

## **Response to Consultation on Planning for new energy infrastructure: revised draft National Policy Statements**

Wildlife and Countryside Link, Land Use Planning Group, May 2023

### About Wildlife and Countryside Link:

Wildlife and Countryside Link is a coalition of 70 environmental organisations in England, using their strong joint voice for the protection and enhancement of nature.

This Link response is supported by: Bat Conservation Trust, Buglife, Bumblebee Conservation Trust, Campaign for National Parks, CPRE – The Countryside Charity, RSPB, The Wildlife Trusts, and Woodland Trust.

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### Responses to selected consultation questions:

#### **Critical national priority for OFW**

##### **1. Do you agree with the glossary definition for CNP?**

**No**

Link notes that the policy is actually set out at 3.8.8 to 3.8.21 of EN-3.

Previously, governments have been reluctant to define exceptional circumstances for the purpose of planning policy, instead relying on case-by-case judgement. Although the policy is designed to meet the urgent need to tackle the climate crisis through the roll-out of offshore wind energy at scale, it fails to recognise the significance of the ecological crisis by prioritising need over biodiversity impacts. It also sets a dangerous precedent for other types of NSIPs. It will incentivise developers to short-cut the mitigation hierarchy, leaving residual impacts to be unaddressed through avoidance or mitigation, particularly for non-HRA impacts. We are already seeing this happening with the routing of onshore connections through SSSIs without robust application of the mitigation hierarchy (for example, the Sea Link network reinforcement in Suffolk has chosen a site within the Leiston-Aldeburgh SSSI as its preferred landfall site).

Further, the definition of CNP Infrastructure is too broad and vague, for example including related network reinforcements. CNP Infrastructure must be truly exceptional to justify the policy. There must be a narrower and more precise definition, and the Examining Authority must have the power to decide parts of an NSIP that do not meet the criteria.

Applicants must demonstrate how all legal and policy requirements have been met, and in particular how the mitigation hierarchy has been applied, for example through consideration of alternative routes or designs. Adequate compensation must be secured where necessary, for non-HRA as well as HRA impacts, and compensation must be adequate not only in ecological terms, but secured legally and financially.

**2. Do you agree with the new guidance added to draft EN-1, draft EN-3 and draft EN-5 on the CNP for offshore wind, supporting onshore and offshore network infrastructure, and related network reinforcements? Specifically, do you agree that this policy will**

**a. support government ambitions to deploy up to 50GW of offshore wind by 2030, including up to 5GW of floating wind?**

**No**

Government ambitions to deploy up to 50GW of offshore wind by 2030 cannot be achieved at any price. It is clear from the Appraisal of Sustainability that significant negative effects are likely on biodiversity, protected sites and landscapes; biodiversity net gain must not be relied upon to mitigate this. The key issue is how to deliver ambitious net zero and renewable energy goals in a way which is complementary to the Government's ambitious biodiversity goals. As we have previously commented, the lack of an overarching spatial plan makes it impossible to properly assess the environmental impacts of NSIPs, or to choose the least environmentally-damaging options. This is particularly true in the marine environment, where there is no effective strategic spatial planning. Robust Strategic Environmental Assessment is needed at a scale greater than the project level, which must assess cumulative and transboundary effects.

The recent report by the National Infrastructure Commission, 'Delivering net zero, climate resilience and growth' (April 2023) recognises the importance of spatial plans for infrastructure in resolving questions of need and prioritising schemes. Link supports the NIC's call for such plans, where they exist, to be designated as spatial planning documents subject to public consultation and accompanied by the appropriate assessments including Habitats Regulations Assessments and Strategic Environmental Assessments. In sectors where clear spatial planning frameworks do not exist, such as energy generation, Link recommends that they should be urgently developed. As the NIC points out, more detailed spatial planning will be important in the future for supporting strategic environmental mitigation.

Link objects to the restrictions on alternative solutions (EN-3 3.8.19) which rule out the consideration of alternative locations or different ways of developing which result in lower generation capacity (such as by fewer turbines). A broad consideration of alternatives under the Habitats Regulations is key to avoiding biodiversity impacts. In the absence of an overarching spatial plan, it is not only good planning practice to consider alternative locations and different ways of developing, but it is legally questionable to restrict alternatives like this. Previously, NSIPs which would have had unacceptable impacts on biodiversity, such as the London Array, have been enabled to proceed after redesign in this way.

See also our comments in response to Q1 on the CNP.

### Need for new electricity network infrastructure

#### **6. Do you agree with new guidance added to Section 2.8 of draft EN-5 on the inclusion of strategic planning as a consideration to support the needs case for electricity network infrastructure?**

##### **Not sure**

Link agrees that a more strategic planning approach to electricity network infrastructure, which takes into account community and environmental impacts at an earlier stage, is welcome. However, such an approach needs to be spatial and needs to be subject to proper public consultation and assessment, which should allow the most environmentally positive (for both nature and climate) choices to be made. EN-5 needs to explicitly acknowledge the critical importance of strategic planning for environmental conservation.

As we state in our response to Q2, Link supports the NIC's call for spatial plans for infrastructure, where they exist, to be designated as spatial planning documents subject to public consultation and accompanied by the appropriate assessments including Habitats Regulations Assessments and Strategic Environmental Assessments. In sectors where clear spatial planning frameworks do not exist, including energy generation, Link recommends that they should be urgently developed.

### Other Comments

#### **8. Do you have any comments on any aspect of the draft energy NPSs or their associated documents not covered by the previous questions?**

##### Biodiversity net gain:

We welcome the updating of the biodiversity net gain section to reflect the provisions of the Environment Act 2021. We urge rapid progress of the work on developing biodiversity net gain for the marine environment. We note that under Schedule 15 of the Act that the Secretary of State will provide a biodiversity gain statement, to be incorporated in the NPS after further consultation. As noted in our previous consultation response, it is important that given the significant scale and duration of NSIPs, the ambition for biodiversity net gain should be at least 20%; the metric must be demonstrated to be fit for purpose to assess large-scale projects; biodiversity gain must be maintained in perpetuity; it must be additional to the mitigation hierarchy and not conflated with compensation measures; it must exclude irreplaceable habitats; there must be long-term post-implementation monitoring, and there must be no exemptions for any class of NSIPs.

##### Approach to environmental net gain:

Link welcomes the new reference to environmental net gain following the mitigation hierarchy at EN-1 4.5.1, and new text at 4.5.11. However, 4.5.4 seems to present environmental net gain as an alternative to biodiversity net gain, in contradiction to 4.5.11. Biodiversity is a fundamental component of the natural environment and must never be traded off against other environmental



objectives or seen as an alternative. 4.5.4 must clarify that wider gains for the environment are in addition to biodiversity gain.

Ancient woodland and irreplaceable habitats:

It is important to maintain strong and consistent policies for biodiversity and nature conservation across the Town and Country Planning Act 1991 and Planning Act 2008 regimes. Link welcomes the updated text on ancient woodland and ancient and veteran trees, which is now consistent with the NPPF, with one exception. By explicitly establishing need as a public benefit (footnote 190, EN-1), it appears that the NPS is weighting policy decisively in favour of development on ancient woodland. The NPS should be consistent with wording in the NPPF and ensure a strong level of policy protection for all irreplaceable habitats.

However, the NPPF tends to be revised more regularly than national policy statements, and a major revision is due in the next year which may further strengthen biodiversity policies. Consideration must be given to how the NPS can reflect the most up-to-date policy. This is particularly an issue for irreplaceable habitats such as ancient woodland and veteran trees. The Government is committed to improving protection following a review of implementation. The NPS should reflect the recommendations that come from the review, and be clear that the loss or deterioration of irreplaceable habitats should be wholly exceptional. It would also be helpful to reference Natural England/Forestry Commission standing advice on ancient woodland and veteran trees, which has useful detail to support decision-making.

Greenhouse gas emissions (GHG) emissions:

We welcome the broadening of carbon assessments to GHG assessments and the requirement for a greenhouse gas reduction strategy to be secured under the Development Consent Order. We particularly welcome the reference at EN-1 5.3.7 to the creation and preservation of carbon stores and sinks including through woodland creation, peatland restoration and other natural habitats. We also welcome the ruling out of new coal or large-scale oil-fired electricity generation as inconsistent with the transition to net zero.

However, we are deeply concerned that operational carbon emissions, such as from gas-fired electricity generation, are not to be assessed for individual NSIPs, and that their contribution to carbon budgets, net zero and international climate commitments will be managed only in an economy-wide manner. We do not have confidence that economy-wide measures, many of which may rely on untested policies, will be sufficiently effective to do away with the need for assessment of individual NSIPs. We therefore maintain our objection on this point.