, reasons such as safety which could generate a need for infrastructure development.

The revised NNNPS makes clear that infrastructure development is only one option of many and recognises the importance and value of other approaches, including more sustainable travel options.

We have also broadened out the range of NRTP22 scenarios that the revised NNNPS looks to. As set out above, the future is inherently uncertain and that is why the Department developed eight scenarios to cover economic, geographic, behavioural and technological uncertainties, which have been reflected in the NRTP. To

better recognise these uncertainties, the revised NNNPS has been updated to make more reference to more of the scenarios modelled under the NRTP. As well as referring to the core scenario the revised NNNPS now makes reference to both the mode balanced and behaviour change scenarios, which model changing levels of electric vehicle intake and reducing trip rates. While there is a range of traffic growth under the different scenarios, all the scenarios modelled under the NRTP show higher traffic levels in 2060 than current levels.

The inclusion of these scenarios is not intended to suggest that we are forecasting what future demand is, only that some degree of traffic growth is highly likely. Neither does it specify any number of schemes or locations where development may be needed. The revised NNNPS has been strengthened at para 3.31 to make this more explicit.

Many of the respondents to the consultation who argued that this was predict and provide wanted the government to reduce car kilometres travelled through demand management. The government's approach to decarbonisation is not to stop people travelling, it is about enabling people to do the same things differently and more sustainably while still realising transport's social and economic benefits. The government has set ambitious plans to make cycling and walking the natural choices for short journeys, and it is up to highway authorities to decide how best to achieve this according to local conditions. The revised NNNPS recognises the

importance of these tools, and the need to utilise them but concludes that “they may not be sufficient to address all the challenges of the SRN and may require specific interventions brought forward under the NSIP regime in specific locations in order to address those challenges.”

Recommendation 6

Transport Select Committee recommendation

“The draft revised NNNPS should be amended to include an equivalent to Clause 5.29 of the current NNNPS. If the Government declines, it must explain why, and how this is compatible with Government policy on promoting biodiversity.” (Paragraph 53)

Government response

The government recognises the need to protect and enhance biodiversity and geological conservation interests, and the revised NNNPS reflects the commitments within the 25 Year Environment Plan.

The TSC report refers to the removal of paragraph 5.29 in the draft revised NNNPS: “The Secretary of State should ensure that the applicant’s proposals to mitigate the harmful aspects of the development and, where possible, to ensure the conservation and enhancement of the site’s biodiversity or geological interest, are acceptable”.

This has been reinstated at paragraph 5.61 into the revised NNNPS to provide clarity to applicants, as the removal of the wording means it could be interpreted that impacts cannot be mitigated or that mitigation should not be provided, which was not our intention.

Recommendation 7

Transport Select Committee recommendation

“In its response to its call for evidence on freight, logistics and the planning system, the Department for Transport should address whether some types associated development which are vital to the road freight supply chain, such as driver rest facilities or service areas, would be more effectively delivered if considered part of major infrastructure and approved by Development Consent Order. In our 2022 inquiry on the road freight supply chain we heard that the process of building a new motorway service area can take a decade, and that the planning process is a key source of delay; the Government needs to cut through this quagmire to deliver the facilities that are desperately needed.”
(Paragraph 58)

Government response

The government recognises the vital importance of freight to the UK – we published the Future of Freight plan in June 2022, which set actions for government

and industry to deliver an efficient, reliable, resilient and sustainable freight and logistics sector. We recognise that freight and logistics depends heavily on the planning system. As the TSC notes, the Department for Transport published a call for evidence on freight and the planning system in July 2023. The call for evidence sought to obtain the detailed evidence required to identify and enable targeted interventions to support the freight sector. The call for evidence closed on 6 October 2023 and we are currently analysing over 100 responses from a range of stakeholders. We will publish a response in due course.

Recommendation 8

Transport Select Committee recommendation

“The Government should amend the draft revised NNNPS to clarify, by way of providing a list of examples, what would normally be deemed to be ‘associated development’ for schemes which meet the threshold for nationally significant infrastructure.” (Paragraph 60)

Government response

The Department for Levelling Up, Housing and Communities (DLUHC) has produced guidance on

associated development⁷. It includes a clear set of principles as to whether something may be associated development or not and a list of examples of both general development but also infrastructure specific associated development. The guidance is clear that it is for the Secretary of State to decide on a case-by-case basis whether or not development should be treated as associated development. We consider that this guidance provides sufficient illustrative examples of what associated development might include and do not believe it warrants repetition in the revised NNNPS.

The Department for Transport notes that the discussion around associated development related to lorry parking in particular. The government recognises the important contribution that HGV drivers make to the nation, the economy, and business. It is essential that hauliers have access to appropriate roadside facilities to continue their crucial role in transporting essential items across the country. The draft revised NNNPS included new text recognising the strategic importance of providing appropriate lorry parking facilities and requires applicants to consider lorry parking needs (including at SRFIs). Lorry parking is listed as one of the examples of associated development in the DLUHC guidance. As set out above, the government is currently analysing

7 [GOV.UK Guidance. 'Planning Act 2008: associated development applications for major infrastructure projects'](#)

responses to its call for evidence on freight and the planning system (which included a question on what more local plans and decisions could do to facilitate the supply of high-quality HGV parking and driver facilities).

Recommendation 9

Transport Select Committee recommendation

“The draft revised NNNPS should be amended to include a stronger requirement for scheme applicants to adhere to the cycling infrastructure design standards set out in CD 195.” (Paragraph 64)

Government response

The TSC report notes that there should be greater clarity in the draft revised NNNPS on balancing the needs of different travel modes using road space. Witnesses to the TSC’s inquiry raised that the draft revised NNNPS should cite a requirement for cycling provision to be made in accordance with National Highways design standard CD 195 “Designing for Cycle Traffic for motorways and trunk roads”.

The government is supportive of improving accessibility for non-motorised users, and the draft revised NNNPS already includes some protections for non-motorised users. For example, paragraph 5.274 states that “the applicant should provide evidence that as part of the project they have addressed any new or existing

severance issues and/or safety concerns that act as a barrier to non-motorised users”.

In the revised NNNPS, additional text has been added at paragraph 5.271 which requires applicants to “having appropriate regard to policies outlined in existing or emerging local plans, Local Transport Plans, Local Cycling and Walking Infrastructure Plans and Rights of Way Improvement Plans where appropriate and applicants should set out agreement on alignment of development proposals to these policies and plans.”

Throughout the revised NNNPS, applicants are directed to government policy. Government policy on active travel guidance is Local Transport Note 1/20 which is referenced at endnote 107. Whilst it is noted that other supplementary active travel guidance exists, such as CD 195, the revised NNNPS refers to LTN 1/20 as the government guidance for active travel standards in NSIPs and this is consistent with the approach takes throughout the revised NNNPS.

Recommendation 10

Transport Select Committee recommendation

“The draft revised NNNPS should be amended to include provision which makes it clear how the NNNPS could be a relevant policy consideration for non-NSIP schemes

which are currently consented under the Transport and Works Act.” (Paragraph 71)

Government response

The Department for Transport considers that paragraph 1.9 of the revised NNNPS provides sufficient clarity regarding the status of the NNNPS in other consenting regimes. Paragraph 1.9 states that:

“Road and rail developments in England are also consented through routes other than the NSIP regime, such as the Transport and Works Act 1992 and the Town and Country Planning Act 1990. Where schemes come forward under these alternative consenting routes, this NPS may be a material consideration in decision making. Whether, and to what extent, this NPS is a material consideration, will be judged on a case-by-case basis.”

We consider that a one size fits all approach would be disproportionate for Transport and Works Act applications. Paragraph 1.9 provides an appropriate level of flexibility to decision-makers in applying appropriate policy for the scale of scheme being consented. The primary and statutory purpose of the NNNPS is to provide the consenting framework for large scale nationally significant projects who all utilise the same examination process. The nature of schemes promoted through the Transport and Works Act are generally very different to NSIP schemes. Projects are often of a smaller scale and can be promoted by a greater variety of promoters, some of whom can be relatively small operations. This

flexibility in determining whether and to what extent the NNNPS applies to other consenting regimes also enables appropriate consideration of local policy where schemes are often promoted to meet local needs as opposed to a national need as with NSIPs.

Recommendation 11

Transport Select Committee recommendation

“The Government should consider the merits of restructuring future iterations of the National Policy Statements for transport so that there is an over-arching Transport NPS, with Road, Rail, Strategic Rail Freight Interchanges, Ports, and Airport NPSs sitting underneath it, and provide a clear rationale if it opts not to do so.”
(Paragraph 75)

Government response

As set out above, the government has committed to undertaking a further review of NPSs and in particular whether there is a role for modular NPSs. This may shape the future of transport NPSs.

The government’s immediate focus remains on completing to designation the current NPS reviews already underway. We are currently completing the review of the NNNPS and are already reviewing the ports NPS. In September 2021 the government committed to reconsider review of the Airports NPS after the Jet Zero

Strategy was finalised and we have more certainty about the longer-term impact of COVID-19 on aviation demand

The Department does not consider it appropriate to produce a single overarching NPS for transport under the current guidance. The modes covered within the NPSs are different in nature, from the nature of the applicant (market led vs public sector funded) to the impacts that they generate. The airports NPS for example is site specific and therefore requires a different level of detail on assessment and impacts compared to non-spatially specific NPSs. A single NPS would also introduce legal risk, where less controversial parts of an over-arching NPS may be affected by a legal challenge concerning other parts of the over-arching NPS.

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