



Response to:

**National Infrastructure
Planning Reform
Programme consultation**

Introduction

Transport Action Network is grateful for the opportunity to respond to the consultation on National Infrastructure Planning Reform. We are a national network that supports community groups and campaigners opposing road schemes, including National Highways NSIPs, so we are very well placed to understand the frustrations and challenges faced by communities when dealing with consultations and DCO applications for NSIPs. Our comments are limited to National Highways NSIP projects.

1. Please provide your name

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2. Please provide your email address

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3. What could government, its arms-length bodies and other statutory bodies do to accelerate the speed at which NSIP applications can be prepared and more generally to enhance the quality of submissions? (no more than 300 words)

Accelerating the speed of applications should not be a priority as it contradicts the objective to “enhance the quality of applications”. Enhancing the quality of the applications would be achieved by better engagement, not by greater speed.

The pre-application stage would be vastly improved if:

1. Consultations were prepared and conducted by an independent third party, such as the Planning Inspectorate, not the applicant themselves
2. There was very clear and prescriptive statutory guidance on what had to be included in the consultation materials (especially on key impacts), and how the consultation had to be conducted. Vague guidance can lead to sloppy consultations, resulting in the potential for legal challenges and more delays.
3. All schemes were required to demonstrate how they contributed to **reducing** carbon emissions
4. Statements of Community Consultation should cover all consultation stages, not just the statutory phase and be written with local communities, not just local authorities.

High quality consultations should:

1. Be well planned, with communities consulted at least twice before an application is made.
2. Involve communities in the earliest option identification stages, to avoid the community presented with a fait accompli.

3. Have clear and accessible information, with the impacts clearly identified and quantified'.
4. Have Non-Technical Summaries that are concise, with key impacts clearly identified.
5. Have all documents, including technical information and modelling accessible online to enable people to come to an informed opinion
6. Last no less than 12 weeks
7. Contain a mix of ways to consult to ensure inclusivity
8. Include 3D models and videos that are to scale and haven't been 'beautified', to help people visualise the NSIP.
9. Not allow developers to dismiss objections that are similar or identical. Local communities have many other life pressures to deal with and their objections and comments should not be dismissed in this way.

4. Following submission, are there any aspects of the examination and decision process which might be enhanced, and how might these be improved? (no more than 300 words)

Local communities should be able to make representations to the Planning Inspectorate (PINS) about the adequacy of the consultation before the application is accepted, not just local authorities. PINS will not necessarily be presented with an accurate picture of the consultation if local authorities support the NSIP.

The DCO application should be publicly available immediately after submission, prior to acceptance, and not be in the gift of the developer to withhold it. This will enable the public to begin going through complex and voluminous documents which is a huge challenge for many.

Examinations are a demanding process for local community groups who often have to juggle work and family life, and are unfunded volunteers, lined up against publicly funded and well resourced developers. Consideration should be given to making available a pool of money to recognised groups of Interested Parties (IPs) to hire technical experts to enable proper scrutiny of the application. There is a huge inequality issue within the Examination process.

Examinations could be improved by:

1. A slightly extended examination process with more time between deadlines. The Government needs to understand the significant demands the system currently places on local communities who are either unpaid or under resourced. Interested Parties (IPs) should be given at least three weeks to prepare responses, and flexibility should be built in, to allow for the workloads and demands of everyday life.
2. Holding more hearings in the evenings after people have finished work
3. Provide hard copies of examination documents for Interested Parties who are involved with making submissions up to a certain level for free
4. Better document accessibility, including searchable documents

5. A way of tagging IPs when they are mentioned in submissions or their evidence is rebutted to allow them to remain fully engaged with the process

5. Where a development consent order has been made, what impediments are there to physically implementing a project which could be removed? (no more than 300 words)

The Planning Inspectorate should be the decision maker for National Highways NSIPs, not the Secretary of State (SoS), as the SoS is the single shareholder of National Highways (NH). The SoS decides which schemes he will fund through his Road Investment Strategy (RIS) and it is the SoS who sets the RIS and tells NH which schemes he wants them to progress. The SoS is therefore both applicant and decision maker.

There have been several instances recently where PINS have recommended against approval of DCO applications, only for the SoS to overrule the recommendations of PINS and approve the DCO. This happened most notably at the A303 Stonehenge scheme in 2020. Save Stonehenge World Heritage Site were then forced to judicially review this decision. The High Court agreed with PINS and SSWHS, and the DCO was quashed. By overruling PINS, the SoS has caused considerable and unnecessary delay and expense. The SoS must either accept the recommendations of PINS, or PINS should be the final decision maker, to avoid unnecessary legal challenges.

The period to challenge a DCO decision should be extended from 6 weeks to 12 weeks as the decision letter and Examining Authority's report are long and complex. It is important not to rush into legal action, and this should be carefully considered.

6. How might digitalisation support the wider improvements to the regime, for example are there any specific aspects that you feel could benefit from digital enhancements? (no more than 300 words)

The PINS website could be better organised. Currently it is not possible to search the hundreds of documents with keywords. It is only possible to search the titles which often do not reflect the content.

Files can often be huge and take a considerable time to load / download, especially maps. Sometimes the files are so large they can cause computer systems to crash or freeze. Larger files, such as maps, should be able to be compressed without losing quality and this should be a requirement for promoters.

When documents are uploaded they should have their library number attached to the title to enable ease of searching.

There should be a way of tagging (contacting) IPs when they are mentioned in submissions, requested to respond to questions, or their evidence is rebutted to allow them to remain fully engaged with the process.

All hearings should be livestreamed with recordings available immediately after (not several days as at present as this reduces the time IPs have to respond to what is said).

7. What issues are affecting current NSIPs that would benefit from enhanced cross-government co-ordination including government departments and arms-length bodies? (no more than 300 words)

The Climate Change Committee should be asked to comment on all NSIP applications and their compliance with climate change law and targets. Currently there is no statutory body that is tasked with championing climate change at the planning consent stage. It should not be left to small NGOs like Transport Action Network to do this important scrutiny.

Other statutory bodies (such as Natural England and the Environment Agency) are under funded and often do not have the resources or capacity to respond adequately, or sometimes at all. Responding to NSIP consultations and DCO applications should be budgeted for, and additional funding ringfenced for this important work.

8. Does the NSIP regime successfully interact with other consenting and regulatory processes and the wider context within which infrastructure projects operate? (no more than 300 words)

The NSIP regime needs to be able to respond to rapidly changing policy and law on climate change. Currently the Climate Change Committee submits annual progress reports to Parliament about the Government's ability to meet its climate change targets (the five-yearly carbon budgets) under the Climate Change Act 2008. There is also the need to help the UK meet its Nationally Determined Contribution of a 68% cut in emissions by 2030 on 1990 levels as part of the Paris Agreement. The NSIP regime needs to reflect this reporting process and system of accountability, and treat climate change with the urgency that it requires. As carbon budgets are adjusted and legislated for, the NSIP regime needs to require developers to show how their projects will contribute to rapidly reducing carbon emissions in line with these commitments.

9. Are there areas where limits in the capacity or capability of NSIP applicants, interested parties and other participants are resulting in

either delays or adversely affecting outcomes? (no more than 300 words)

See our comments under questions 3 and 4 where the capacity of civil society groups and local communities is often overwhelmed by the sheer volume of documentation that is thrust into the Examination by the developer. This is undermining the proper scrutiny of the schemes as while Examining Authorities can and do do a good job, they can be hampered by lack of local knowledge or technical expertise which may only come through an Interested Party raising something as an issue.

Prior to the examination, there are often significant delays to the application process because National Highways do not spend enough time to properly prepare their supporting evidence base and as a consequence documentation can be littered with errors and highly misleading. They are then challenged and have to hold another consultation to overcome the deficiencies of the first, wasting vast amounts of time.

It would be far better to take the time to get things right, spending more time on engagement and openly exploring all options, rather than having decided prior to the process that a road is the only viable solution, when that is often not the case. This would create a much smoother path for any subsequent application.

The outcomes for active travel and public transport are often poor for road NSIPs. They are subject to box-ticking exercises with lots of crossings for active travellers, but with few convenient, attractive, safe or direct routes along and across the development. Public transport rarely gets any consideration at all, yet the extra traffic a new road creates could cause hold ups on the surrounding road network or when crossing the trunk road. It is nearly always argued it is not the responsibility of National Highways to do much more than replace what was there even when they make things worse.

10. Is there anything else you think we should be investigating or considering as part of our end-to-end operational review of the NSIP process? (no more than 300 words)

Carbon and cumulative impacts are not treated in a consistent way by National Highways, resulting in confusing DCO applications with inconsistent or incomplete carbon data and reporting. Seeing as climate change is the most critical environmental issue of our time, it is imperative it is treated with the clarity and urgency it deserves. In the short term, whilst the National Policy Statement for National Network (NPSNN) is being reviewed due to being outdated on climate change policy, it should be suspended (or at least the climate parts) whilst extremely high-carbon road projects are progressing through the DCO consent and Examination process.

Reducing carbon emissions should be given higher priority within the NSIP planning regime. The Planning Act and related regulations for NSIPs must include a statutory requirement for

NSIPs to demonstrate how they **reduce** carbon, and there should be a presumption against high-carbon infrastructure.

11. Please confirm how you interact with the NSIP regime?

We are a small campaigning organisation and national network that supports community groups and campaigners opposing road schemes, including National Highways NSIPs, so we are very well placed to understand the frustrations and challenges faced by communities when dealing with consultations and DCO applications for NSIPs. We respond frequently to NSIP consultations, pre-DCO application, and have registered as an Interested Party at a number of Examinations.

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Transport Action Network provides free support to people and groups pressing for more sustainable transport in their area and opposing cuts to bus services, damaging road schemes and large unsustainable developments

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