

Response to Consultation on Draft revised national networks national policy statement

Wildlife and Countryside Link, Land Use Planning Group, June 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: Bumblebee Conservation Trust, Butterfly Conservation, Campaign for National Parks, CPRE – The Countryside Charity, Open Spaces Society, RSPB, The Wildlife Trusts, and Woodland Trust.

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Responses to selected [consultation questions](#):

4. In your view does the draft NNNPS provide suitable information to those engaged in the process of submitting, examining and determining applications for development consent for nationally significant infrastructure projects on the:

- **strategic road network?**
 - Strongly disagree

- **strategic rail network?**
 - Strongly disagree

- **strategic rail freight interchanges?**
 - Strongly disagree

Explain why, referring to specific sections of the NNNPS in your response.

The draft NNNPS and the process of developing it contain a number of flaws which seriously compromise its effectiveness in providing a suitable policy framework for NSIPs.

The lack of an **overarching strategic, spatial plan** for national networks (or even road and rail in isolation) is a fundamental problem for the NPS because it makes it harder for the Examining Authority and the decision-maker to determine if a specific project is the least environmentally-damaging option. This problem is exacerbated by the closing down of alternatives at the project

stage where an options appraisal process has already been carried out (paragraphs 4.18, 4.19). Robust Strategic Environmental Assessment is needed at a scale greater than the project level, which must assess cumulative effects; the Appraisal of Sustainability of the NPS is an inadequate substitute. The likely outcome is that projects will continue to be subject to legal challenge because the treatment of alternatives is inadequate.

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. Existing plans (such as the Road Investment Strategy) or options appraisal processes do not currently fulfil this purpose, so in sectors where clear spatial planning frameworks do not exist 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.

There is no **monitoring report** to show whether or not the outcomes delivered through the 2014 NNNPS have been achieved, and what evaluation, if any, has taken place. Without such an evaluation it is impossible to judge whether any shortcomings will be addressed by the new policy. For example, in respect of the Road Investment Strategy, the Office of Rail and Road's 2021-2022 monitoring report highlighted a number of concerns with National Highway's performance (including on biodiversity), although this did not address wider environmental concerns.

DfT has failed to follow the Treasury's Green Book 2022 for policy development which must process through development of a rationale, identification of **objectives**, options appraisal, monitoring and evaluation. The NNNPS claims a rationale but presents no objectives (unlike the 2014 NNNPS) and has limited the scope of the Appraisal of Sustainability to exclude alternatives that should have been considered (see our response to Q17).

Consultation with communities as currently conducted for highway NSIPs does not follow best practice according to the Cabinet Office guidance (2018) or the Gunning Principles. The NNNPS should set standards for early robust community participation with full information about the NSIP provided for the statutory consultation. Evidence submitted to the Transport Select Committee's 2023 inquiry on strategic road investment has drawn attention to particularly poor practice by National Highways in the cases of the A57 Link Roads and the Arundel Bypass.

The draft NNNPS should be **rural-proofed** to ensure that its policies do not disadvantage rural areas but take account of rural circumstances and needs. For example, it should consider how changes to the strategic road network can increase traffic on local rural roads, increasing accidents and the request for intrusive measures such as average speed cameras which blight natural beauty.

5. Does the draft NNNPS adequately set out:

- **the need for developing national networks?**
 - Strongly disagree

- **our policy for addressing the need for the development of national networks?**
 - Strongly disagree

Provide comments on improvements referring to specific sections of the NNNPS in your response.

Link notes that the statement of need is less focused on congestion and network overcrowding, and now identifies a range of challenges including supporting the Government’s environment and net zero priorities. However, the statement “that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as a fully integrated system” (3.22) is problematic, and meaningless as a planning policy.

Need is so broadly defined that any national network NSIP anywhere could fulfil need, even if it only supported one driver of need, such as supporting economic growth. The approach of the NPS seems to be to allow enough flexibility so that projects can be brought forward to tackle a diversity of issues, but this is little different from an ‘anything goes’ approach. Nor are the drivers of need all equal: in our view, all projects should be driven by environment and net zero priorities.

The statement of need has the effect of being the overriding policy consideration and trumping all other matters. This creates a problem for the protection of environmental assets, such as irreplaceable habitats, as the statement of need can be interpreted as demonstrating the wholly exceptional reasons for development under the policy test. The need for national networks NSIPs is highly location-specific. Without a strategic, spatial plan (see our response to Q4), need must be assessed on a case-by-case basis and the NNNPS must be clear that a project does not necessarily meet the wholly exceptional test (or any other similar policy test) just because it is an NSIP. We make further comments on the irreplaceable habitats policy under Q14.

An ‘integrated’ approach which prioritises ‘win-win’ solutions, where environmental objectives are always delivered alongside other goals, is also likely to have lesser adverse effects on European sites. We therefore disagree with the conclusion of the Habitats Regulations Assessment that no suitable alternative solutions exist; they just have not been tested properly (see Q19).

Our conclusion is that in its approach to need and alternatives, the NNNPS is fundamentally flawed. In the context of a climate and ecological crisis, we need an alternative vision for national networks which places the achievement of environmental goals (for biodiversity and net zero) at its centre.

6. In your view, is there any information missing from the “General principles and considerations” chapter?

- Yes

7. If yes, provide comments on missing information, referring to specific sections of the NNNPS in your response.

We welcome the section on biodiversity net gain. However, the wording of 4.2.1 “in conjunction with the mitigation hierarchy” is unclear. The mitigation hierarchy should always be applied before biodiversity net gain, so that any net gain is additional to what must be provided by way of mitigation or compensation. A similar issue arose in the first draft of the Energy NPS (EN-1) which has been corrected in the second draft.

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. 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.

8. If yes, there is an option to provide any supporting evidence of your view (using file upload function)

No Link response.

9. Does the NNNPS support development of:

- freight facilities on the strategic road network, including lorry parking facilities?
- freight interchange infrastructure that encourages modal shift from road to rail?

Explain why, referring to specific sections of the NNNPS in your response.

No Link response.

10. In your view, are the changes to the strategic rail freight interchanges section useful for the NNNPS?

Explain why, referring to specific sections of the NNNPS in your response.

No Link response.

12. Does, in your view, the NNNPS adequately address:

- carbon considerations in the development of national networks?
 - Strongly disagree
- wider environmental targets in the development of national networks?
 - Disagree

Explain why, referring to specific sections in your response.

Carbon

As paragraph 2.18 notes, transport is currently the largest contributor to UK domestic greenhouse gas emissions, and the vast majority of carbon emissions from construction and operation of the strategic road network is generated by the vehicles that travel on it (2.24).

Paragraph 5.29 requires a whole life carbon assessment to measure (erroneously) greenhouse gas (GHG) emissions at every stage of the proposed development. Carbon assessments should be broadened to GHG assessments; we welcome the requirement for a GHG reduction strategy to be secured under the Development Consent Order, which is consistent with the approach in the energy NPSs (EN-1). In our response to EN-1 we particularly welcomed reference to the creation and preservation of carbon stores and sinks including through woodland creation, peatland restoration and other natural habitats, and a similar reference should be made in the NNNPS.

However, we are deeply concerned that a net increase in operational carbon emissions (such as from road users), is not in itself reason to refuse consent for individual NSIPs (5.37), and that they will be managed in an economy-wide manner to ensure consistency with carbon budgets, net zero and international climate commitments. We do not have confidence that economy-wide measures, many of which may rely on untested policies, will be sufficiently effective or timely to do away with the need for such an assessment for individual NSIPs.

Wider environmental targets

We welcome references to the Environment Act 2021, the Environment Improvement Plan 2023 and related plans and targets, and many of the relevant environment policies in sections 4 and 5 of the NNNPS. However, in the light of the climate and ecological crisis the NNNPS should go further in integrating them into all policy and development decisions. There needs to be a stronger steer on avoiding damage to and loss of biodiversity at both the strategic and project planning stages of development, and for the mitigation hierarchy to be robustly applied before consideration is given to biodiversity net gain (see Q7).

Local Nature Recovery Strategies play a crucial role in informing strategic application of the mitigation hierarchy, in order to avoid severance and impacts on important sites, species and corridors for nature. Environmental targets not only require the strong protection of habitats, but their enhancement, restoration or creation. Projects should therefore not only avoid damage or threaten habitats or species of principal importance and avoid degrading the ecological functioning of Local Nature Recovery Networks, but be required to enhance them as well. Detailed mitigation, management and monitoring plans should be submitted by scheme promoters for public examination.

Currently, the NNNPS sets out no specific environmental monitoring requirements and should draw on the wording of the draft energy NPS to address this (EN-3, Future monitoring requirements paragraphs 3.8.96-3.8.100).

13. In your view, is there any information missing from the Generic impacts chapter (chapter 5)?

- Yes

14. If yes, provide comments on missing information, referring to specific sections of the NNNPS in your response.

Biodiversity and nature conservation

This section generally covers an appropriate range of issues and is consistent with policies for biodiversity and nature conservation contained in the current National Planning Policy Framework (NPPF). However, we note the following issues:

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. 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 NNNPS can reflect the most up-to-date policy. This is particularly an issue for irreplaceable habitats such as ancient woodland and veteran trees, which are impacted by around 40% of consented road NSIPs. The Government is committed to improving protection following a review of implementation. The NNNPS 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.

Some sites of regional and local biodiversity interest are of equivalent ecological value to Sites of Special Scientific Interest, and all could form an important contribution to the Government's objective of protecting and effectively managing 30% of land for nature by 2030. The final sentence of paragraph 5.60 should be deleted; given the statement of need made elsewhere in the NNNPS it is unnecessary and further undermines their protection.

Landscape and visual impacts

There is a similar issue here with ensuring that the NNNPS reflects the most up-to-date policy and legislative requirements. The draft NNNPS highlights the need for applicants to comply with additional duties in National Parks and AONBs (paragraph 5.155), but there is a growing body of evidence that the existing 'duties of regard' as they are known are too weak. In its response to the Glover Landscapes Review the Government acknowledged that the current duties are too weak and have allowed damaging practices to occur and proposed that they should be strengthened. Until such time as statutory duties are strengthened to fulfil the Government's commitment, the NNNPS should make it clear that applicants should not only have regard to the statutory purposes of National Parks and AONBs but should be seeking to further those purposes. This would help to place the achievement of environmental goals at the centre of the NNNPS (see our response to Q19).

The section titled “Dust, odour, artificial light, smoke, steam” (paragraphs 5.111-5.119) should specifically cover the protection of existing dark skies. Darkness at night is a key characteristic of rural areas and light pollution can have a profound impact on wildlife and on humans.

15. If yes, there is an option to provide any supporting evidence of your view (using file upload function).

No Link response.

16. Do you agree with the findings of the appraisal of sustainability?

- Disagree

17. Explain why, referring to specific sections of the appraisals of sustainability in your response.

The main value of the appraisal of sustainability (AoS) should be in identifying the most sustainable option for the NPS and suitable mitigation measures to minimise adverse effects. The AoS compares an approach which prioritises environmental sustainability objectives with an approach which prioritises wider economic and levelling up benefits, and unsurprisingly concludes that a ‘balanced’ approach (the NNNPS) is preferred. It admits that the alternative scenarios are not vastly different in their approach to how issues and investment are prioritised and states that “different issues need to be balanced at different locations on the National Networks; an approach which supports this flexibility will help promote sustainable growth.”

This ‘anything goes’ approach to appraisal does not achieve anything useful. A more helpful and sophisticated approach might have been to firstly, include a ‘do nothing’ scenario (ie the existing NNNPS as a baseline) and then to base further scenarios around the five drivers of need identified in the NNNPS. The problem with a ‘balanced’ approach is that it inevitably involves a trade-off of environmental objectives against other objectives. Given the current ecological and climate crisis this is not an appropriate approach, especially as environmental health is foundational to economic and social wellbeing, not simply another objective. Instead, the NNNPS should pursue an ‘integrated’ approach which prioritises ‘win-win’ solutions, where environmental objectives are always delivered alongside other goals.

We disagree with the finding of only minor negative effects for biodiversity and geodiversity, given the recognition that there are likely to be some occasions where significant harm cannot be avoided or mitigated. We welcome the recommended mitigation measures:

- Stronger direction regarding the protection of irreplaceable habitats
- Include a detailed policy around the marine environment regarding its protection and requiring opportunities and enhancement in lieu of a formal requirement of net gain

However, it is not clear if these measures are reflected in the draft NNNPS (and see our responses elsewhere on the protection of irreplaceable habitats).

18. Do you agree with the findings of the habitats regulations assessment?

- Disagree

19. Explain why, referring to specific sections of the HRA in your response.

We agree with the assumption that adverse effects to the integrity of European sites could occur, that could not be mitigated. We agree that individual NSIPs must complete project-level HRA as appropriate to their potential to cause Likely Significant Effects to European sites, and that the findings of this HRA should not be taken to predetermine the potential for individual NSIPs to lead to effects on any European site, or to predetermine the outcome of any individual project HRA.

However, in our response to Q17 we have noted our reservations about the approach to alternatives used in the Appraisal of Sustainability (AoS), which were also used in the HRA. We agree with the HRA finding that Alternative 1 is considered likely to better meet the environment objectives and therefore is considered likely to have lesser adverse effects on European sites relative to the revised NPS. Alternative 1 is considered technically, legally and financially feasible. The only reason it is rejected is that it does not fully achieve all the objectives that must be addressed by the revised NPS, and yet the AoS states that the alternatives are not vastly different.

An 'integrated' approach which prioritises 'win-win' solutions, where environmental objectives are always delivered alongside other goals, is also likely to have lesser adverse effects on European sites. We therefore disagree with the conclusion that no suitable alternative solutions exist; they just have not been tested properly.

Our conclusion is that in its approach to need and alternatives, the NNNPS is fundamentally flawed. In the context of a climate and ecological crisis we need an alternative vision for national networks which places the achievement of environmental goals (for biodiversity and net zero) at its centre.

20. The Public Sector Equality Duty (PSED) requires public bodies to consider the needs of people in relation to characteristics protected by the Equality Act 2010. Development applications must demonstrate due consideration for the PSED and wider obligations under the Act.

The NNNPS supports applicants to consider this through its policies, including but not limited to accessibility, community severance and good design (paragraph 4.77).

Do you think the NNNPS could further support the aims of the PSED, particularly relating to the characteristics protected by the Equality Act 2010?

- Don't know

21. If yes, please provide details of how the NNNPS could further support PSED aims, specifying the protected characteristic where possible and providing any supporting information you wish to be considered.

No Link response.

22. Any other comments?

No Link response.