House of Commons
Transport Committee

The proposal for a National Policy Statement on Ports

Fifth Report of Session 2009–10

Report, together with formal minutes, oral and written evidence

Ordered by the House of Commons
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The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Transport and its associated public bodies.

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1 Introduction

1. National Policy Statements (NPS) are a key component of the new planning system for nationally significant infrastructure projects, introduced by the Planning Act 2008. The Act stipulates that a proposal for a National Policy Statement will be subject to public consultation and allows for parliamentary scrutiny before designation as national policy by the Secretary of State. Parliament has decided that scrutiny will be undertaken by a departmental Select Committee or an ad hoc Select Committee. If a Select Committee recommends that an NPS be the subject of a debate in the House, the Government has undertaken to allow time for such a debate.

2. On 9 November 2009, the proposal for a National Policy Statement for Ports was laid before Parliament. Along with a suite of six National Policy Statements for energy, laid the same day, the Ports NPS was the first NPS to be published. The Liaison Committee accepted our proposal to undertake the scrutiny of the Ports NPS. Under section 9 of the Act, the process of scrutiny must be completed within the ‘relevant period’ as specified by the Secretary of State. The Government has said that “In practice the relevant period will usually be about six months”. In reality, our Committee has had barely four months to complete its work.

3. This timeframe was the result of the Department for Transport issuing the draft Ports NPS later than planned and also due to the impending General Election. We are disappointed that the Department failed to issue the draft NPS in sufficient time to allow the six months for scrutiny promised by the Government.

4. Once an NPS is designated by the Government, it becomes the primary guidance on which the Infrastructure Planning Commission (IPC) must base its decisions regarding applications for major developments—in this case, for ports—and key guidance for other decision-makers. An NPS will, as the title implies, state the Government’s policy on development and decision-makers will be required to take this policy into account when determining a planning application.

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1 The Liaison Committee of the House of Commons (the Committee of Select Committee Chairmen) can allocate a National Policy Statement (NPS) to one of five Select Committees for scrutiny. The Committees are: Communities and Local Government; Energy and Climate Change; Environment, Food and Rural Affairs; Transport; and Welsh Affairs. Alternatively, the Liaison Committee can recommend the appointment of an ad hoc National Policy Statement Committee, specifically to scrutinise a particular NPS. See Standing Order 152H of the House of Commons, December 2009 Edition.

2 Liaison Committee, Fourth Special Report of Session 2007–08, Planning Bill: Parliamentary Scrutiny of National Policy statements, HC 1109, Appendix, p 4

3 Department for Transport, Draft National Policy Statement for Ports, November 2009

4 In his written ministerial statement National Policy Statement for Ports, 9 November 2010 (col 10WS), the Secretary of State for Transport stated that the relevant period began on 9 November 2009 and ends on 6 May 2010. The Planning Act 2008 requires the Secretary of State to respond within the relevant period. Standing Order 152H of the House of Commons, December 2009 Edition states that the designated date by which the committee shall report in relation to any proposal for a national policy statement is the thirty-ninth day before the expiry of the relevant period. The Transport Committee must, therefore, report by 28 March 2010.

5 Ian Wright MP, Under-Secretary of State for Communities and Local Government, HC Deb, 20 May 2009, col 1532

6 The Department for Communities & Local Government, Infrastructure Planning Commission: Implementation route map, December 2009, para 30 states “The first tranche—the NPSs on Non-Nuclear Energy and Ports—are currently scheduled for publication and consultation in the summer [2009] and designation in early 2010.”
5. As soon as the proposal for the Ports NPS was published, we announced our inquiry and invited written evidence. We said that we would consider four main areas:

a) How did interested parties respond to the questions in the Department’s consultation?

b) Do the general planning principles set out in the proposal for a Ports NPS form a coherent, appropriate, proportionate and practical framework within which the IPC can assess future port planning applications?

c) Are the sustainability and environmental criteria outlined in the draft Ports NPS appropriate, proportionate and practical?

d) Have issues or principles which should have been included in the draft Ports NPS been left out?

6. In addition to evidence sent to us directly, we arranged for responses sent to the Department for Transport to be forwarded to us. We received 59 written submissions from a wide range of organisations:

- Port operators and businesses;
- Roads, rail and freight organisations;
- Planning bodies;
- Local government and economic development bodies;
- Government-sponsored environmental bodies;
- Wildlife and environmental campaign groups;
- Organisations and individuals opposed to port development in Dibden Bay, and
- Others.

7. We took oral evidence from many of these groups, concluding with questions to the IPC and the Minister for Ports at the Department for Transport, Paul Clark MP. We are grateful to all who contributed to our inquiry. We are particularly grateful to our specialist adviser on planning, Kelvin MacDonald, who assisted us in our inquiry.7

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7 Kelvin MacDonald was also the Specialist Adviser to the Energy and Climate Change Committee for its inquiry into the energy National Policy Statements. He declared the following interests—Senior Visiting Fellow: Department of Land Economy, Cambridge University, and Member of the Board of Trustees of Shelter.
2 Port development within the new planning framework

8. For many years, there have been calls from business interests and others for reforms to the way applications for major infrastructure projects are handled. Proposals for large-scale projects sometimes resulted in lengthy and expensive public inquiries at which matters of national policy were debated alongside the local impacts of an individual scheme. Further delay could arise if, following the recommendation of the inspector, the final decision from the Secretary of State was not delivered promptly.

9. The inquiries into Heathrow Terminal 5 and Sizewell B nuclear power station are high-profile examples of long and costly inquiries.8 The proposal for a new port at Dibden Bay, Southampton, took almost four years to determine and cost the applicant £45 million, only to be turned down by the inspector and the Secretary of State.9 Sir Rod Eddington, in his Transport Study,10 and Kate Barker, in her review of the land use planning system,11 recognised these problems and recommended changes to the planning system.

10. The Government set out its proposals for modifying the planning system in the 2007 Planning White Paper,12 subsequently enacted by the Planning Act 2008. The main features of the new planning system are:

a) A separation of policy-making from decision-making;

b) The introduction of National Policy Statements, in which the Government formally sets out its policy on the need for particular types of nationally significant infrastructure;

c) A legal definition of nationally significant infrastructure;

d) The creation of the IPC, which will take the final decisions on applications for nationally significant infrastructure, on the basis of policy set out in designated NPSs;

e) Clearer criteria for applicants regarding the consultation and information required by the IPC, before an application is submitted to the IPC, and

f) A requirement that the IPC reach decisions within a specified timeframe.

11. The IPC was established in October 2009 and began accepting planning applications for national infrastructure projects on 1 March 2010. It must take decisions in accordance

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8 Heathrow Terminal 5 took 86 months between submission of the planning application and approval by the Secretary of State. (HMG, The Barker Review of Land Use Planning—Interim Report Executive Summary, 2006.)


with the policy guidelines contained in NPSs. This does not mean it will approve all proposals that appear to be consistent with government policy. It will reject them if it decides that the adverse impacts would outweigh the benefits, or if they fail against the criteria set out in section 104 of the Act. Until an NPS has been designated for a particular type of nationally significant infrastructure, the IPC will make recommendations to the Secretary of State on individual planning applications that it receives. The Secretary of State makes the final decision. Once an NPS has been designated for a type of infrastructure, the IPC will become the final decision-making body for applications of this kind.

12. The “relevant quantities” (thresholds), above which a development constitutes nationally significant infrastructure, are set out in section 24 of the Planning Act 2008. For ports, a development is defined as nationally significant where the estimated incremental annual capacity exceeds:

- 0.5 million teu for a container terminal;
- 250,000 movements for roll-on roll-off (ro-ro) traffic;
- 5 million tonnes for other (bulk and general) traffic, or
- a weighted sum exceeding these figures taken together.

To put these figures into perspective, in 2007 the Port of Liverpool handled 0.7 million teu while Felixstowe handled 3.3 million teu.

**National Policy Statements**

13. The Government has said that it intends to issue NPSs on seven types of national infrastructure by the end of 2011:

<table>
<thead>
<tr>
<th>Type of infrastructure</th>
<th>Expected publication date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ports</td>
<td>Issued 9 November 2009</td>
</tr>
<tr>
<td>Energy policy (six NPS)</td>
<td>Issued 9 November 2009</td>
</tr>
<tr>
<td>National networks</td>
<td>Expected March 2010</td>
</tr>
<tr>
<td>Waste water</td>
<td>2010</td>
</tr>
<tr>
<td>Hazardous waste</td>
<td>2010</td>
</tr>
<tr>
<td>Water supply</td>
<td>2010</td>
</tr>
<tr>
<td>Airports</td>
<td>2011</td>
</tr>
</tbody>
</table>

*Source: DCLG, Infrastructure Planning Commission: Implementation route map, December 2009*

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13 These include reaching decisions that would be in breach of the UK’s international obligations or statutory duties, be unlawful or contrary to regulations about how decisions are to be taken.

14 0.5 million teu is a twenty-foot equivalent unit (the standard measure of container volume); forty-foot containers (2 teu) are increasingly common.

14. The Planning Act 2008 stipulates that every NPS must cover three elements:

a) design;

b) justification, and

c) climate change.16

The Planning Act 2008,17 the Planning White Paper and guidance from the Communities and Local Government set out other things that an NPS may contain, such as the Government’s objectives for the development of nationally significant infrastructure, and how this could be achieved in a way that integrated economic, environmental and social objectives.

**Ports NPS—overview**

15. The *Draft National Policy Statement for Ports*, issued by the Department for Transport covers only England and Wales. The Scottish Executive and the Northern Ireland Executive have devolved responsibilities for ports. The IPC may also approve development associated with port proposals in England, such as road improvements linked to a port, provided that it is submitted at the same time as the main application. For proposals in Wales, the Welsh Assembly Government remains responsible for approving associated development.

16. The Ports NPS is a 75-page document in two parts:

a) Part 1 sets out the purpose and scope of the Ports NPS, the Government’s policy on planning for ports and its assessment of the need for new port infrastructure up to 2030.

b) Part 2 provides guidance to “decision-makers” on the assessment of planning applications for port development. This includes consideration of the benefits, impacts and alternatives. Factors to be taken into account include economic impacts, environmental impacts, climate change and transport. The environmental considerations and legal framework protecting coastal and marine habitats are particularly important.

The Ports NPS is accompanied by an Appraisal of Sustainability.18 (See Chapter 5.)

17. It would be easy to gain the impression that NPSs are largely or exclusively concerned with those large infrastructure projects on which the IPC will make decisions. This, however, would be wrong, particularly in the case of ports. The draft Ports NPS refers to guidance for decision-makers. Unhelpfully, it does not explain who decision-makers may be. Clearly it includes the IPC. However, some of our witnesses pointed out that the thresholds defining nationally significant port infrastructure have been set very high—

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16 S5(6), S7(7), S7(8)
17 S5(5)
perhaps too high\(^{19}\)—and, therefore, very few port applications to the IPC are anticipated.\(^{20}\) The IPC confirmed this to be the case.\(^{21}\)

18. The Department for Transport states that the NPS “may also be a relevant consideration for the Marine Management Organisation […] which will in future decide other [smaller] port development proposals.”\(^{22}\) In fact, most future port development applications are likely to be sub-threshold applications which will be handled by local planning authorities and the Marine Management Organisation (MMO).\(^{23}\)

19. The MMO was established under the Marine and Coastal Access Act 2009 and the Act sets out its role. Amongst other functions, it will take over from the Department for Transport as decision-maker for offshore sub-threshold port planning applications. The NPS will be a material consideration for the MMO, which will also advise the IPC on marine spatial planning. The MMO comes into being on 1 April 2010 and will start to advise the IPC on FEPA\(^{24}\) Licences and CPA\(^{25}\) consents; during 2010, it will also begin to handle Harbour Order applications.\(^{26}\)

20. There is no mention in the Ports NPS of the role of local authorities as the local planning authority for smaller port developments. We queried this with the Department which confirmed that local authorities will continue to make decisions on planning applications for land-side port development which fall below the thresholds set in the Act.\(^{27}\) The NPS will, therefore, be a material consideration for local planning authorities.

21. As a result of our inquiries, it has become apparent that the Ports NPS is a material consideration for a number of decision-makers, including the Secretary of State for Transport, the IPC, MMO, local planning authorities and the Welsh Assembly Government.\(^{28}\) We are concerned that the absence of any explanation of which bodies may be included may have reduced the effectiveness of the Department’s consultation. The Ports NPS should state which organisations, in addition to the Infrastructure Planning Commission and the Marine Management Organisation, are likely to be decision-makers on port development applications and, therefore, will be affected by the NPS. It should particularly clarify the role of local authorities with regard to port development.

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19 Qq 165-166
20 It is not clear on what basis these thresholds were decided and no amendments were made to the quantities during the Committee stages of the Planning Bill.
21 Q 258
22 Department for Transport, Draft National Policy Statement for Ports, November 2009, para 1.2.1
23 The MMO was established under the Marine and Coastal Access Act 2009. It comes into existence on 1 April 2010.
24 Food and Environment Protection Act 1985
25 Coast Protection Act 1949
26 Harbour Orders, previously the responsibility of the Department for Transport, may be required to amend or extend port operations, and other purposes. Some have involved significant delay. See, for example, the case of Bristol Ports, cited in South West Regional Committee, Transport in the South West, First Report of Session 2009-10, HC 146-II, February 2010, Q 90 and Ev 165.
27 Ev 219
28 The Planning Inspection Service may also be a decision-maker with respect to planning appeals.
The adequacy of the Ports NPS as a basis for decision-making

22. It is important that the Ports NPS provides an adequate basis for decision-making. If it fails to do so, it—and decisions based upon it—may be challenged, perhaps successfully, through judicial review. This may lead to uncertainty, additional cost and delay—the very things the new planning system was intended to eliminate. The NPS also needs to provide clarity in order to assist all those involved with port development proposals, including the proponents, possible objectors and, not least, those who have to make decisions. A further aspect is public credibility and trust: whereas, in previous planning inquiries, objectors have sometimes challenged Government policy—for example, on the wisdom of building new roads or the need for additional airport capacity—such challenges will no longer be valid as the policy will be taken as given in the NPS. The process of designating an NPS and the content of the NPS must, therefore, command public support.

Table 2: England’s 10 international gateway ports, as identified by the Department for Transport

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<thead>
<tr>
<th>Ports ranked by traffic in million tonnes (Department for Transport, 2006)</th>
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<tbody>
<tr>
<td>1 Grimsby &amp; Immingham</td>
<td>66,279</td>
</tr>
<tr>
<td>2 London</td>
<td>52,739</td>
</tr>
<tr>
<td>3 Tees &amp; Hartlepool</td>
<td>49,779</td>
</tr>
<tr>
<td>4 Southampton</td>
<td>43,815</td>
</tr>
<tr>
<td>5 Liverpool</td>
<td>32,258</td>
</tr>
<tr>
<td>6 Felixstowe (including Harwich)</td>
<td>32,258</td>
</tr>
<tr>
<td>7 Dover</td>
<td>25,144</td>
</tr>
<tr>
<td>8 Hull (including Hull and Humber)</td>
<td>21,867</td>
</tr>
<tr>
<td>9 Medway</td>
<td>15,417</td>
</tr>
<tr>
<td>10 Bristol</td>
<td>11,178</td>
</tr>
</tbody>
</table>

Source: Department for Transport, Delivering a Sustainable Transport Strategy, November 2008, Table 4.1

Existing ports policy

23. The Government states that NPSs will not contain new policy. Yet we have not been able to identify such a requirement in the Planning Act 2008 nor any other legislation. Moreover, Ministers have not always been clear about this. The Department says in its...
consultation document that the Ports NPS “restates the market-led policy laid out in the Interim Report for the Ports Policy Review”. However, the 2007 policy report was, as its title suggests, interim. It was only 35 paragraphs long and published only on the Department for Transport web-site. Hard copies of the document were not produced. It stated that the Government would “produce a further substantive statement later this year [2007], alongside the Department’s response to Eddington and Stern”. It also stated that the Department would issue an updated version of the Project Appraisal Framework for Ports. Yet it has done neither of these things. The Government now appears to say that the Ports NPS is the final statement. This raises the question of what the Government originally intended to add or clarify in the further substantive statement that never saw the light of day. Unfortunately, the Minister, Paul Clark MP, was unable to provide any clarity on this issue. This is not simply a matter of semantics: if the NPS is to be based on existing policy, it is important that that policy is substantive, has been subject to consultation and is clearly established. The Department for Transport’s current consultation on the draft Ports NPS is designed to test the fitness for purpose of the document and not to invite discussion of policy. It appears that the Government sees the process of designating an NPS as a means to consolidate existing policy rather than to introduce new policy. This means that the existing policy must have been properly developed, consulted upon and its final status made clear. The Ports NPS process has been unsatisfactory because the underlying policy was of only interim status and promised documents have not been produced. The Government should explain why it deemed it unnecessary to publish the further, substantive statement of ports policy in 2007 as well as the Project Appraisal Framework for Ports, as previously announced by the Department.

24. Witnesses, from industry, the legal profession and the Local Government Association among others, told us that the evidence-base for the Government’s policy on port development was ‘thin’, at least as far as referenced in the draft NPS. This is not simply a matter of freight forecasts, but of the evidence base underpinning the overall policy approach. Why, for example, should port development be left entirely to the free market? Nowhere does stated Government policy on ports answer this question satisfactorily, and the IPC has commented that the policy is not stated sufficiently clearly in the draft NPS. The IPC is also concerned that the summary of port policy is mixed with other guidance and is not sufficiently distinct. The Welsh Assembly Government takes a different position to the Department for Transport on investment of public funds in ports. Whereas the Department supports a market-led approach, the Welsh Assembly Government supports greater government engagement. The Welsh Affairs Committee supports a more strategic approach and notes particularly the potential economic benefits to Wales from the cruise liner sector. We recommend that the Department provide a clear and distinct summary of its policy for ports in the Ports NPS. It also needs to provide additional

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32 The Project Appraisal Framework for Ports is intended to assist applicants for port development to present relevant and consistent information and to enable a consistent approach to appraisal across transport modes. It is based on the appraisal framework for other transport modes and takes account of the particular circumstances for ports.
33 Department for Transport, *Developing a Ports NPS: Consultation document*, November 2009, para 6
34 Q 355
35 Q 5
evidence and references to the material that underpins its overall policy on port development, including the 2007 ports policy review and any significant subsequent material.

The need for further port development

25. The Ports NPS states that:

[...] the Government believes that there is a compelling need for substantial additional port capacity over the next 20–30 years, to be met by a combination of development already consented, and development for which applications have yet to be received.\(^{37}\)

This need is justified on the basis of:

a) forecasts of substantial growth in port traffic;

b) the need to provide competition and flexibility, and
c) the diverse range of port uses that are likely to arise.

26. There is considerable debate about the robustness and currency of the forecasts of future port freight demand contained in the Ports NPS. The forecasts were undertaken for the Department for Transport by MDS Transmodal in 2007, using a 2005 base. The underlying basis of the forecasts is the relationship between growth in GDP and port freight demand. The headline figure is a 182% increase in container traffic between 2005 and 2030. The Department acknowledged in the NPS that port traffic had declined since the forecasts were made. However, the Department stated that this decline was due to the recession, and is likely to be temporary. It claims that growth will return to the long-term trend predicted by MDS Transmodal, reaching the projected 2030 levels “a number of years” later.\(^{38}\) The Department commissioned Professor Mike Bell to peer-review the forecasting methodology. He has suggested that there may be some ‘rebalancing’ of the UK economy, with more manufacturing repatriated to the UK as a result of the lower value of sterling, leading to fewer imports and, thus, less demand for port capacity. MDS Transmodal and others have pointed to the higher than average growth in port traffic prior to the recession when unitised cargo increased by 15% between 2005 and 2007.\(^{39}\) They stand by their long-term growth-rate forecast.

27. Mr Trimmer, representing the Royal Institution of Chartered Surveyors, said:

[...] it seems odd in the middle of a very severe downturn that forecasts from the 2005 review and 2007 are still relied upon with the view that they may not be reached in 2030 but, sooner or later, they may well get there. I would have thought that they

\(^{37}\) Department for Transport, Draft National Policy Statement for Ports, November 2009, p 15

\(^{38}\) Department for Transport, Draft National Policy Statement for Ports, November 2009, p 13

\(^{39}\) MDS Transmodal, Forecasting the demand for Ports, presentation at Department for Transport Ports NPS consultation event, London January 2010
need to be considered again and to be updated in order to provide the evidence base.\textsuperscript{40}

Ms Ellis QC, for the Planning and Environment Bar Association, argued that the Department’s statement that the forecast growth would be reached a number of years later lacked supporting evidence and was susceptible to legal challenge. Most of our witnesses who expressed a view on the forecasts felt that they should be updated every five years, as the Department proposed.\textsuperscript{41}

28. Given the importance of the demand forecast to the case for port development, it seems unfortunate, to say the least, that the NPS has to include a statement to the effect that the forecasts are wrong, both for the short-term and for 2030. We recommend that the Department urgently commission consultants to review the port demand forecasts, both short- and long-term, in light of the trends over the past two years. This needs to happen before the Ports NPS is designated so that the data can be incorporated into the final, designated NPS. Thereafter, port demand forecasts should be comprehensively updated on a five-year cycle, as planned by the Department.

\textbf{Clarity and the weighting of different factors}

29. Aside from the robustness of the demand forecasts, port operators and regional development agencies told us that they considered the statement of economic need for additional port development, contained in the NPS, to be too brief and insubstantial. Some were concerned that, as the capacity expansion for which planning consent has already been given but which has yet to be built is equivalent to the demand forecast for 2030, the case for additional port development appears weak.

30. The decision-maker is required to assess the benefits and impacts of a particular development proposal, yet the NPS devotes only a few paragraphs to describing the economic and other social impacts of ports. By contrast many pages are devoted to the impacts on biodiversity, human health, climate change, air quality and other factors, including the risk of insect infestation.\textsuperscript{42}

31. The benefits and impacts of port development should not be weighed in terms of the number of pages devoted to these factors in the NPS. Nevertheless, we concur with those who are concerned that the NPS does not provide the IPC and other decision-makers with an adequate statement of the type and scale of economic and social impact of port development, both at the national level and, even more so, at the regional level. This clarity will be important when difficult judgements need to be made regarding the balance of benefits and impacts. The Government should amend the NPS to remedy this shortcoming.

32. A further concern of the port operators was that the NPS focuses too much on container traffic and somewhat neglects the diverse range of port activities that are important to the economy, defence, tourism, energy and other sectors. A number of

\textsuperscript{40} Q 23
\textsuperscript{42} Department for Transport, \textit{Draft National Policy Statement for Ports, November 2009}, para 2.21
witnesses highlighted that the Government’s ambitious plans for offshore wind energy installations will require ports to serve them, particularly during the construction phase. Associated British Ports (ABP) said that some of the more remote and peripheral ports are now very central for its business planning because they can supply the offshore wind energy industry competitively.\(^{43}\) Although the NPS refers to energy issues, our witnesses suggested that these references needed to be developed and strengthened with cross-reference to the Energy NPS.

33. The Ports NPS is not location-specific. That is, it does not identify any preference for the location of port development. This is in contrast to the Government’s stated plans for the forthcoming NPSs for National Networks and Airports which will be, respectively, corridor- and location-specific. The Minister, Paul Clark MP, told us that the Government believed it was best to allow the market to propose port development locations and that any attempt to restrict or direct port development was doomed to fail.\(^{44}\) We discuss the advantages and disadvantages of this policy later, in Chapter 4; here we consider whether the NPS provides sufficient clarity and certainty in policy.

34. On the face of it, the number of possible locations for ports is limited: clearly they must be on the coast or an inland waterway. We asked port operators how many potential port development sites existed in the UK. Mr Harston of Hutchison Ports suggested it was about 20, on the English and Scottish coasts, many of which were existing ports with potential for expansion.\(^{45}\) This number seems very small, and gives rise to the question whether it might have been more helpful for the Ports NPS to be location specific, at least to the extent that potential sites for development were identified within the NPS whilst other, clearly unsuitable, sites were ruled out—implicitly or explicitly. A more site-specific NPS might enhance the clarity and certainty for all parties concerned with port development and could have benefits in encouraging the public to engage more fully in consultation on the NPS.

35. In order to arrive at a list of potential port development sites, a study would need to be undertaken. To our knowledge, the Government has not done such a study.\(^{46}\) The Environment Agency told us that such an undertaking would involve a “tremendous amount of work” and the Environment Agency had concluded it would be of questionable environmental benefit.\(^{47}\) The Agency is “quite comfortable” with the market approach in the NPS.

36. Another area of potential uncertainty is the statement in the NPS that the decision-maker “may” need to consider possible adverse impacts on competitors.\(^{48}\) According to the IPC, this reference indicated that more port capacity might be built than would be required to service the maritime freight needs of the country.\(^{49}\) It is unclear from the NPS to what

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\(^{43}\) Q 146

\(^{44}\) Q 352

\(^{45}\) Q 170

\(^{46}\) Q 226. Mr Dodd said that P&O (now Dubai World Ports) undertook such a study in support of its London Gateway proposal.

\(^{47}\) Qq 227, 238, Mr Birch

\(^{48}\) Department for Transport, Draft National Policy Statement for Ports, November 2009, para 2.7.1

\(^{49}\) Q 320
extent the decision-maker should protect existing businesses from new port development or encourage competition. Similarly, there was a view that the NPS does not offer sufficient guidance on the implications of competition from foreign ports, many of which are subsidised by the state or municipality. In order to remain internationally competitive, proposals may need to be judged against ports on the European continent. This consideration also applies to competition with ports in Scotland, such as Rosyth and Hunterston. The Government must clarify the guidance to decision-makers, so as to establish clear and transparent guidelines, for the extent to which the impact of a given port development on existing commercial operators should be taken into consideration in determining an application. This should include the wider impacts on the regional economy.

37. As noted previously, the NPS requires the decision-maker to consider a wide range of factors. In addition to statutory requirements, other relevant UK policies and points raised by consultees and objectors, over 20 benefits and impacts are listed for consideration—mostly impacts. Some witnesses have questioned how the IPC can be expected to weigh the many diverse impacts against the economic benefits of a proposal. This is particularly important given that one of the few grounds on which the IPC may go against the thrust of the NPS is if it considers that the impact outweighs the benefits.

38. Paragraph 2.2.3 of the NPS says that “the NPS in broad terms ascribes weight to be applied to benefits or impacts […]”. Subsequently, the NPS states that “substantial weight” should be applied to economic development; that “appropriate weight” should be applied to designated sites of international, national and local importance; and that “limited weight” should be applied to carbon emissions from port development. However, these weights are scattered throughout the document and it is not clear that they are used consistently or comprehensively. Mr Bird of the UK Major Ports Group suggested a table to summarise the relative weights. More work needs to be done to clarify the precise weighting applied to different factors, particularly to the economic and environmental criteria. We recommend that, before the Ports NPS is designated, the Government review the weighting—or lack thereof—attached to the benefits and impacts identified in the guidance on assessment in the NPS, so as to ensure consistency. Having completed the review, the Government should add a table to the NPS, summarising the weighting of the different benefits and impacts.

Greater certainty for applicants and stakeholders?

39. One purpose of the Planning Act 2008 was to introduce speed and certainty into the system for handling large infrastructure planning proposals. We asked a number of our witnesses if the draft Ports NPS would have made a difference in the case of the Dibden Bay application which, after a long and costly planning inquiry, was narrowly rejected by the inspector. The Minister, Paul Clark MP, was confident that the new system would be better because applicants would be clearer about what to expect. However, he would not speculate on whether the outcome of applications was likely to differ under the new system.

40. Although our witnesses were broadly supportive of the new planning regime, many were less certain that the Ports NPS, as currently drafted, was likely to produce substantial and significant improvements. Mr Newman, representing the Town and Country Planning
Association, said “in considering the content of the NPS, certainly as a decision maker at a local level, it occurs to me that what we had before us would not make that judgement any easier on the part of the decision-maker.” Mr Williams, representing Associated British Ports, whose company had submitted the application for Dibden Bay, said the NPS, as currently drafted, provided no greater certainty of outcome. The IPC witnesses were, understandably, unwilling to comment on a specific scheme. Overall, it seems that, whilst the process will change under the Planning Act 2008, the NPS for ports, as currently drafted, does not make it any more predictable whether an application will succeed or not. Since greater certainty for proponents and others was a core objective of the new planning system, this is a significant weakness. The Ports NPS, as currently drafted, does not appear to offer any greater certainty on the likelihood of a port development proposal being approved or rejected. We recognise that decision-makers will need to assess each proposal on its merits. Nevertheless, the Government needs to do more to clarify the likely outcome of a proposal, to avoid waste and uncertainty.

4 Integration of ports planning with other plans

41. Ports and port planning do not exist in a vacuum. They have important inter-relationships with other national policies, such as economic development and marine and coastal environmental protection, as well as regional spatial plans and economic strategies. Ports also have significant implications for other elements of national transport infrastructure. The great majority of port-related applications will be decided outside the IPC process and the Ports NPS, therefore, has a key role in integrating national policy with regional and local spatial plans in order to provide a clear policy framework for such decisions. Seamless integration between the Ports NPS and such other policies and plans is, therefore, critical.

Integration with other spatial and economic policies

42. The lack of reference in the Ports NPS to other Government objectives and strategies has been criticised by a number of witnesses, such as the Town and Country Planning Association and Merseytravel. There is particular concern about the lack of reference to regional economic development. The Regional Development Agencies say that “there is no clear role for regional and local policy frameworks to inform the decision making process for port development”.

43. Local planning authorities will continue to have a major role in smaller land-side port development applications and they expressed concern about the lack of reference in the

50 Qq 34–35
51 Q 164
52 Ev 73
53 Ev 142
Ports NPS to regional and local spatial plans which are, in most other respects, key documents for guiding local planning decisions. The Local Government Association felt that the Ports NPS did not give sufficient weight to existing development plans. Port operators, among others, noted the lack of any reference to port master plans, despite the work by the public and private sectors going into these plans, and the importance attached to them by the Department in other contexts.

44. Concern was also expressed that the NPS would outweigh locally-determined policy with NPSs becoming a form of ‘super development plan’, as the TCPA put it. Indeed, the Communities and Local Government Chief Planner has written to local authority chief planning officers, saying that, in the case of a location-specific NPS, the NPS will take precedence over other planning guidance. Non-location-specific NPSs will constitute key guidance for other decision makers. However, the status of the Chief Planner’s letter is uncertain, particularly given that it was not subject to similar consultation to other statements of DCLG policy before it was issued.

45. The Minister told us that he was aware of the comments that greater emphasis needed to be placed on regional economic strategies and that the Department was reviewing this aspect of the NPS. The Government should clarify the relationship between the Ports NPS and spatial planning documents, including regional spatial strategies, local development framework documents and ports master plans. The Ports NPS should require the IPC and other decision-makers to attach greater weight to regional and local spatial plans than it does in the draft document. The Government should also clarify the primacy or otherwise of the Ports NPS with regard to these spatial plans.

46. The Ports NPS highlights the importance of ports to national and regional economic development—a point that we fully endorse. The Government has policies to reduce regional economic disparities and to promote growth. The Department for Business, Innovation and Skills says that “we aim to help every region in England to increase sustainable economic development and narrow the gap in growth rates between regions.” There is a PSA target for the 2008–2011 period, led by the Treasury and supported by the DfT and other departments, to achieve this objective. The Government’s policies on sustainable development also support development in the areas of greatest social and economic need.

47. The port operators were, generally, opposed to an NPS which specified the location of port development. Peel Ports was the exception, arguing that the NPS should recognise the need for greater investment in the North of England to reduce economic disparities with the South. However, Peel Ports does not go as far as explicitly favouring a restriction on

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54 Ev 198 and 227
55 Ev 57
56 Letter from the DCLG Chief Planner to local authority chief planning officers, November 2009
57 Department for Transport, Ports: National Policy Statement—Appraisal of Sustainability (AoS) Report, October 2009, p 19, para 1.1.1 also states that an NPS “has primacy over regional or local planning documents for planning purposes.”
58 Q 339
60 Public Service Agreement 7 (PSA 7) http://www.hm-treasury.gov.uk/d/pbr_csr07_psa7.pdf
development in the South. Its main concerns are about securing public investment in surface transport connections and assistance with land assembly in relation to its planned development of the Port of Liverpool and facilities along the Manchester Ship Canal. Peel Ports also pointed out the significant potential environmental benefits of greater use of the canal.

48. We are disappointed that the draft Ports NPS does not take more account of the Government’s objectives and PSA targets for reducing the gap in economic growth between regions. The Government has stuck to its policy, set out in 2007, of supporting a market-led approach to port development and not expressing any guidance on the location of port development. We believe this is a missed opportunity, as we made clear in our report, *The Ports Industry in England and Wales*. The wider social costs and benefits should be considered, not just the private costs and benefits that the market follows. We believe the Government should express a preference for port development where national needs can be met while producing greatest regional social and economic benefits. There should also be a clear preference for port development in locations where significant environmental benefits can be achieved—particularly through reduced inland road transport. This would be entirely consistent with the principle of sustainable development, which is a statutory objective for the Secretary of State under section 10 of the Planning Act 2008. Ports are a commercial business and developers cannot be forced to build ports in locations they judge will be uneconomic, but commercial decisions can be influenced by positive planning policies backed by complementary infrastructure investment, particularly in rail.

**Integration with other major transport developments**

49. Port development can have a major impact on the inland transport networks and the environment. Major developments will inevitably increase the need for additional motorways, rail freight routes and possibly inland waterways. It seems obvious, therefore, that the location of port development needs to be integrated with the development of national networks for road, rail and, where possible, inland waterways. Ports generate a large amount of HGV traffic which can have significant impact in terms of congestion, safety and noise, both locally and regionally. The A14 corridor between Felixstowe and the Midlands is an obvious example. Good planning and management, backed by public and private investment, offers the chance to minimise the impacts and to further the Government’s sustainable freight policies. The Rail Freight Group criticises the NPS for failing to do so and calls it a ‘missed opportunity’. Network Rail believes that port developments will be the major driver behind the growth in demand for rail freight in future.

50. The port operators were critical of the Government’s failure to publish the draft National Networks NPS at the same time—something they had been led to believe would

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61 Ev 165  
63 Ev 71  
64 Ev 53
happen.\textsuperscript{65} Dr Parr of Greenpeace echoed this point, contrasting the Department for Transport’s piecemeal release of transport NPS with the suite of energy NPSs published by the Department of Energy and Climate Change (DECC). He also called for an overarching transport policy NPS.\textsuperscript{66}

51. The Government has given a good indication of its strategy for national networks in its 2008 report \textit{Delivering a Sustainable Transport System}—a network of 14 national transport corridors connecting the 10 largest conurbations, 10 major ports and 7 international airports—but it has yet to publish its policy on high speed rail.\textsuperscript{67} The Department has said that it will publish a draft National Networks NPS in March 2010 with its response to the report of High Speed Two Ltd and a White Paper on high speed rail. The Minister, Paul Clark MP, told us that, as the ports and national networks NPSs were being produced by the same Department, “it would be highly surprising” if they were not consistent.\textsuperscript{68} Nevertheless, almost all our witnesses, from across the spectrum including Network Rail and the Highways Agency,\textsuperscript{69} were clear that it would be preferable to consider the National Policy Statements for Ports and for National Networks together. \textbf{It is unsatisfactory that we, the public and stakeholders are left with no choice but to comment on the Draft National Policy Statement for Ports without sight of the Draft National Policy Statement for National Networks. The Government should withhold designation of the National Policy Statement for Ports until it has published and consulted on the National Policy Statement for National Networks. It should then allow a period for further consultation on the Ports NPS, although this would be a much more limited exercise than the original consultation on the draft NPS. If, as Ministers have sought to assure us, the National Policy Statement for National Networks holds no surprises for those interested in port development, the National Policy Statement for Ports could then be designated without additional amendment. As there are no applications for major ports in the IPC pipeline, there would be little disadvantage in a slight delay.}

5 Environmental aspects

52. A basic premise of UK planning law is that development should normally be granted where it is in accordance with the development plan, unless other material considerations direct otherwise.\textsuperscript{70} These considerations would typically include adverse impacts on the local environment. With regard to national infrastructure proposals, the 2008 Act directs that the IPC shall decide in line with an NPS unless, inter alia, the impact of a scheme would outweigh the benefits. Where a proposed development affects a site that is recognised to have a particular importance, such as an Area of Outstanding Natural Beauty, additional safeguards apply. Development may be permitted, even on

\textsuperscript{65} Q 174
\textsuperscript{66} Q 229
\textsuperscript{67} Department for Transport, \textit{Delivering a Sustainable Transport System}, November 2009
\textsuperscript{68} Q 333
\textsuperscript{69} Q 107
\textsuperscript{70} S.54(a) of the Town and Country Planning Act 1990, as amended
internationally-designated sites, such as Natura 2000 sites, if there are imperative reasons of overriding public interest. In such cases, measures would be required to minimise the environmental damage and, where possible, provide compensating habitats.

**Impacts**

53. Port development can have significant environmental impacts—on coastal habitats, wildlife, landscape, air quality and other aspects of the environment. The national environmental organisations which submitted evidence to our inquiry did not object to the principle of port development and accepted that port traffic was likely to grow substantially. They were also broadly supportive of having an NPS. Nonetheless, some of them raised strong environmental objections to the draft Ports NPS. Although the draft NPS recognises a large number of potential environmental impacts, not all of our witnesses were satisfied with the Government’s approach to, or its guidance on, the way that decision-makers should address the impacts. Those organisations concerned about a possible future development in Dibden Bay were concerned that the new planning regime in general, and the Ports NPS in particular, would make it more likely that a future planning application for a port at Dibden Bay would be consented. However, as we have already noted, our witnesses from the ports industry took a different view.

54. A number of the groups felt that a more location-specific NPS would have been helpful. Natural England was of the view that the NPS would benefit from a strategic spatial assessment. There was agreement that the NPS should not be site-specific and a recognition that there would be practical\(^1\) and possibly legal\(^2\) difficulties in providing location-specific guidance.

55. The Royal Society for the Protection of Birds (RSPB) was highly critical of the NPS, describing it as a missed opportunity. One of its main criticisms concerns the guidance on the consideration of alternatives to a proposed development: that decision-makers need not consider if port capacity could be provided by means other than a new site and, in particular, whether existing ports might be enlarged in preference to constructing a new port. According to the RSPB, the Government’s rejection of planning permission for a new port at Dibden Bay resulted in an expansion of the Southampton container terminal, which was a less environmentally-damaging option. The New Forest District Council also provided detailed argument as to how, in its view, the NPS is defective in its consideration of alternatives and, in the view of the council, this changes the planning policy, in favour of major port development such as the proposal at Dibden Bay, which the council opposes. **The Government needs to ensure that the Appraisal of Sustainability of the Ports NPS fully meets the requirement of the EU Strategic Environmental Assessment Directive and to clarify the consideration that decision-makers must give to alternatives.**

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\(^1\) Q 227 Mr Birch

\(^2\) Q 241
Appraisal of Sustainability

56. The Appraisal of Sustainability (AoS) is a major component of the process of producing an NPS. It is not part of the NPS itself but the means by which the NPS fulfils the requirements of the EU Strategic Environmental Assessment Directive. The AoS is not merely intended to demonstrate compliance but to influence and improve the policy and consequent development so as to mitigate environmental impacts.\(^73\) The AoS for the Ports NPS is a substantial document—189 pages—but our witnesses were divided on its merits. The Environment Agency, which had been closely involved in the preparation of the NPS and the AoS, was satisfied with it, describing it as “very thorough”. The RSPB, however, criticised it for lacking detail, having, for example, no baseline information on biodiversity.\(^74\) The RSPB, on the basis of an evaluation they commissioned, believe the AoS may not be legally-compliant with the SEA Directive.\(^75\) Natural England pointed to the lack of a statement in the NPS on how the AoS had influenced the development of the NPS. The NPS should state and demonstrate how the AoS has informed the development of the NPS.

Climate Change

57. A further environmental objection to the NPS was, in the view of Greenpeace, the inadequate consideration of climate change policy. The situation is not helped by the absence of an agreed mechanism for tackling emissions from international shipping. Greenpeace wanted to see the NPS provide a much stronger steer to decision-makers on the need to consider the greenhouse gas emissions that would result from port development. Unfortunately, there is uncertainty as to how climate change policies are likely to affect shipping and demand for ports.\(^76\) The Minister said that he believed that the climate change agenda was “well-reflect ed in the document.” However, this is not immediately apparent. The NPS says that decision-makers do not need to consider the emissions from ships transiting to and from the port. It also states that “limited weight” should be attached to likely carbon emissions from port development, such as inland transport.

58. Whilst it is not sensible to try to combat the global problem of climate change through ad hoc restrictions on infrastructure development, we feel the Ports NPS currently fails to reflect the priority that the Government and the Department elsewhere attach to climate change. We recognise that carbon dioxide emissions from international shipping movements require international agreements and cannot be tackled through ad hoc decisions on port development. Local emissions of carbon dioxide are more susceptible to planning decision. The guidance to decision-makers should be strengthened regarding consideration of climate change mitigation, particularly in respect of the design of port facilities and emissions from inland transport.

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\(^{73}\) The AoS involved an overview assessment of four drafts of the NPS. “The assessment found that the majority of policies contained within the Ports NPS were likely to have a positive sustainability effect on the AoS environmental, social and economic objectives.” AoS Report, p 14

\(^{74}\) Q 248

\(^{75}\) Ev 169

\(^{76}\) Q 251
Design guidance

59. One of the statutory components of an NPS is guidance on design. The Ports NPS says:

The importance of achieving good design in port development is underlined at various points in the statement, with reference to various types of impacts discussed in part 2. Good design is fundamental to mitigating the adverse effects of development, as well as a means to deliver positive aesthetic qualities in an industrial setting.77

There are further references to design in some of the subsequent sections, mainly in terms of minimising impacts such as noise, visual intrusion and flood-risks. Some historic ports and port buildings are world-renowned. Liverpool waterfront, for example, has world heritage status. The NPS lacks ambition in this respect. Seeports commented that the NPS should give more detailed guidance on design:

The NPS should give a little more guidance on this topic, differentiating where necessary between elements which will become a feature in the landscape and those which will not, and between publicly accessible buildings and those which are purely functional. Even the latter can still have style however, as can be seen at a number of French ports which sometimes contrast starkly with the temporary buildings sometimes favoured in the UK. Within the topic of design some further encouragement should also be given to the provision of low energy buildings.78

Merseytravel pointed to the Port of Hamburg as an of example of best practice in modern port design, incorporating many sustainable energy features.79 We recommend that the Ports NPS incorporate more positive guidance on design so that, as far as possible, the development enhances its surroundings and the landscape.

6 Consultation and scrutiny procedures

Department for Transport’s consultation

60. On the day that the draft Ports NPS was laid before Parliament,80 the Department for Transport published its consultation document.81 The consultation document poses 36 questions which aim to establish whether the Ports NPS is fit for purpose. There is no invitation to discuss substantive policy issues. The Department gave a closing date of 15 February 2010—a period of 14 weeks. The document also states that responses received prior to 15 January would be shared with our Committee.

77 Department for Transport, Draft National Policy Statement for Ports, November 2009, para 1.10.6
78 Ev 84
79 Ev 73
80 9 November 2009
61. The Planning Act 2008 Infrastructure Planning (National Policy Statement Consultation) Regulations 2009 specify which organisations must be consulted prior to the designation of an NPS. The Department for Transport reports that it has consulted all such parties, and that it has also informed a range of additional organisations, such as ports and shipping operators. In addition to the regulations, the Department for Transport is expected to comply with the Government Code of Practice on consultations. Anyone wishing to comment or complain about the Ports NPS consultation is invited to contact the Department’s consultation co-ordinator. **The Department for Transport should publish any comments or complaints that it has received about the Ports NPS consultation in its consultation response.**

62. The Department for Transport held three consultation events in Cardiff, Leeds and London, during December and January. These were “open to all subject to space and prior arrangement”. The events were informative and attendance reasonable. They were held under ‘Chatham House rules’ and designed for an informed audience and not the general public. They did not address issues concerning specific ports and there was no targeted consultation aimed at areas where port development might be a particular local issue. The Department for Transport did, however, engage Planning Aid to explain the process to a lay audience and help members of the public to engage in the consultation.

63. The Ports NPS is not of obvious interest to the general public and the Government’s consultation must be proportionate and focused. However, it is important that those people and organisations who may later be affected by port development proposals be made aware of the NPS and given the opportunity to engage in the consultation process. If they are not, they may subsequently feel disillusioned with the way in which port development proposals affecting them have been handled.

64. A number of our witnesses commented on the lack of basic descriptive information in the NPS. The consultation document is no different. Neither document contains a map showing existing UK ports, let alone potential ones—perhaps because the Government has eschewed a location-specific policy. **We recommend that, in future consultations on NPSs, the consultation document contain background information with appropriate maps, tables and references to inform the debate and make the consultation more accessible to the public and those outside the profession. This need not form part of the NPS itself and may, indeed, support our recommendation that Government policy is stated more clearly by separating background information from policy content.**

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82 Ibid, Annex A
83 Ibid, Annex B
84 Planning Aid provides a summary assessment of the Department’s consultation against the Code of Practice—Ev 162.
85 Ibid, paras 64-65
86 The Chatham House Rule originated at Chatham House in 1927 with the aim of providing anonymity to speakers and to encourage openness and the sharing of information. “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed”. www.chathamhouse.org.uk
87 Planning Aid is a charity that provides free, independent and professional town planning advice and support to communities and individuals who cannot afford to pay planning consultant fees. It receives funding from the Department of Communities and Local Government to widen participation in planning. See also Ev 162
88 Q 232
65. We asked our witnesses if they were satisfied with the Department’s consultation. We received a mixed response. Some organisations, such as the Environment Agency and port operators, had been involved in discussions with the Department for Transport prior to the publication of the draft and these organisations seemed generally more satisfied than those which had not. No doubt, these discussions helped to shape the draft document. Mr Trimmer commented: “From our point of view and certainly personally from a port operator’s view, I think the consultation to date and the consultation that is still ongoing from the DfT has been appropriate and adequate.”

66. The port operators were generally satisfied with their involvement, whilst Mr Dodd of the Royal Society for the Protection of Birds argued that non-governmental organisations had not had any “real dialogue” with the Department for Transport prior to publication, despite their longstanding involvement in the ports sector. Councillor Kemp, on behalf of the Local Government Association, was critical of the lack of engagement with local authorities and the lack of integration with regional and sub-regional planning.

67. However, Mr Newman, for the Town and Country Planning Association, argued that the consultation was unsatisfactory because the Department for Transport’s consultation and parliamentary scrutiny were taking place in parallel rather than sequentially. In the view of the Association, the consultation period was also too short for such a significant planning document and other, relevant NPSs were not yet available.

68. The issue of whether new policy will or should be introduced in an NPS deserves further consideration. Are NPSs intended to be simply a codification of existing policy or a vehicle to introduce new policy? The Planning White Paper does not answer this. The National Networks NPS will, presumably, incorporate new proposals for high speed rail. The airports NPS will, according to the Department for Transport, take account of the report of the Committee on Climate Change and the Department’s revised air passenger forecasts, both of which may have policy implications. If new policy is introduced in an NPS, the consultation and scrutiny processes used for the Ports NPS would be inadequate. A longer period and more thorough consultation process would be required. The Government should clarify if it intends to use National Policy Statements to introduce new policy. If so, it must carefully consider its consultation procedures and allow greater time for consultation and parliamentary scrutiny.

Parliamentary scrutiny

69. The Planning Act 2008 provides for parliamentary scrutiny of an NPS prior to designation by the Government. The process of parliamentary scrutiny was considered by the Liaison Committee, has been debated in the House and embodied in a Standing

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89 Q 228 Mr Birch
90 Q 9
91 Q 228 Mr Dodd
92 Q 53
93 Q 10 and Ev 57
95 HC Deb, 20 May 2009, col 1532
Order. The Communities and Local Government’s *IPC Implementation Route Map* provides further guidance.

70. Our offer to undertake the scrutiny role with respect to the Ports NPS, on behalf of the House, was accepted by the Liaison Committee. Under section 9 of the Act, the process of scrutiny must be completed within the ‘relevant period’ as specified by the Secretary of State for Transport. The Government has said that “In practice the relevant period will usually be about six months.” In reality, our Committee has had barely four months to complete its work and we have been obliged to conclude our evidence sessions before the Department’s consultation period ended because of the expected General Election. We received a private briefing from the Minister and Department for Transport officials, held three public evidence sessions and undertook a visit to Peel Ports in Manchester. We also considered the written evidence received from 59 organisations and individuals. Despite the very unsatisfactory timetable, we believe we were able to undertake the scrutiny satisfactorily.

71. We are grateful for the opportunity to scrutinise the draft Ports NPS. We believe parliamentary scrutiny is a crucial element in the process. As has often been the case with draft Bills, the Government has spoken warmly of its desire for comprehensive and in-depth parliamentary scrutiny. In reality, however, the time available for scrutiny of the Ports NPS has been shorter than planned. As a result, we have been unable to draw on all the evidence submitted to the Department for Transport. The Government must ensure that, with future NPSs, a full six months is available for consultation and scrutiny, enabling parliamentary scrutiny to draw fully on evidence submitted to the Government’s public consultation.

72. One specific scrutiny problem stands out. We have been unable to take evidence from the organisation which, according to the Ports NPS and the Minister, will be most affected by the NPS. As previously noted, the Marine Management Organisation, a new body established under the Marine and Coastal Access Act 2009, is likely to determine the majority of applications for offshore port development and to be influential in advising on land-side applications. The draft Ports NPS says that the NPS “may also be” a relevant consideration for the MMO. Whereas the IPC has given evidence to us on the draft NPS, the MMO is still being established and is, therefore, unable to comment on the draft Ports NPS. We do not share the Minister’s lack of concern about this. The views of the IPC were valuable although they conceded that the IPC has no particular expertise in port development. As they did not anticipate receiving any applications in the near future, they had not recruited any port specialists as Commissioners or staff. Given this situation, it

98 Ian Wright MP, Under-Secretary of State for Communities and Local Government, HC Deb, 20 May 2009, col 1532
99 The Department’s consultation period closed on 15 February 2010.
100 Q 327
101 Department for Transport, *Draft National Policy Statement for Ports*, November 2009, para 1.2.1
102 Q 354
103 Qq 267-270
was all the more important for us to be able to consider evidence from the MMO alongside that of the IPC. The Marine Management Organisation will soon become a key decision-maker with regard to port development applications; and the NPS for Ports will be fundamental to its work. As the Marine Management Organisation does not come into existence until April 2010, we were unable to take evidence from it regarding the draft NPS. It is not acceptable that we have been asked to scrutinise a draft NPS before key organisations such as the MMO are put in place. The Department must await designation of the Ports NPS until the MMO has had a proper opportunity to provide its views on the draft.

7 Conclusion

73. The Ports NPS is a forerunner of the Government’s new framework for national strategic infrastructure proposals. Our inquiry showed that the draft Ports NPS has been welcomed by many organisations as a ‘good start’ and ‘good work in progress’, which can be built upon. We have recommended a number of modifications and no doubt the Department will improve the draft as a result of the consultation and scrutiny processes. We have our reservations regarding the Government’s 2007 policy for ports and the lack of guidance on location for port development in the NPS but this, of itself, does not make the NPS unfit for purpose.

74. We cannot, however, recommend designation at this stage on two counts. Firstly, a key, related policy statement—the National Networks NPS—has yet to be published and so those organisations engaging in the Department’s consultation or in our inquiry are doing so with a patch over one eye. Secondly, the organisation likely to be one of the principal decision-makers for port development—the MMO—has yet to be established and so has been unable to comment on guidance that will be of great importance to its role. These are fundamental flaws in the consultation process and the Ports NPS should not be designated until they are rectified.

75. The Minister told us that the Department was keen to designate the Ports NPS as quickly as possible but he could not give us a date. He also told us that he did not intend to delay designation until the National Networks NPS was published. In his view, “the Ports Statement stands alone”. Yet there is an air of unreality over the Government’s timetable for this process. With so much port capacity already consented and with port traffic in decline, the Government has said that it can see few if any major port development applications on the horizon. The Government is committed to publishing the national networks NPS in March. We can, therefore, see no harm in delaying the designation of the Ports NPS for a short period to allow the issues to be addressed.

104 Q 329-331
105 The Department for Transport Press Notice, 9 November 2009, said “It is not expected that there will be many volume [sic] of ports applications to the IPC initially. Over recent years, planning permission has been given for a series of major container developments including at Felixstowe, Bathside Bay (Harwich), London Gateway, Liverpool and Teesport; decision on a further application, at Bristol, is under consideration.”
76. We call on the Government to take account of the recommendations in our Report and the other points raised by those who submitted evidence to our inquiry. Without these major changes the NPS is not fit for purpose. In particular, the Government should not designate the National Policy Statement for Ports until it has published the National Policy Statement for National Networks and consulted the Marine Management Organisation. We recommend that the Government provide parliamentary time for the proposal for a National Policy Statement for Ports to be debated on the floor of the House of Commons within the relevant period.

77. Once designated, an NPS remains government policy unless and until it is amended, replaced or suspended. The Planning Act 2008 does not specify a fixed review period. Instead, the Act requires the Secretary of State to “review each national policy statement whenever the Secretary of State thinks it appropriate to do so.” We recommend that the Secretary of State for Transport set out the criteria which would trigger the decision to review the Ports NPS. The view of decision-makers, such as the IPC, should be one key factor in triggering a review.
Conclusions and recommendations

Port development within the new planning framework

1. The Ports NPS should state which organisations, in addition to the Infrastructure Planning Commission and the Marine Management Organisation, are likely to be decision-makers on port development applications and, therefore, will be affected by the NPS. It should particularly clarify the role of local authorities with regard to port development. (Paragraph 21)

The adequacy of the Ports NPS as a basis for decision-making

2. It appears that the Government sees the process of designating an NPS as a means to consolidate existing policy rather than to introduce new policy. This means that the existing policy must have been properly developed, consulted upon and its final status made clear. The Ports NPS process has been unsatisfactory because the underlying policy was of only interim status and promised documents have not been produced. The Government should explain why it deemed it unnecessary to publish the further, substantive statement of ports policy in 2007 as well as the Project Appraisal Framework for Ports, as previously announced by the Department. (Paragraph 23)

3. We recommend that the Department provide a clear and distinct summary of its policy for ports in the Ports NPS. It also needs to provide additional evidence and references to the material that underpins its overall policy on port development, including the 2007 ports policy review and any significant subsequent material. (Paragraph 24)

4. We recommend that the Department urgently commission consultants to review the port demand forecasts, both short- and long-term, in light of the trends over the past two years. This needs to happen before the Ports NPS is designated so that the data can be incorporated into the final, designated NPS. Thereafter, port demand forecasts should be comprehensively updated on a five-year cycle, as planned by the Department. (Paragraph 28)

5. The benefits and impacts of port development should not be weighed in terms of the number of pages devoted to these factors in the NPS. Nevertheless, we concur with those who are concerned that the NPS does not provide the IPC and other decision-makers with an adequate statement of the type and scale of economic and social impact of port development, both at the national level and, even more so, at the regional level. This clarity will be important when difficult judgements need to be made regarding the balance of benefits and impacts. The Government should amend the NPS to remedy this shortcoming. (Paragraph 31)

6. The Government must clarify the guidance to decision-makers, so as to establish clear and transparent guidelines, for the extent to which the impact of a given port development on existing commercial operators should be taken into consideration in
determining an application. This should include the wider impacts on the regional economy. (Paragraph 36)

7. More work needs to be done to clarify the precise weighting applied to different factors, particularly to the economic and environmental criteria. We recommend that, before the Ports NPS is designated, the Government review the weighting—or lack thereof—attached to the benefits and impacts identified in the guidance on assessment in the NPS, so as to ensure consistency. Having completed the review, the Government should add a table to the NPS, summarising the weighting of the different benefits and impacts. (Paragraph 38)

8. The Ports NPS, as currently drafted, does not appear to offer any greater certainty on the likelihood of a port development proposal being approved or rejected. We recognise that decision-makers will need to assess each proposal on its merits. Nevertheless, the Government needs to do more to clarify the likely outcome of a proposal, to avoid waste and uncertainty. (Paragraph 40)

Integration of ports planning with other plans

9. The Government should clarify the relationship between the Ports NPS and spatial planning documents, including regional spatial strategies, local development framework documents and ports master plans. The Ports NPS should require the IPC and other decision-makers to attach greater weight to regional and local spatial plans than it does in the draft document. The Government should also clarify the primacy or otherwise of the Ports NPS with regard to these spatial plans. (Paragraph 45)

10. We believe the Government should express a preference for port development where national needs can be met while producing greatest regional social and economic benefits. There should also be a clear preference for port development in locations where significant environmental benefits can be achieved—particularly through reduced inland road transport. This would be entirely consistent with the principle of sustainable development, which is a statutory objective for the Secretary of State under section 10 of the Planning Act 2008. Ports are a commercial business and developers cannot be forced to build ports in locations they judge will be uneconomic, but commercial decisions can be influenced by positive planning policies backed by complementary infrastructure investment, particularly in rail. (Paragraph 48)

11. It is unsatisfactory that we, the public and stakeholders are left with no choice but to comment on the Draft National Policy Statement for Ports without sight of the Draft National Policy Statement for National Networks. The Government should withhold designation of the National Policy Statement for Ports until it has published and consulted on the National Policy Statement for National Networks. It should then allow a period for further consultation on the Ports NPS, although this would be a much more limited exercise than the original consultation on the draft NPS. If, as Ministers have sought to assure us, the National Policy Statement for National Networks holds no surprises for those interested in port development, the National Policy Statement for Ports could then be designated without additional amendment.
As there are no applications for major ports in the IPC pipeline, there would be little disadvantage in a slight delay. (Paragraph 51)

**Environmental aspects**

12. The Government needs to ensure that the Appraisal of Sustainability of the Ports NPS fully meets the requirement of the EU Strategic Environmental Assessment Directive and to clarify the consideration that decision-makers must give to alternatives. (Paragraph 55)

13. The NPS should state and demonstrate how the AoS has informed the development of the NPS. (Paragraph 56)

14. We recognise that carbon dioxide emissions from international shipping movements require international agreements and cannot be tackled through ad hoc decisions on port development. Local emissions of carbon dioxide are more susceptible to planning decision. The guidance to decision-makers should be strengthened regarding consideration of climate change mitigation, particularly in respect of the design of port facilities and emissions from inland transport. (Paragraph 58)

15. We recommend that the Ports NPS incorporate more positive guidance on design so that, as far as possible, the development enhances its surroundings and the landscape. (Paragraph 59)

**Consultation and scrutiny procedures**

16. The Department for Transport should publish any comments or complaints that it has received about the Ports NPS consultation in its consultation response. (Paragraph 61)

17. We recommend that, in future consultations on NPSs, the consultation document contain background information with appropriate maps, tables and references to inform the debate and make the consultation more accessible to the public and those outside the profession. This need not form part of the NPS itself and may, indeed, support our recommendation that Government policy is stated more clearly by separating background information from policy content. (Paragraph 64)

18. The Government should clarify if it intends to use National Policy Statements to introduce new policy. If so, it must carefully consider its consultation procedures and allow greater time for consultation and parliamentary scrutiny. (Paragraph 68)

19. We are grateful for the opportunity to scrutinise the draft Ports NPS. We believe parliamentary scrutiny is a crucial element in the process. As has often been the case with draft Bills, the Government has spoken warmly of its desire for comprehensive and in-depth parliamentary scrutiny. In reality, however, the time available for scrutiny of the Ports NPS has been shorter than planned. As a result, we have been unable to draw on all the evidence submitted to the Department for Transport. The Government must ensure that, with future NPSs, a full six months is available for consultation and scrutiny, enabling parliamentary scrutiny to draw fully on evidence submitted to the Government’s public consultation. (Paragraph 71)
20. The Marine Management Organisation will soon become a key decision-maker with regard to port development applications; and the NPS for Ports will be fundamental to its work. As the Marine Management Organisation does not come into existence until April 2010, we were unable to take evidence from it regarding the draft NPS. It is not acceptable that we have been asked to scrutinise a draft NPS before key organisations such as the MMO are put in place. The Department must await designation of the Ports NPS until the MMO has had a proper opportunity to provide its views on the draft. (Paragraph 72)

Conclusion

21. We call on the Government to take account of the recommendations in our Report and the other points raised by those who submitted evidence to our inquiry. Without these major changes the NPS is not fit for purpose. In particular, the Government should not designate the National Policy Statement for Ports until it has published the National Policy Statement for National Networks and consulted the Marine Management Organisation. We recommend that the Government provide parliamentary time for the proposal for a National Policy Statement for Ports to be debated on the floor of the House of Commons within the relevant period. (Paragraph 76)

22. We recommend that the Secretary of State for Transport set out the criteria which would trigger the decision to review the Ports NPS. The view of decision-makers, such as the IPC, should be one key factor in triggering a review. (Paragraph 77)
Formal Minutes

Wednesday 10 March 2010

Members present:

Mrs Louise Ellman, in the Chair

Rt Hon Jeffrey Donaldson  Mr Eric Martlew
Mr Philip Hollobone  Graham Stringer
Mr John Leech

Draft Report (*The proposal for a National Policy Statement on Ports*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 77 read and agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 17 March at 2.30 pm]
Witnesses

Wednesday 13 January 2010

Mr Bill Newman, Corporate Director, Thurrock Council, Town and Country Planning Association; Mr James Trimmer, Head of Planning and Partnerships, Port of London Authority, Royal Institution of Chartered Surveyors; and Ms Morag Ellis, QC, Vice-Chair of PEBA, Planning and Environment Bar Association

Councillor Richard Kemp, Local Government Association; and Mr Alan Welby, Director of Strategy, ONE North East, Regional Development Agencies

Ms Ginny Clarke, Network Services Director, Highways Agency; Ms Janet Goodland, Director of Development Projects, Network Rai; and Mr Mark Rowbotham, Co-Chair of the Ports, Freight and Maritime Forum, Chartered Institute of Logistics and Transport

Wednesday 20 January 2010

Mr David Whitehead, Director, British Ports Association; Mr Richard Bird, Executive Director, UK Major Ports Group; Mr Phillip Williams, Group Property Director, Associated British Ports; Mr Stephen Baxter, Chief Executive, Peel Ports; and Mr Andrew Harston, Port Development Director, Hutchinson Ports (UK) Ltd/Port of Felixstowe

Mr David Asprey, Head of Shipping Policy, Chamber of Shipping; Mr Chris Welsh, General Manager for Policy and Campaigns, Freight Transport Association; Mr Matthew Farrow, Head of Energy, Infrastructure and Planning, CBI; and Ms Maggie Simpson, Policy Manager, Rail Freight Group

Mr Simon Birch, Head of Planning and Environmental Assessment, Environment Agency; Dr Doug Parr, Chief Scientist and Policy Director, Greenpeace UK; and Mr Andrew Dodd, Head of Site Conservation Policy, RSPB

Wednesday 27 January 2010

Sir Michael Pitt, Chair, Dr Ian Gambles, Director of Strategy, and Mr Robert Upton, CBE, Deputy Chair, Infrastructure Planning Commission

Paul Clark MP, Parliamentary Under Secretary of State; Mr Richard Bennett, Head of Ports Division, and Mr Philip Grindrod, Team Leader, Ports Policy Review, Department for Transport
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Oral evidence

Taken before the Transport Committee

on Wednesday 13 January 2010

Members present
Mrs Louise Ellman, in the Chair
Mr David Clelland
Mr Jeffrey M Donaldson
Mr Philip Hollobone
Mr John Leech
Mr Eric Martlew
Mark Pritchard
Ms Angela C Smith
Graham Stringer

Witnesses: Mr Bill Newman, Corporate Director, Thurrock Council, Town and Country Planning Association, Mr James Trimmer, Head of Planning and Partnerships, Port of London Authority, Royal Institution of Chartered Surveyors, and Ms Morag Ellis, QC, Vice-Chair of PEBA, Planning and Environment Bar Association, gave evidence.

Chairman: Good afternoon. Welcome to the Select Committee. Do members have any interests to declare? Mr Clelland?
Mr Clelland: I am a member of Unite.
Ms Smith: I am a member of GMB and Unison.
Graham Stringer: I am a member of Unite.

Q1 Chairman: Louise Ellman, member of Unite. Would our witnesses like to identify themselves with a named organisation for our records?
Ms Ellis: My name is Morag Ellis. I am a QC. I am the vice-chairman of the Planning and Environment Bar Association.
Mr Newman: My name is Bill Newman. I am corporate director at Thurrock Council and I am here for the Town and Country Planning Association.
Mr Trimmer: My name is James Trimmer. I am head of planning and partnerships for the Port of London Authority and I am here representing the Royal Institution of Chartered Surveyors.

Q2 Chairman: What is your overall view of the draft National Policy Statement for Ports? Do you think that the Government should approve it as it stands or would you look for any specific changes?
Ms Ellis: My name is Morag Ellis. I am a QC. I am the vice-chairman of the Planning and Environment Bar Association.
Mr Newman: My name is Bill Newman. I am corporate director at Thurrock Council and I am here for the Town and Country Planning Association.
Mr Trimmer: My name is James Trimmer. I am head of planning and partnerships for the Port of London Authority and I am here representing the Royal Institution of Chartered Surveyors.

Q3 Chairman: Could you give me one example to explain what you mean?
Ms Ellis: One point is in relation to assumptions that are made with regard to the recent planning permissions which have been granted at Felixstowe and various other places. I very much have in mind pages 12 to 13 really where demand forecasts are being dealt with. On the one hand, the existing planning permissions are required to be taken into account but, on the other hand, it is made clear that if fully taken into account then it appears that they alone could satisfy the need. We are concerned about that. Of course it is possible that not all those planning permissions would be implemented but we feel that the document does not really grapple with the likelihood behind that. In particular, there is a phrase in paragraph 1.11.4 at the top of page 13 where it says, “However, the Government’s view is that the long term effect will be to delay by a number of years but not ultimately reduce the eventual levels of demand.” That is talking about the effects of the economic recession. Looking at it very much through a lawyer’s eyes, one would say really where is the evidence for that? Our advice would be that there would be a susceptibility to challenge there, at least arguably on the basis of that not having been based upon evidence.

Q4 Chairman: Susceptible to judicial review?
Ms Ellis: Yes, on the basis of no evidence and also potentially on the basis of—using the legal jargon which sounds awful but I will use it anyway for clarity—perversity or possibly Wednesbury unreasonableness on the relationship of that conclusion to the treatment of the extant planning permissions. We are not saying that all of this is incapable of resolution but certainly to answer your question our recommendation would be to revisit that central element of the document in order to tighten it up and achieve security.

Q5 Graham Stringer: If I understand correctly what you are saying it is quite a profound criticism. You are saying that if this Policy Statement is adopted the IPC could say that there would be no further development of ports beyond those ports that have planning permission. Is that the burden of what you are saying?
Ms Ellis: Not quite, no. Clearly the NPS, when published, will form the policy basis for the IPC’s decisions. Those with interests in those decisions
have to take the NPS as finalised. There can be no
challenge to that. That is settled law and it is spelled
out in the Planning Act. Therefore, very much of the
focus turns to people challenging the NPS itself
because, if they do not challenge the NPS then it is
too late for example to come along and suggest that
the treatment of need in the document is not robust.
To answer the Chairman’s question about
susceptibility to judicial review and robustness at
this stage, that is very much why we have drawn that
out now. It is not quite so much to say that the IPC
would reject something on the basis of the extant
planning permissions, it is really to point to two
things, a lack of evidence base for the conclusion in
1.11.4 and an internal lack of clarity or inconsistency
or, in the legal jargon, perversity or unreasonableness with regard specifically to the
treatment of the extant planning permissions and the
extent of the need. You are right. I realise it is a pretty
far-going point that we are making.

Q6 Graham Stringer: Would it be helped, both in
terms of defence to legal challenge and future
development of port capacity, if the document were
site specific in a way that it is not at the present time?
Ms Ellis: Not necessarily. It might tangentially
because if it were to be site specific that in turn might
lead the framers of the document to look more
closely at the question of need, but of course it is
quite possible to look strategically at the question of
need and quantifying that without having to get
site specific.

Q7 Chairman: Mr Newman, could you give us a
general view of the Statement? Should it be agreed as
it is, or which areas would you change?
Mr Newman: In short, the answer is no. The
Association’s position is that the Statement
represents a good start but it is work in hand and
there is further work to be done. There are probably
four broad points to be taken in that respect. The
first is a much better and much firmer understanding
about the relationship of this NPS with the
remaining suite. In that sense, it is not clear to the
Association how some of this work correlates with
work yet to be produced. The second is, if that is an
understanding about the relationship in the
horizontal, then there needs also to be a relationship
in the vertical. By that I mean there needs to be a
dovetailing with regional and local spatial planning
processes. Again at the moment it is very unclear as
to how that relationship is effected through this
current draft. The third really is then a question of
how infrastructure planning and in particular how
infrastructure provision and the financial
implications, particularly at a regional level, are then
co-ordinated in relation to the content of this policy.
The fourth then is very much about ensuring that, so
far as carbon accounting is concerned, the effects of
this policy are such that UK plc should not exceed
eventually its carbon allowances in the future.

Mr Trimmer: Certainly I agree with Bill in relation
to the correlation between the NPSs and the degree
to which this document will be used for plan making
in addition to decision making for major schemes.
There does seem not a vast amount of detail and
evidence base to guide local plan making. That is
something that we feel should be brought out more.
As a check list for development, it seems appropriate
but certainly I would not think any of the issues that
have been covered here would not have been covered
in a normal environmental statement for a major
scheme.

Mark Pritchard: As far as process is concerned, what
have been your main concerns about the process
leading up to the NPS?

Q9 Chairman: Has the process been right? Has the
consultation been adequate?
Mr Trimmer: From our point of view and certainly
personally from a port operator’s view, I think the
consultation to date and the consultation that is still
ongoing from the DfT has been appropriate and
adequate.

Q10 Chairman: Is that view shared by everyone?
Mr Newman: No, certainly in the sense that the
Association’s view is that at the moment the process
has been inadequate on two fronts. The first is that
a number of consultation processes are being carried
out in parallel—for instance, this one—with not yet
a closure in relation to consultation period on the
document itself. The consultation period on the
document itself is relatively short, about three
months—not much different to what happens at
local planning level and that also includes the
Christmas period. I think there is a reasonable
concern that certainly for issues of this significance
a longer period could have been afforded. Finally, I
think there is a concern that again there is an issue
about the timing of this relative to the emergence of
other NPS documents. Again, it might well have
been potentially better if we could have seen more
emerging at the same time.

Q11 Mark Pritchard: On the content though, Mr
Newman, is there anything in the emerging NPS that
you think is a good thing and is positive?
Mr Newman: Yes. I think having an NPS is a good
thing. It gives us a very clear sense of direction and
a good start. It builds upon our previous policies and
our position. Certainly so far as the Association is
concerned, there is some concern about a complete
reliance upon a market led approach. In that regard,
I would pick up some of the points made by my
colleague in relation to need but it would also go, I
suspect, to certainly those criteria that might be used
to think about. For instance, drivers for location. As
an individual, I would not advocate site specific
proposals but I might advocate the stronger use of
clearer criteria with regard to thinking about port
location and its impacts.

Q8 Chairman: Mr Trimmer, do you disagree with
anything that has been said or is there anything you
would like to add?

Q12 Mark Pritchard: Competition is a good thing in
principle. Sometimes it produces good results;
sometimes bad results. Do you accept that, despite
the fact that there may be a national government view on ports policy, that does not have to diminish regional competition between ports?

Mr Newman: Yes, I do.

Q13 Mark Pritchard: Ms Ellis, you made one or two comments earlier that perhaps alluded to the fact that competition would be reduced. Am I incorrect in that assertion?

Ms Ellis: If I indicated that, it was not my intention. I do not think that we have a view one way or the other as an association with regard to competition. I was very much answering the question from a lawyer’s perspective about evidence base.

Q14 Mark Pritchard: Do you think the NPS would reduce competition between the regions and between ports, Mr Newman?

Mr Newman: No, I do not think it would. There is no evidence that a previous incarnation of policy has done that. In that sense, I think what is important is that there is a clear direction, a clear understanding, on the part obviously of the decision makers in terms of how those decisions should be made. There will be times when, candidly, the proposals generated through competition will exceed the given wisdom with regard to capacity at any one time. The key criterion is how should the decision maker determine one application in favour of another.

Q15 Mark Pritchard: Need is a major pillar of a lot of planning legislation or perhaps less so in the retail sector recently. Do you accept that there are other pillars that are also important when making a judgment on major infrastructure projects such as for example employment and economic regeneration?

Mr Newman: Totally. Absolutely.

Q16 Mark Pritchard: A final question on security. There is not really much reference to security within the emerging NPS. Do you have any particular views on the positive and negative effects of this Statement on a co-ordinated national security approach to our ports and borders?

Mr Newman: No, I do not, not at this stage.

Mark Pritchard: Anybody else?

Chairman: Mr Trimmer, do you have a view?

Q17 Mark Pritchard: I know you are here with your other hat on, but you come from the London Ports Authority.

Mr Trimmer: I have nothing to add in terms of security. I would say, in terms of the market approach, it is certainly one that by and large has provided appropriate port facilities in appropriate locations that are well used. I think it is a reasonable approach and it is to be applauded that it is continuing within this policy.

Q18 Ms Smith: Mr Newman, in the written evidence of the TCPA you refer to the Connecting England report and the recommendation of that report for a balanced, strategic port strategy to ensure the sustainable growth of English ports by determining growth limits in southern ports and encouraging growth in northern ports. How do you think that recommendation fits with the proposed National Policy Statement and particularly its decision not to recommend specific port locations for growth?

Mr Newman: The Association’s document has been with us now since 2006. In terms of the fit, I would not have said that the NPS position is yet a complete fit with the Connecting England report, really for the reasons I indicated earlier. I did indicate earlier that I thought there could be some further work in understanding a criteria-based approach in terms of how some of that may well be resolved. I think it goes to the issues that were mentioned by your colleague, not least things like employment or regeneration or environmental impact, sustainability-type carbon savings. There is a range of those things and I think there is more work to be done on that yet in order to achieve that level of fit.

Q19 Ms Smith: Would it be the view, do you think, of the Association that that work could be taken so far as to perhaps even recommend specific port locations in the final Statement or do you think it is right to actually avoid making those commitments?

Mr Newman: The Association has not declared on that point but I think it would be reasonable not to expect the work to go so far as to point to specific locations.

Q20 Ms Smith: Can I just ask more generally about the evidence base for demand and therefore need? Can I ask the panel to respond on that point by asking what kind of evidence base do you think would be robust enough to give confidence to decision makers in terms of determining planning applications?

Mr Trimmer: Certainly I am aware, with my other hat on, of the forecast of cargo from 2005 and 2007. There are a number of criticisms of the forecasts. I think again it is the issue there that they are national forecasts, they are deliberately not disaggregated into regions. It is perhaps the issue between a national need versus a regional need and where the developments are actually proposed. The other question I would have is that the bulk forecast is a very low increase from 2005 for 25 years. Again through the Energy NPS and the changing demand in terms of fuel, the small increase in bulk traffic does look quite low in a time when our energy requirements will be more imported by vessel.

Q21 Ms Smith: That is interesting because in the document reference is also made to the potential impact of the recession. It suggests that that forecast demand may be a bit on the high side. You seem to be saying the opposite. This worries me greatly in terms of the robustness of the evidence.

Mr Trimmer: I think certainly from the impact of the recession on shipping patterns that I am aware of, unitised cargo has been reduced an awful lot more than bulk cargo. They have all been hit but certainly unitised has been hit a lot more. I cannot say to what
extent the picture will change over the lifetime of the forecast, but it just seemed to me low in that bulks were treated so differently from unitised cargo.

Q22 Ms Smith: As somebody who works in the industry and obviously is an expert in your own field, what would you recommend in terms of developing a more robust approach in the NPS?

Mr Trimmer: I think with the forecasts again I would agree it seems odd in the middle of a very severe downturn that forecasts from the 2005 review and 2007 are still relied upon with the view that they may not be reached in 2030 but, sooner or later, they may well get there. I would have thought that they need to be considered again and to be updated in order to provide the evidence base.

Q23 Ms Smith: Are there any methods or particular approaches on offer?

Mr Newman: I smile broadly because the comment was made earlier and there was a comparison drawn with the way in which retail testing has been carried out. I think the advantage that retail has now is that it has been going on for sufficient time and has been examined sufficiently frequently for certainly a consensus to start emerging about methodology. I gain no sense that that is the case in relation to understanding port forecasting or demand. In that sense, I cast my mind back to 2002 and the triple port proposals at Dibden, Shellhaven and at Bathside Bay at that time. At that time there was certainly great uncertainty and a great divergence of opinion about what demand actually was. At that time, again relatively recently—seven years ago—the prospect of a recession of this scale had not entered that thinking. I think there is considerable work to be done on methodologies.

Q24 Chairman: Mr Trimmer, you referred to a possible difference between national and regional issues. Is not the question whether national needs can be met by better development in regional locations? Do you think that the National Policy Statement deals with that?

Mr Trimmer: It does clearly on a national level. I am thinking in relation to a regional planning approach and also of course the development of master plans for individual ports that will again need to consider the national forecasts at a local level and how those will actually impact on the development of ports in the strategic timescale and obviously how the NPS will then relate to port master plans, regional planning, to provide a reasonable and appropriate fit for schemes that come forward. It would seem odd in a port master plan to have a forecast that did not seem to tie up with the national forecasts produced by government.

Q25 Graham Stringer: The IPC will have to balance up economic benefits against environmental damage. Will it be doing that on a national basis or will it just be doing it locally in terms of the damage in the immediate environment of the proposed port? What I am trying to get at is we have had figures—I do not have them to hand—about the huge number of lorries that are generated by ships landing in the south of England and then the lorries travel up to the north of England. Will the IPC be able to take that into account when it is looking at environmental negatives?

Ms Ellis: Yes, I would have thought so. If that is the transport impact associated with a particular proposal which is being considered by the IPC, then they will have to take that into account. Where perhaps it gets a little more difficult—and again perhaps the NPS might be able to give a clearer steer about this—is on the question of cumulative impact, which is alluded to but is not tremendously clearly spelt out at present.

Q26 Chairman: Is there any new ports policy in the Statement?

Mr Trimmer: I do not think so.

Q27 Ms Smith: Going on from the response that Ms Ellis gave, would that indicate therefore a need to ensure that National Planning Statements on road and rail transport need to be integrated as much as possible with this Statement before us today?

Mr Newman: That is the view of the Association.

Q28 Ms Smith: I know that is the view of the Association. Would it also be the view of the other people on the panel?

Mr Trimmer: We would concur with that, yes.

Q29 Ms Smith: To avoid exactly the kind of cumulative impacts perhaps that you were referring to?

Ms Ellis: It is not so much to avoid the cumulative impacts; it is to give a very clear steer to the IPC about how to handle them and assess them.

Q30 Chairman: Is there enough guidance to enable the IPC to weigh up economic benefits against environmental concerns?

Mr Newman: Certainly at the moment I do not think that there is necessarily enough in the NPS to offer a measure of benefit or disbenefit, one to the other. Of course it is enshrined that it is for the decision maker to determine. I think it goes to the earlier point made about the environmental impacts of this. As an officer within an authority that has one of these large port proposals within it, we normally ask the question, in a sense, whose environment? It will be very important for the decision maker to understand that there will be a series of environments and there will be a series of economic benefits. We will have to take a wider view. There will be national, regional and local interests weighed and in some cases they will not all face in the same direction. At the moment, I do not think there is necessarily sufficient in the document to indicate those elements where benefits or disbenefits can be measured.

Q31 Chairman: How will the Imperative Reasons of Overriding Public Interest be applied in relation to the Habitats Directive?
Ms Ellis: I can see a difficulty about that given what I have suggested already is the dearth of evidence about need because, if you are looking for a case of overriding public interest, one is normally looking at need to balance against any harm to habitats, environments and so forth. I would suggest that if the need part of the document were more robust then all sorts of other things would become more straightforward as a result of that. The balancing act that we are talking about in the different contexts becomes clearer for the IPC.

Q32 Chairman: Which other National Policy Statements should be considered alongside the Policy Statement on Ports?

Mr Trimmer: Certainly those on energy, roads and railways and other main transport networks that are linked into ports and that would transport the cargoes to and from them.

Q33 Chairman: What about inland transport networks? Is there enough on that?

Mr Trimmer: Certainly there is an issue, we feel, in relation to how inland—in terms of waterway transport and coastal shipping, in terms of modal shift—is treated within the NPS, where it is stated at 2.17.20 that the use of inland waterways should be considered, but then it goes on to say, “Target modal shares may sometimes be appropriate but are not mandatory.” I think if we are looking to develop a truly sustainable transport network—and of course ports do handle the vast majority of goods coming to this country—there should be a little more than just saying it should be considered but it is not mandatory. I think there should be a persuading of the decision maker that conditions and requirements are split. That should be considered very carefully rather than just looking at voluntary arrangements.

Q34 Graham Stringer: I cannot remember when it was now but Tony McNulty accepted the Inspector’s report on Dibden Bay and turned it down. If this Policy Statement was accepted and went through the new process, do you think Dibden Bay would have gone ahead?

Mr Newman: In terms of conjecture, I think it would be very difficult to answer that. The reason for that is that I am not convinced that the guidance to decision makers is any stronger in that respect than it was at that time.

Q35 Graham Stringer: So it would not make it easy for Dibden Bay or a similar project to go ahead.

Mr Newman: In considering the content of the NPS, certainly as a decision maker at a local level, it occurs to me that what we had before us would not make that judgment any easier on the part of the decision maker.

Q36 Graham Stringer: That is slightly surprising, is it not, because the background to all these changes is to make it easy to make big decisions on the policy—whether it is the equivalent to T5, nuclear power stations or ports. On what was a balanced, closely-argued-on-both-sides issue like Dibden Bay, if you are saying it would not have gone ahead, that is slightly surprising, is it not?

Mr Newman: I do not think it is surprising. I think the nature of the philosophical approach taken on the previous policy position is very similar to the nature of the philosophical approach taken in the NPS. It is not a surprise to me.

Q37 Graham Stringer: This is probably a silly question. Would it be possible within these new rules to reconsider Dibden Bay?

Mr Newman: I do not know enough about the scale of Dibden Bay to know whether or not it would fall into the higher or the lower of the thresholds.

Mr Trimmer: It was my understanding from Dibden Bay of course that that dealt with European marine sites and therefore was sort of supra national in terms of the considerations that it had to consider. Therefore, to an extent, they would have to be considered by the IPC probably before the issues within the NPS and of course then there are the issue of alternatives and whether the scheme was actually harmful to the European designated site. Although I agree that it is conjecture, I do not know to what extent this would have made any difference to that decision because of course the importance of the European sites is highlighted in here as statutorily it has to be.

Mr Newman: Therein lies the rub because Bathside Bay of course also had a similar notation.

Mr Trimmer: As of course do most port schemes if they happen to be in estuaries where these sites are, but again it comes down to the decision maker as to whether those impacts can be ameliorated or mitigated, which of course still is referred to in here. The actual criterion for decision making is the same as it was previously.

Q38 Graham Stringer: If we are not talking about Dibden Bay, it is fairly clear when you look at the other major planning considerations—runways, nuclear power stations, et cetera,—what we are talking about. This document is non-site specific. The Government, I am sure, has some new ports in mind. Would you care to speculate what they might be, which sites they are that the Government is not putting in this document?

Mr Newman: I have no idea.

Chairman: Who wants to take that one up?

Q39 Graham Stringer: I am being permanently surprised. There are a limited number of sites on the coast that could be turned into ports. You must have some idea what the Government has in mind.

Mr Newman: I have no idea.

Mr Trimmer: I do not know if the Government has anything in mind but I certainly agree that there are only a small number and of course they are by definition location specific. There are a number of other proposals perhaps coming through the Marine Act in terms of marine conservation zones that may well reduce those, particularly in terms of channels and depths of approaches, where they will be
minimised still. Again, the treatment of schemes to be approved by the Marine Management Organisation and the IPC and how those interface with marine plans is another issue altogether that will need to be considered between the two organisations.

**Q40 Ms Smith:** One potentially big decision that may have to be taken will be whether or not to go ahead with the Severn Barrage scheme. That is not a port scheme proposal but it is a proposal that would have a significant impact on ports in the Severn estuary and environmentally on the estuary itself. It has European protection. Do you think that this Statement would have any impact in terms of enabling decision makers to decide whether or not to go ahead with such a scheme?

**Mr Newman:** If what you are saying is, if a decision maker was contemplating whether or not to go ahead with a scheme, whether or not they would then consider the impacts or the decrease upon capacity at a national level in relation to port capacity, then candidly they would have to take that into account. In the sense of the usefulness, it comes back I think to the earlier comment: is there an acceptance about the modelling and the way in which demand is forecast and therefore accepted? Otherwise you are back into that debate.

**Mr Trimmer:** I would also think it would be an interesting question then between the renewable energy NPS and the ports NPS as to how they could be correlated. How that would happen again I am not sure because also of course the view of the MMO would also add another layer to the complication for the decision maker.

**Q41 Ms Smith:** How do you think it would be best to move forward—you are professionals in the industry, as I said before—in terms of balancing the different demands of the Energy NPS and the Ports NPS when it comes to things like the Severn Barrage, when we are talking about impacts on ports rather than the development of ports?

**Mr Newman:** The Association has a very clear view and of course it comes across in its evidence, which is that it does look at and request through the Connecting England report a much firmer, much stronger and much clearer national development framework. It would suggest that the solution lay in the form of a national development framework, a form of national plan.

**Q42 Chairman:** Do you think that the thresholds for designating major ports are adequate? Do you know how they came to be put together?

**Mr Trimmer:** I do not know. There is an element to say that clearly a number would have to be picked. Whichever one it was, it could be considered to be somewhat arbitrary. My view is, again going back to the issue of bulk cargoes, if a petroleum products-importing terminal handling 4.5 million tonnes went off line, I would say that would have a nationally significant impact. The important thing is to retain the flexibility for the Secretary of State and the IPC to consider whether a scheme that might not reach the threshold is actually deemed to be nationally significant and able to be determined through this new route.

**Q43 Chairman:** Does anybody else have a view about the setting of the thresholds and their adequacy?

**Mr Newman:** I have a view about the impact of the threshold as opposed to the threshold itself. In that sense, having worked for a long time in the field where thresholds are applied, where as a result one finishes up with more than one decision maker, from my perspective, what is of utmost importance is that there should be sufficient clarity and sufficient steer within the policy documents to ensure a consistency on the part of the decision makers above the threshold as well as below it because without it, if there is scope for too wide an interpretation of what policy means, it can lead to very broad inconsistencies.

**Q44 Chairman:** Has that been achieved in this document?

**Mr Newman:** I would not like to say that it had.

**Q45 Chairman:** That sounds like “no” to me. Ms Ellis, do you have any comment on the threshold issue?

**Ms Ellis:** I cannot comment on the specifics of the threshold. I do not know how it was arrived at and I am not expert in ports like these two gentlemen, but all I would say is that of course the threshold is statutory, subject also to the existence of a statutory discretion. I would agree with Mr Newman that in the interests of transparency there should be some firm policy guidelines about the exercise of the discretion, as there are for example under section 77 of the 1990 Act, with regard to call-ins so that communities and authorities and so on, broadly speaking, know what to expect.

**Q46 Chairman:** How long do you think this Statement will last and be relevant? Do you think there should be a trigger for its revision?

**Mr Trimmer:** Without wishing to appear to be too flippant, I seem to remember when the 2005 policy was trumpeted there had not been a ports policy for a generation and it now seems we have had three revisions in five years. I think it should be something, particularly in terms of the need and demand I suspect, that would trigger a review unless there was some other factor in terms of the criteria that would trigger it. So subject to there being no change in Government policy and the market deciding, it needs to be one of the other issues that actually triggered the review.

**Q47 Chairman:** How long do you think this document will be relevant for?

**Mr Trimmer:** Again, I think it depends on the market.

**Q48 Chairman:** Yes, I know all that. In your opinion, how long a period will this document be relevant?
Mr Trimmer: I think it would be worth reconsidering, certainly in terms of forecasts, within five years.

Q49 Chairman: About five years. Does anyone have any other views?

Mr Newman: Taken in itself, certainly I would not argue with five years. I would certainly advise that regard nevertheless should be had to in effect the remainder of the planning system. It is the point I made earlier on, particularly with regard to regional planning, where there are some very clear and distinct planning periods. Certainly 2021 is one of them. Some of those will go out of kilter and some of those will be subject to review at a different time. Again, those thoughts I think should be borne in mind when thinking about the incidence of review for the NPS.

Chairman: Thank you very much for coming and answering our questions.

Witnesses: Councillor Richard Kemp, Local Government Association, and Mr Alan Welby, Director of Strategy, ONE North East, Regional Development Agencies, gave evidence.

Q50 Chairman: Would our witnesses identify themselves by name and organisation please, for our records?

Councillor Kemp: I am Councillor Richard Kemp from Liverpool, representing the Local Government Association, where I am deputy chair.

Mr Welby: I am Alan Welby. I am director of strategy at ONE North East and I am representing the nine Regional Development Agencies.

Q51 Chairman: Could you give us an indication of how satisfied you are on the way in which this draft Statement has been drawn up and how far your organisation has been involved in any consultation on getting us to this point?

Councillor Kemp: First of all, our involvement has been marginal up to this stage. We are not satisfied with the way that it is being introduced almost in absence from the other national planning strategies which need to take place alongside it. Having a port strategy without particularly a road and rail strategy to complement it does not enable you to take full advantage of the picture of what the National Port Strategy might look like.

Q54 Chairman: Mr Welby, what is your view of the way consultations are being carried out now? Is there enough opportunity for views to be put forward?

Mr Welby: I think there is opportunity. The challenge is making sure the messages are heard and integrated in time. The challenge is around some of the processes around regional planning and sub-regional planning which Richard has alluded to. Making sure they are aligned and integrated into this national framework does require a bit of thinking. It is not straightforward.

Q55 Chairman: In the draft document as we have it now, is enough weight being given to the importance of ports in regional economies?

Councillor Kemp: No. Ports are important as a hub within their region, an activity growth. You have to consider the role of a port like Liverpool or a port like Newcastle in its sub-regional and regional context. You cannot just look at it in a national perspective. The nation is made up of a series of regions, a series of ports, a series of connective chains and that has not been recognised enough.

Q56 Chairman: Does this draft document do that?

Councillor Kemp: It certainly does not in isolation, which is why I made the point before about needing to consider this against the other national planning strategies. You could build the best port in the world but if you cannot get to it by road and rail it is almost irrelevant.

Q57 Chairman: Mr Welby, do you have anything to add on this?

Mr Welby: I think I would agree with that. Ports themselves have a very specific nature in the roles of communities that they serve. For a lot of the towns and cities along the coast, their raison d'être was a port. The economic viability of them is vital and crucial. The connectivity to infrastructure, both internationally and locally, nationally, is vitally important as well I think. Particularly the role they are playing in terms of the ever changing world, that sort of gateway, has to be understood.

Q58 Chairman: The question is: is that reflected in the Statement as it is?
Mr Welby: No, not enough at the moment.

Q59 Ms Smith: Bearing in mind the criticisms that you have made, Councillor Kemp, about the consultation on offer, how will Liverpool City Council be involving its local decision makers but also the general public in the consultation on this Statement? Given you are where you are with it.

Councillor Kemp: I am only of course using Liverpool as an example because I am trying to represent local government as a whole. Liverpool, like most other cities, now has a very strong local strategic partnership. We have a Local Development Framework being involved which all residents have had the opportunity to get involved in. It has been very heavily discussed with our business and residential communities. A very important part of our Local Development Framework and therefore our economic strategy is the port, so we have been involved in this heavily. We do not just do it by ourselves; we work within the conurbation of Merseyside. The five other Merseyside authorities are connected into these discussions. For example, to service the port, one of the biggest transport difficulties we have is right at the edge of the conurbation in Halton. All six Merseyside authorities have agreed that a second bridge in Runcorn is an important tool for expanding the port and industrial activity in Liverpool. This all fits into both a city and a sub-regional analysis which has been quite heavily consulted upon, both within and without our own council areas.

Q60 Ms Smith: That is how you have consulted on your sub-regional and regional priorities and your city priorities. How are you going to consult, given all that work, on this proposed Statement? How are you going to ensure that all the views related to sub-regional development of Merseyside are going to fit into your response to this document?

Councillor Kemp: We will be doing that through an organisation called 4 North West which is where all the regions of the North West get together and consider things of wider importance, either to individual councils or to sub-regions. There is a planning and strategy committee of that and that is where we bring together such items. I cannot tell you whether that has actually taken place in the North West at the moment but that is how we will do things.

Q61 Ms Smith: Bearing your criticisms in mind and not necessarily disagreeing with them, do you accept that there is a responsibility on the part of local government to ensure that any responses made to this document are as robust as possible?

Councillor Kemp: Absolutely, yes, as we respond to every local government inquiry or document. We research it as thoroughly as we can and make the maximum possible impact into it.

Q62 Ms Smith: You have the mechanisms in place to do that and you feel you have the time to do that?

Councillor Kemp: The time is a difficult one because, as I have tried to explain before, we find it very difficult to answer in isolation one particular strategy without knowing how that strategy will fit into other complementary strategies which will make that strategy relevant or irrelevant.

Q63 Ms Smith: You can make comment on that. There is nothing to stop you making comments on that in your response.

Councillor Kemp: I do and have.

Q64 Ms Smith: Through the LGA you have the tools to make sure that that happens as well at national level.

Councillor Kemp: I would be the first to tell you that, because we do not have the wider framework, that will be an inadequate response because we cannot frame the response properly.

Q65 Chairman: Which other National Policy Statements do you think you should have?

Councillor Kemp: Road and rail.

Q66 Chairman: Those two?

Councillor Kemp: Yes.

Q67 Ms Smith: Can I just ask Mr Welby about the consultation process? Some of the port authorities involved in this are not as large as Liverpool. You have North East Lincolnshire, the south bank of the Humber ports for example. Do you think that they will struggle to assemble an appropriately robust response, given the complexities of all this?

Mr Welby: In having discussion with colleagues from the private sector and the ports up to now, there is a degree of cynicism about this. I suppose that will come out next week when you meet them. I do think that they will struggle to assemble an appropriately robust response, given the complexities of all this?

Q68 Ms Smith: Do you think that the Regional Development Agencies have an effective role to play potentially in helping authorities like North East Lincolnshire to put together their responses on this, given that those ports are absolutely critical to the whole of Yorkshire and the Humber?

Mr Welby: I definitely do. I think in general we have a very good working relationship with local authorities on that. In the previous session you were talking about the economic impact and the
economic dimension of ports. At a local and regional level, I think that is relatively well developed and is developing further and further. It is that inter-relationship between the regional and the local to the national which I think needs to be integrated, aligned and made better, to tell the truth. That is never going to be perfect—let us be honest—but we have to make it work. The private sector partners do come to us and say, “Well actually, in general, the local authority planning system works quite quickly when they need to work quite quickly.” It seems to me the blockages, and I am not criticising the national organisations here, and criticisms are where the local and the regional do not actually tie in with the national and the delays come through. I have had partners in Teesside saying that a big investment was almost missed because of those kinds of challenges.

Q69 Ms Smith: Finally, just in the context of the north, do you think that Northern Way has a role to play in responding to this National Policy Statement and the other policy statements as well in terms of not just regional but supra-regional?

Mr Welby: The transport approach through the Northern Way has been a very successful joint approach. There is some work we have done on rail enhancement, gauge enhancement. It is not just about the ports; it is the interconnectivity. One of the things that I would like to see stressed in the document as well is, while I do very much appreciate the market led approach here, I do think there is an opportunity for appropriate intervention at that appropriate time, where the private sector cannot take the risk to get a slightly more balanced approach across UK plc.

Q70 Chairman: The document itself is very market led. Does that mean you would prefer something more location specific?

Mr Welby: No. I think market led is to be applauded but we need to understand that there will be times when opportunities come along—for example, around the offshore wind agenda—where it may be appropriate to have a slightly more interventionist approach, to put some economic stimulus in there. For example, if we look on my patch at Teesside at the moment and Corus closing down, it is a real challenge. How can we speed up the really impressive developments that are going on at Teesside port to help mitigate, in a sense? Can we use the planning system to move quickly on that?

Q71 Chairman: The question is how is that reflected in this Statement?

Mr Welby: I think a little bit more work is needed there.

Q72 Chairman: Councillor Kemp, what is your view on that? Market orientated or more location specific?

Councillor Kemp: There needs to be much more locational emphasis on this. The market goes where it is cheapest and easiest. We know from a variety of infrastructure interventions across the country that if you create the right infrastructure the market follows it, because it then becomes cheaper and easier to go somewhere else. If you do not make those interventions, then the market does not operate effectively. It only operates in those areas where it is able to operate.

Q73 Chairman: How do you see the draft National Policy Statement on ports in relation to those comments?

Councillor Kemp: It is largely a market led document which does not place enough emphasis on the overall economic strategies needed by the Government and by the regions to diversify the economy and improve regional activity.

Mr Welby: When it comes to some of the more technical issues around the actual impact and the evidence specified here, I think that needs to be formalised a little bit more as well.

Q74 Graham Stringer: Following those questions and answers, I would ask you to do the work for us. It has been the view of this Committee, when it has produced previous reports, that there is too much traffic in the south of England causing congestion on the roads. How would you change the National Policy Statement so that it gave advantage or encouraged investment in new ports in the north of England? What changes would you make?

Councillor Kemp: In a way it is following on the Northern Way question. Whether the Northern Way itself is an entity is one matter, but you have to improve the transport links from the ports across. Whereas most of the links go from the south upwards, we need to be moving across so there is much more interconnectivity in the ports. That is what the whole series of our regional strategies are based on and that is what particularly seems to be ignored, which is why we relate this back to the road and rail strategies.

Mr Welby: I am speaking on behalf of all the regions, so I do not want to just speak for the north here. I think it is also about the international incentivisation, the dialogue we have with the routes etc. At the moment, it is economically viable to go to the south east for the international carriers, so trying to make those routes as viable as possible to get that critical mass to ports in the north will be important.

Q75 Graham Stringer: This question has been asked before in a slightly different way. Do you not think that, to really encourage investment into the north of England or away from the south of England which is congested, it would be better if the document was site specific, location specific? We are not talking about a choice of 1,000 places, are we? I do not know how many but we are talking of six or seven in the country. Do you not think it would be better to be site specific?

Councillor Kemp: Coming of course from Liverpool, which would be one of those, that would be very satisfying but the reality of life is that we do have to pick winners. You are never going to get bulk containers going into small ports. Therefore, how do you develop the five or six in the north of England that would move things upward? I think that is a
Mr Welby: From my side, I think we look for a view on that?

Q80 Chairman: To determine small port developments? Do you have provide clear guidance for local planning authorities Q77 Graham Stringer: Can you be more specific than that?

Councillor Kemp: There is always going to be a difference of opinion between local and central government.

Q76 Graham Stringer: Can I just take you back to consultation because Paul Clark, the Minister for Ports, has said publicly and to this Committee that local authorities are central both to the consultation and the final decision making process and are deeply involved all the way through. From what you said before, Councillor Kemp, you do not agree with that. I would like your response to Paul Clark’s statement as I have reported it.

Councillor Kemp: On the ground it does not feel that way.

Q77 Graham Stringer: Can you be more specific than that?

Councillor Kemp: There is always going to be a difference of opinion between local and central government.

Q78 Graham Stringer: It is not really a difference of opinion; it is whether you are involved, whether you feel you are influential and have had the right to communicate your views.

Councillor Kemp: We have the right to communicate. We can all do that. It is about whether anyone is listening to that communication. We do not think that there is a fundamental understanding of the regional agenda in the construction of this report. We have made that case and clearly it is not reflected in so far as it appears at draft stage.

Q79 Graham Stringer: Cardiff, London and Leeds I think have been used but for instance there has not been a meeting in Liverpool or Manchester. Do you think those three consultation meetings are sufficient?

Councillor Kemp: As you have rightly identified, if we were to take the whole of the country, we might be talking about a dozen places to talk to intensively, and I do not think that is too much for a government to do.

Q80 Chairman: Does the National Policy Statement provide clear guidance for local planning authorities to determine small port developments? Do you have a view on that?

Mr Welby: From my side, I think we look for as much flexibility as possible and the least amount of bureaucracy, so I think the answer to that is probably that it does at the moment in terms of where it is going. We just need to keep that bureaucracy to a minimum, particularly for small ports, in terms of development and costs.

Q81 Chairman: You are saying that you think the Statement is all right?

Mr Welby: Yes.

Q82 Chairman: Is there likely to be a conflict between the National Policy Statement and the local development plans? Is that an area of contention?

Councillor Kemp: I would have thought that was almost inevitable. We can take the 12 big ports; many other ports are a key part of the local redevelopment plans of the council and its local partnership. Inevitably, you cannot satisfy everyone. Clearly, at some stage there needs to be a rationing out of opportunity, if I can put it that way, because you cannot satisfy everyone’s needs. What I am not clear about is whether sufficient information is being given to councils to say, “Frankly, it is a waste of time proceeding with this because you will fall outside the strategy”.

Mr Welby: And vice versa I suppose, that that bottom-up approach comes into the process as well. All the work that people are doing through local economic assessments and regional strategies goes up into the system.

Q83 Mark Pritchard: Councillor Kemp, do you think government offices are doing more today than perhaps they were a few years ago?

Councillor Kemp: It depends where you start. I was a consultant who helped set up the regional government offices and I can remember them not being there, so they certainly do more than when they were not there. I think, as Alan has said, that there is a strong regional ethos now and the local authorities, through the regional leaders’ boards and the regional development agencies, do get together and try to work with the regional offices. The regional offices are somewhat opaque in terms of their decision-making process around a whole series of planning issues.

Q84 Mark Pritchard: Are they better than they were yesterday?

Councillor Kemp: I would not pass a judgment on that.

Q85 Mark Pritchard: That is despite your being a senior councillor in your region?

Councillor Kemp: There are some things about government offices that I would be more than delighted to give an opinion on, but on this one I do not feel qualified to judge on the question between today and yesterday, I am afraid.

Mark Pritchard: Let me make it easy for you. Do you think the region would be enhanced or diminished as a result of their closure?

Chairman: This is just in relation to ports?

Q86 Mark Pritchard: Of course it is, because they are a key stakeholder.

Councillor Kemp: I do not think it would make any difference to the ports strategy but I will come back at another time to argue the wider point.
Q87 Mark Pritchard: Do you agree that strategic partnership working, joint procurement between local authorities, has increased in recent years, for example in your region?

Councillor Kemp: Without a doubt.

Q88 Mark Pritchard: Do you think that is a good thing?

Councillor Kemp: It is indeed.

Q89 Mark Pritchard: So you clearly trust local authorities to deliver on a wide range of services?

Councillor Kemp: Local authorities by themselves and local authorities in partnership on a sub-regional and at times a regional basis, yes.

Q90 Mark Pritchard: At an economic level, do you think that increased working and partnership would be beneficial for example to the North West region?

Councillor Kemp: Yes, I do. We have a very strong organisation in the North West, and again I use this as an example because I am trying to represent local government as a whole. The Government Office for the North West is an effective body where council leaders can meet and they do make important decisions about what local government can press for, but of course it is nowhere near as good as having a directly-elected regional body to which people could relate. So having groups of leaders' meetings is only democracy by proxy; it is not as good as an elected regional body.

Q91 Mark Pritchard: Do you accept that there are different circumstances in different regions and therefore the vehicle or the platform to deliver regeneration of ports or economic activity in and around ports might differ per region?

Councillor Kemp: It will vary from port to port, never mind region to region. We need to have a model of government which is a set of principles that is moved around the country rather than a static model to be enforced in every area.

Mark Pritchard: Given your comments on the robustness of some local authorities to deliver strategic partnerships and economic regeneration, given the differentials between different regions, and given that you seem to speak your mind, which is refreshing, as a witness, do you accept that there may be circumstances in which local authorities work more closely together and where we might see regional development agencies perhaps closing? This is relevant to ports, Chairman.

Chairman: We are talking about a strategy, a policy statement on ports.

Q92 Mark Pritchard: I believe, if you look at Standing Orders, Chairman, that each member of the committee is allowed to ask a question uninterrupted by other members of the committee. This is around ports and I would be interested in the response from the witness.

Councillor Kemp: I believe that in the context of ports the Merseyside authorities are capable of making the sub-regional decisions. Somewhere above that sub-regional basis we have to link up with a national system because we will never—and Merseyside again is an example—be able to decide how the whole railway system works or how the whole motorway system works.

Mark Pritchard: The final question, given that the Chairman has very kindly allowed me to ask something not relevant to ports but given that you are senior within the LGA: I would be interested in your view on roads and the road conditions that we are facing. Perhaps all of us will struggle to get home tonight and certainly back to the West Midlands tomorrow. I wonder whether you feel the Government and the Department of Transport have listened well enough to the views of the Local Government Association about the reserves of salt and grit and, secondly, how that should be distributed, whether through local authorities or the Highways Agency.

Q93 Chairman: If you want to give a short answer, that is okay. I agreed to one question on this. Actually this is all about ports and that is the reason you are here.

Councillor Kemp: The answer, in short, is that this is a 30-year problem and, in the context of a 30-year problem, my answer is “yes”.

Q94 Ms Smith: Very briefly, at a very local level planning authorities of course have some discretion in terms of prioritising development on the grounds that an area needs regenerating, so that is what the Unitary Development Plan, the Local Development Framework as it is now, can do; it can help to prioritise areas for redevelopment on the grounds that regeneration is necessary. Do you think that model can be applied and developed to work at national level?

Councillor Kemp: No. I believe it can be applied further at a regional level. For example, again to look at the North West, the AGMA or Manchester authorities do work closely with the Merseyside authorities. As we have already quoted, one way is to go right up to the motorway system to the North East, but there are limitations to what organisations elected on a geographical basis can do across an area which is bigger than their own geography.

Q95 Ms Smith: What I am thinking of particularly is this big point about whether or not you prioritise development for instance in northern ports rather than southern ports and on environmental grounds as well as grounds for regeneration and developing the economy of the North. Do you think there is something in the concept, used at a very local level, that could be applied within the National Policy Statement?

Councillor Kemp: There needs to be a national economic strategy which recognises that local authorities and their partners will develop a rich mosaic to deliver their part of that national strategy. Local councils cannot do it all by themselves.

Q96 Ms Smith: That was not my question. Mr Welby, what are your comments on that?
Mr Welby: I think they do and that there is much to learn here from the hub and spoke approach, the interconnectivity of different sites together. I know of some of the work in the South East that has been very positive around that. The interdependencies of cities and ports are vital to future development, not just around containers and shipping. I do think there is something to be learnt there. Working that through is not straightforward, let us be honest, and there are competing agendas: thematic competing agendas and national, regional and local competing agendas. Unless we deal with them, we will just get a hotchpotch and that is not going to serve us well in the internationally competitive marketplace and in actually looking at the challenges that ports are facing over the next five to 10 years.

Q97 Chairman: Do you feel that the draft Statement gives enough weight or guidance to trying to evaluate any possible conflict between economic and environmental factors?

Mr Welby: On my side, I do not think the balance is quite there yet between the economic and environmental.

Q98 Chairman: When you say it is not there, do you mean the Statement does not give enough guidance?

Mr Welby: It does not. We would be looking for more guidance, particularly on the economic side. We will give you more details in our written submission. We feel that it is lacking in a number of areas. If it is lacking, then inevitably the judgments being made, particularly in relation to environmental decisions, will be unbalanced, if that makes sense.

Councilor Kemp: One of the problems with following the market is that that has environmental consequences. If you take any load a long way by lorry from a southern port to the north of England there will be CO₂ and other road consequences. I do not think that has been allowed for. That is why our concern is that a lot of the thinking behind this document seems to have been done pre-2005. Since then, we have moved a long way in terms of the economy and economic strategy and indeed in terms of the country facing up to the problems of climate change, and we do not feel that that is adequately recognised in this document.

Q99 Chairman: What is your view on the imperative reasons for overriding public interest as applied to the Habitats Directive? Do you think that the Government has drawn the balance properly?

Mr Welby: I refer you back to my previous answer; I do not think the balance is quite there yet in terms of getting the balance in the document. In particular, I do not think that some of the technical models we will be using to make those assessments are robust enough.

Q100 Chairman: Do you think that the draft Policy Statement on ports is compatible with existing strategy on transport?

Mr Welby: My feeling is that it is but I do not think it is quite there yet and does enough to take it forward to make the alignment that is needed, the step change that would really be needed to make the systems move as quickly and remain as democratic as possible.

Councilor Kemp: As I have indicated, we are waiting for the complementary strategies to come out. The existing strategy is reasonable but whether it is implementable is more important than whether it is strategically correct.

Q101 Chairman: How important is it that you see those other strategies?

Councilor Kemp: It is absolutely vital. As I have tried to explain before, a port which does not connect easily with its hinterland and beyond the hinterland is a poor port, no matter how good the port operator can make it.

Chairman: Thank you very much for coming.

Witnesses: Ms Ginny Clarke, Network Services Director, Highways Agency; Ms Janet Goodland, Director of Development Projects, Network Rail; and Mr Mark Rowbotham, Co-Chair of the Ports, Freight and Maritime Forum, Chartered Institute of Logistics and Transport, gave evidence.

Q102 Chairman: Do you think the Government should formally approve the draft National Policy Statement on Ports or are there any areas where you think change is required?

Ms Goodland: I will mention our particular concerns which are around transport and the rail industry in particular. We feel that there is not enough in the draft NPS about the established rail planning systems which are available and should be used in order to judge whether or not a port’s transport systems will be adequate. We would like to see those referred to in the NPS and that whole system consolidated together.

Q103 Chairman: Does anybody else want to indicate the main problems you have with the National Policy Statement? What are your views on the way the consultation is being held on the Ports National Policy Statement? Do you think it is adequate?

Mr Rowbotham: There are a lot of members in the CILT in the UK from diverse areas of interest. On a regional basis, I believe that more perhaps could have been done on direct consultations with a variety of parties, considering that within the ports
framework we have all sorts of industries involved: we have people like stevedores, we certainly have agencies and the rest. From my own point of view and from the contact I have had with members of CILT, quite a lot of people would like to have had rather more advanced consultation on how the NPS was being disseminated amongst them and been given the chance to be able to submit their own opinions, whether verbally, even by email, or in formal written evidence.

Q104 Chairman: Do you think that the Statement reflects the existing policy on ports infrastructure development?

Ms Goodland: I am not particularly involved in ports infrastructure development.

Ms Clarke: Neither am I and I am afraid I cannot help you on that.

Mr Rowbotham: Again, from our point of view, it does address it generally. As I have noticed from previous answers this afternoon, it largely depends upon, as I would put it, a matrix, a regional element to the ports, because we have different regions and different requirements for port activities. It also depends on the nature of the port itself, whether the port, let us say, is a multi-purpose structure that deals with a variety of handling, such as dry bulk containers, roll-on roll-off, or whether it is a very specific port dealing, say, with handling hydrocarbons, or a ro-ro port, as in the case of Dover, or even a container port, as in the case of Felixstowe.

Chairman: Does the Statement state the case for additional port capacity? Do you have any views on that? You do not.

Q105 Mr Hollobone: It is all very well not having a view but, with respect, we have representatives here from Network Rail and the Highways Agency and we are interested to know your views on ports; that is why we are here. We have just had two questions from the Chairman on the development of ports and we have not had a response from either of you. We would be interested to know your views, whether you are an expert or not.

Ms Clarke: I am happy to take it on that basis. Perhaps I could take both together. What this Policy Statement does for the Highways Agency is set an outline, the approach to ports and the impacts that has. It sets a clear policy framework for us, but it is in support of other documentation we already have in terms of the development of a strategic road network to support, as you know, key important economic aspects for the country, and of course ports are part of that. Our reference point would be to the documentation, for instance the delivery of the Sustainable Transport System in 2008, which refers to future planning to 2014 for the strategic corridors for national networks, including clearly the strategic road network. In that context, we would view this document in its draft in the context of seeing the guidance we already have about the direction and indications to us as to where we would want strategic development to take place. In that sense, we have a view about it because clearly we have in place already things that would help us in terms of the strategic direction for ourselves and so I can support this because it builds on that to some extent; it brings a clarity and another level of detail, which is the impact assessment. Clearly, when we look in terms of individual applications, although this is the direction to the decision-maker, it helps outline the sorts of things that any proposer would have to prepare and, where we are involved, the things that we would expect to see from them.

Q106 Chairman: The National Policy Statements on national networks are not due until March. Does it make any sense to look at a ports policy without looking at national networks?

Ms Clarke: I am not sure I am the best person to answer.

Q107 Chairman: What is your view?

Ms Clarke: In my view I think there is a benefit in seeing both together and therefore the comments on this would need to take account of the fact that when we see the National Networks National Policy Statement there might well be some read-across to this and if you had had the two together, you would have had the benefit of seeing them there.

Q108 Chairman: But does it make any sense to look at them separately?

Ms Clarke: I made some sense out of this in the terms of what I was looking for in the Strategic Road Network but I cannot best comment for others who are probably looking for other things in this document.

Q109 Chairman: Mr Rowbotham, what is your view on that? We are looking at a document on ports and we do not have the equivalent document on national networks. Does that make any sense?

Mr Rowbotham: To a point it does if you are looking at it from what the function of the port actually is in terms of its overall contribution to the economy. However, in terms of transport issues, I am of the view that cognisance should be given to the other statements when they arrive because a port is, after all, a mixture of transport activities, all of which interlink. You cannot have one without the other. After all, a vessel coming into a port is going to discharge a cargo or load it. What happens to that cargo after or before that then depends very much upon the national infrastructure concerning road or rail, or even inland waterways. I do think to that extent there has to be an overlap between any form of statement or view made of the infrastructure concerning both rail and road because without them we would not have a cohesive, integrated infrastructure in the UK.

Q110 Chairman: Do you think that this Statement is adequately linked to policies on sustainable transport, like taking more freight off the roads?

Ms Clarke: I found it was linked enough. As to whether in fact there are all the clear references, I come to this clearly with quite a good knowledge of the strategic road guidance, so again I look at it
It is the same with Immingham. **Mr Rowbotham:** Immingham is a pseudo-deep water terminal but it still does not have the depth, let us say, of Hunterston. I believe that Immingham is at round about 15 to 18 metres, whereas Hunterston is 26; it can actually accommodate the largest of the Cape-sized vessels.

**Q116 Ms Smith:** Following on from that, I understand entirely the argument that the various Policy Statements need to be integrated and should therefore ideally be agreed together. I would agree with that. However, I recall at a previous inquiry on investment in the railways the Chief Executive of Network Rail making a statement to the effect that he thought it was time for Network Rail perhaps to start thinking about the strategic development of the railways, especially in the context of the need to develop the economies of the north of England and not to continue with a reactive model, which continues to focus investment in the south. Do you think in that context that Policy Statements can aid in the process, both in terms of network Policy Statements and ports Policy Statements, perhaps of focusing more on the economic areas like the north of England, Wales and Scotland, or rather Wales, and not continue with the focus perhaps on investment in ports in the south and investment in getting cargo from the south to the north? **Mr Rowbotham:** There is one case where that is already happening to a point but it is very much to do with geographic location. Admittedly, this is in Scotland, which I do not think falls into this remit, but in the case of dry bulk, coal comes into this country for consumption at a series of power stations. There is already a series of strategic ports throughout the UK which handles large quantities of imported coal in bulk. A lot of the problem is, firstly, what size of vessel these ports can accommodate. As I see it, there is one major port in the UK which will handle the really large bulk carriers, and that is not in England or Wales; it is in Scotland on the Firth of Clyde, Hunterston, and yet that port is serving not just Scottish power stations such as Longannet but also power stations such as Drax in Yorkshire, which is not a long way from your constituency. The fact is that that port is a deep water terminal and therefore one of the few that can handle these vessels; it does not necessarily therefore require government intervention. That is to do partly with markets and also very much with geographic location because of the limitations of the water area, particularly the access channels that can accommodate these vessels. Similarly, with ports in England, some of them, such as Liverpool, are constrained by the locks, as in the case of the Seaforth and the Gladstone docks which can only accommodate what we call the Panamax vessels, in other words those of the maximum limit to go through the Panama Canal. That means they are limited in terms of capacity, we would say, to around about 80,000 tons in terms of cargo capacity for coal or whatever else. That therefore limits what you can get into these ports. It is the same with Bristol and the Portbury dock.
The question is: would it be right for the Policy Statements to take account of the need to develop economically other areas of the country and to help if possible in taking the pressure off the south east of England and off London in terms of the increasing congestion I think we are experiencing in the south of the country?

Ms Goodland: I think from the point of view of the railways, we would support that, although we would not necessarily be saying that that is what must happen. It is something that would make our lives easier and make our investment decisions easier and help us in a number of ways. The question is how you achieve that through these NPSs. As someone previously said, perhaps the economic weight is not there. There is a lot in this NPS in particular about environmental aspects but less about the economics. Perhaps that balance would need to be changed to achieve what you are trying to do there.

Ms Clarke: If I may comment on that, I think on the roads side there are very specific references to congestion in the National Policy Statement for Ports in the impact section where they deal with the assessments. I think there are some quite strong indicators for strategic road advice to be absolutely clear about the congestion issues associated with developments. You are right that that would not necessarily drive it from south to north but it would certainly seek to bring forward the evidence that says that if you do it in this location you are reinforcing issues of congestion. I accept that that is written specifically in the Strategic Road Network, and the local road network actually, and that there is an emphasis on that in terms of the impact assessment. From my point of view, I felt there was a link there. As I say, it would not necessarily drive you north/south; it would certainly seek to emphasise the impacts of congested networks.

Q117 Chairman: Are the thresholds for designating nationally important port developments adequate? Do you know how they came to be drawn up in the way they were?

Ms Clarke: I am not aware of how the thresholds were derived. I have read the background documents. From our point of view, effectively we would have notification of any of the port developments, not just the national level ones. To some extent, we would have visibility of those proposals through the planning system, whether they were nationally significant or not. In that respect, we probably do not see this as quite such a significant issue in terms of our role in commenting.

Q118 Chairman: Are there any other comments? How long do you think that the draft Statement would survive? Is it robust enough?

Ms Goodland: From the rail perspective, we look to refresh our planning documents every five or so years, and I think that other people have said the same sort of thing. I think that would be the time to refresh this one in line with emerging policies.

Q119 Chairman: Should there be a trigger for its revision, apart from the discretion of the Secretary of State? Do you think there should be any other trigger?

Mr Rowbotham: From the figures that were presented in the statement, again referring to previous answers, the fact that the original work was done back in 2005 and then was reviewed in 2007, I would have said a period of two years gives a far more accurate prediction because, in line with normal rules on forecasting, the longer you leave it, the more distortions you will have. If you do a series of monitoring targets, if you like, over a rather shorter period, i.e. a period of either 12 or even 24 months, you get a much more accurate set of figures, which you can then use for the purpose of extrapolation or certainly rather more accurate forecasting.

Ms Clarke: Five years fits quite well with the 2014 horizon for developing the Sustainable Transport System. In that sense, five years seems to be a sensible timescale. I would make the point, and I suppose it is not specific to the Policy Statement, that certainly there have been changes in interests within port development, and particularly at specific locations where we have been involved, where things have changed in under five years. I think if we are talking about policy statements, the five-year horizon seems to fit certainly with the strategic approach taken on our network.

Q120 Chairman: Is there enough guidance for the Independent Planning Commission on evaluating the conflict between economic and environmental influence?

Ms Clarke: Can I comment on this from the experience we have had not so much in the Policy Statements but in other areas where we have compared assessments? Certainly from the reading of it, that seems to be based very much on what we do in other areas when making comparisons in these areas. I saw this as generally following the way in which we are doing assessments elsewhere. I cannot comment specifically on the impacts inside the ports but, in relation to the Strategic Road Network, it followed very consistently, not unreasonably I suppose, with the approach we are taking elsewhere. Whether specifically it will bring out the differences in the ability to judge this, I think to some extent has to be seen when this develops through the actual system when it is applied to the decisions of the IPC.

Q121 Chairman: How does the guidance here equate to the situations that you are describing? Is the guidance clear enough?

Ms Clarke: To me it is but we have quite a lot of experience in using this type of guidance. From experience, I find this quite a familiar way of doing it. It is quite technically based. I will leave it to others to make a judgment whether it helps them in that way, but it follows very much the methods we have adopted through our Strategic Road Assessments.

Ms Goodland: It also mirrors the Strategic Rail Assessments. It is the same family of models and assessments that are used there.
Q122 Chairman: You find it adequate?
Ms Goodland: It is consistent. I put it that way. It depends what you are trying to achieve with it but it is consistent.

Q123 Chairman: Is the guidance clear enough?
Ms Goodland: Yes.
Ms Clarke: Yes. Certainly if we were bringing forward our evidence for the roads aspect of this, we would find this a familiar way of presenting evidence about whether we are trying to make the economic point or the environmental point from our perspective.

Q124 Chairman: Mr Rowbotham, do you have a view on that?
Mr Rowbotham: I would say what my two colleagues have said: as a generic function, yes, it is adequate, but again it boils down to the merits of each individual case.
Chairman: There are no further questions. Thank you for coming.
Wednesday 20 January 2010

Members present
Mrs Louise Ellman, in the Chair
Mr David Clelland
Mr Jeffrey M Donaldson
Mr Philip Hollobone
Mr John Leech

Mark Pritchard
Ms Angela C Smith
Graham Stringer

Witnesses: Mr David Whitehead, Director, British Ports Association, Mr Richard Bird, Executive Director, UK Major Ports Group, Mr Phillip Williams, Group Property Director, Associated British Ports, Mr Stephen Baxter, Chief Executive, Peel Ports, and Mr Andrew Harston, Port Development Director, Hutchison Ports (UK) Ltd/Port of Felixstowe, gave evidence.

Chairman: Good afternoon, gentlemen. Welcome to the Committee. Do Members have any interests to declare?

Mr Clelland: I am a member of Unite.
Ms Smith: I am a member of GMB and Unison and, in the context of today’s meeting, a member of the RSPB and chair of a conservation group supported by the Environment Agency.
Graham Stringer: I am a member of Unite and previously a director of the Manchester Ship Canal Company which is a wholly owned subsidiary.

Q125 Chairman: Louise Ellman, member of Unite. Can I ask our witnesses to identify themselves, please, with their name and organisation?
Mr Williams: Phillip Williams, Associated British Ports.
Mr Harston: Andrew Harston, Hutchison Ports (UK).
Mr Whitehead: I am David Whitehead, director of the British Ports Association.
Mr Baxter: I am Stephen Baxter, chief executive of Peel Ports.
Mr Bird: My name is Richard Bird and I am executive director of the UK Major Ports Group.

Q126 Chairman: Thank you very much. Could you indicate in which areas, if any, you think the draft policy statement on ports is deficient, or do you think it is all perfect and could go ahead as it is? Are there any key problems you see with it?
Mr Whitehead: First of all, in general terms, the policy statement is a good document and it is consistent with ports policy as we know it. The issues are really ones of clarification and emphasis. Just to mention a few of them, there is the issue of the relationship with the MMO, the Marine Management Organisation, and how these two organisations deal together. There are issues connected with the characterisation and description of the ports industry. Bearing in mind the IPC will have to get to grips with the ports industry, it needs to be assured exactly what kind of a creature it is. Those are the kinds of issues that we are talking about rather than really substantial, fundamental issues of disagreement.

Q127 Chairman: Does anybody think there are more fundamental issues at stake?

Mr Bird: From the UKMPG perspective, we share the views that David Whitehead has given but there are just a couple of other points to emphasise. Firstly, the importance of links between the ports NPS and the national networks NPS. Ports are not entirely free standing. They are important players in the overall transport system and it is obviously unfortunate that we do not have the national networks NPS. I think there is an issue there about the links between the two. The other area that we have some reservations about is the lack of prioritisation in the fairly extensive list of issues which the NPS invites the IPC to consider. We think the IPC and perhaps even to a greater extent the Marine Management Organisation may have some difficulty working through that list without some guidance on the issues of greatest priority. We certainly put the economic support right at the top of our list.

Q128 Chairman: Mr Baxter, in your written evidence you point to major deficiencies you see in relation to regional policy. Can you tell us about that or indicate any other areas as well?
Mr Baxter: From our viewpoint, it talks about a market driven environment but for us we think it does not emphasise the economic benefits that ports bring, particularly in the regions. From our viewpoint, we can see huge economic benefit for further development in the north and in particular the north west. One of the things I would like to talk about briefly is the uniqueness of the Manchester Ship Canal. To build that today would probably cost 20 billion plus and that is an asset that is totally under-utilised. We believe, coupling that with the port of Liverpool, it gives the UK a chance to use the centre of the UK as an import area for bringing goods in, which has national benefit by taking road miles off in the south east and there are major savings in carbon as well as savings through the market place. We believe the customers, the end users, particularly in containers, can get £150 a box saving. We think intervention has a benefit because it enables the UK to benefit as a whole, both economically and in carbon reduction.

Q129 Chairman: You do not think there is enough intervention in the statement as drafted?
Mr Baxter: At the moment no, because fundamentally I agree with what Richard says. You really need to couple this with the rail and road policy. I think we have half a story here. It talks about economic benefit. The ports policy on its own is only half a story. When you think about a simple supply chain, the port is a node and therefore you have to say how do you get to and from the port. You really have to combine road and rail. Historically, we believe that a lot of the investment in rail has been biased towards the south east. Our view is that that balance has to be struck and more investment has to be given to the north in rail connections to make that balance even.

Q130 Chairman: Are there any other issues anybody wants to flag up at this point, where you have basic problems with the statement?

Mr Williams: I would like to see greater integration with the master planning process. Certainly in ABP we have adhered to the guidance given by the DfT with regard to the formulation of master plans for major ports and how those should integrate with regional planning and transport strategies. The National Policy Statement is largely silent, as far as I can see, with regard to master plans. We put a lot of effort into it. It is an integral part of our great strategy up until 2030 and we think they could be reflected in the guidance and weighting given to the IPC, MMO and local authorities when interpreting the NPS.

Q131 Graham Stringer: Mr Baxter, in your written evidence you point out that there are 300,000 containers per annum imported into the north west through the congested ports in the south east. Why does the market allow such an apparently inefficient thing to happen?

Mr Baxter: Today it is based on capability of the port. We have a huge investment programme. We are outlining about £1 billion for the next 10 years. One of the significant investments is to give Liverpool the capability to take the larger vessels. We believe, once that capability is there, that becomes an economic option because I think there is a saving to the customer. It has to be linked to the surface access to get it to the final destination.

Q132 Graham Stringer: The implication of what you are saying is that those 300,000 containers are going to the south east because there is not the capacity in the north of England.

Mr Baxter: I think it is the capability and capacity.

Q133 Graham Stringer: I do not understand. What is the difference between capability and capacity?

Mr Baxter: The spare capacity in Liverpool today is for smaller sized vessels. If we increase the size of the vessel capability, then we can get more of the traffic in. We are more than willing to invest in that as a private company. That has to be connected to the network. We have worked out schemes to connect Liverpool and the canal to the rail network and that can then reduce the amount of road miles coming up from the south east in transporting those containers.

Q134 Graham Stringer: You are saying that Peel would invest in facilities which would take the largest ships effectively if the government provided transport infrastructure away from Liverpool?

Mr Baxter: I think it is more than that. If I may just explain a little bit, the support at Liverpool is the end of the process. There is a unique canal and, as I said before, it is over 100 years old. You would not spend that money today. You would probably spend 20 billion plus. Our plan is to have several intermodal ports along that canal and to take containers from Liverpool on barges, taking away road miles and the CO₂ savings that will give, and barge them up the canal to these intermodal ports. Then they could be transported to their final destinations.

Q135 Graham Stringer: Can I ask the whole panel? The document is non-specific about where ports should be developed, which is very different from the policy statement on airports. Can the panel say where they think that sea ports or ports should be developed? Should that be specified in the document or should it just be left for people to guess?

Mr Williams: In our response, we welcome the fact that the guidance and the policy statement is not geographically site specific but what we would suggest is that there should be a linkage to the strategy to supply major road linkages throughout the country. Delivering a Sustainable Transport System is a document, as you know, published by the Department for Transport in 2008 that identified key airports, key sea ports and key national routes. Whilst we are not suggesting that you should name ports necessarily within this document, it would make sense and tie in with the comments made about the emerging NPS on rail and road linkages, I would respectfully submit, if there was reference to the DSTS initiative within the NPS.

Q136 Graham Stringer: Is not the implication of that that you are leaving ambiguities and complete uncertainties? In order to plan both rail and road networks so that they are integrated together, it would be better if the government grasped the nettle, as they have done on airports, and were specific about where that development should take place.

Mr Williams: The commercial demand for port services and products tends to evolve so, without having a rigid framework, stating the obvious, ports as entities are going to expand into major ports where there are adequate linkages. We are not advocating that ports are necessarily named specifically but if some key ports were then obviously, provided they were ABP ports, we would be quite happy with that.

Mr Harston: We also have to remember that although the significant growth over the period to 2030 is shown in the unified lo-lo and ro-ro markets, the National Ports Policy paper is just that. It is a national ports policy and in that respect there are a
number of commodities that do not need the same transport linkages. The problem of being location specific is that by identifying those ports that somebody feels it is appropriate to develop and to provide those supporting transport infrastructure links to—which of course like ABP and everybody at the table we would welcome; I think the DaSTS process has done that anyway—there are other commodities such as the energy commodities that have very different transport requirements. LNG moving through Milford Haven, LPG moving through Medway using pipelines, or the National Grid for instance; it is a different set of criteria and there may well be other ports around the country that the policy is also seeking to be the policy for.

There are different onward transport requirements for the unitised markets. In that respect, I think you have to look at it as a policy for the whole of the industry and parts of the industry have different requirements.

Mr Whitehead: We agree that the policy should be non-specific in terms of location and that is consistent with having a private sector industry which is taking the risk and promoting the development. It is not so much a mystery where these developments might be. I think we should link that to regional transport strategies and master plans already being referred to. I do not think either of these are mentioned in any place in the policy statement and they should be because it comes back to linkages. These would have given more than clues as to where the next development would be. We are not working in a mist here. It is pretty clear where things are going to go on the back of a private sector driven industry.

Q137 Graham Stringer: We are not working in a mist. I agree with you. In that case, would it not be better just to specify it?

Mr Whitehead: Who is going to do the specifying?

Q138 Graham Stringer: It would be the government.

Mr Whitehead: If the government does the specifying, that is against the whole trend of ports policy. It has to be this balance of a pretty good idea where this development is going to go with the private sector coming forward with its own proposals.

Q139 Chairman: Do any of you think that the government should specify location?

Mr Bird: The answer is no as far as the UKMPG is concerned and I agree with the points made by colleagues. I would add that we have had a non-specific policy towards ports location for many years now and this has in general served the country well in terms of ensuring that investment came in at the points it was needed in the quantities necessary at no cost to the Exchequer, of course. There is a flexibility about those arrangements that it would not be possible to have if a national policy statement looking a long period ahead actually specified where development should take place. As other colleagues have said, it is important that we have some way of linking the market led arrangements in the National Policy Statement with the road and rail infrastructure links. Indeed, I should stress coastal shipping as well which I think is clearly a very important element for Peel and the Manchester Ship Canal. The best way of doing that is through the master plan system which enables ports to set out longer range proposals which then form the basis of discussions with regional and local bodies and regulators.

Q140 Mr Clelland: Mr Bird has just said that the investment comes at no cost to the Exchequer but of course that is not quite the case, is it, because all of the necessary infrastructure—the rail and road systems and the congestion which can result as a result of the activity—does fall upon the Exchequer. Therefore, surely the Exchequer or the government ought to have some say in where ports are going to be located because of the costs that would fall upon the taxpayer?

Mr Bird: That is absolutely right but ports are of course vital for the economy in moving goods in and out. It is right that the Exchequer should pick up its share of the costs of those improvements. We do feel that the government’s policy to charge port developers for a proportion of national infrastructure in relation to development is misguided and puts our ports at a disadvantage compared with continental ports and might reduce the opportunities for future investment.

Q141 Mr Leech: Would you all accept that the market led approach makes it far more difficult to reach environmental targets, carbon reductions and road miles?

Mr Whitehead: No, in a word. You go through the planning system. You will have seen from the draft policy statement that a lot of that is concerned with the environment, climate change issues and so forth. You have to go through this process and I do not think there is any difference at all. There is no get out for a private sector led development here.

Q142 Ms Smith: I just wanted to go back to the point about where to locate or whether or not to specify locations in the statement. Last week we heard about the importance of regional economic development and the potential for government to help reduce the difference in GDP in terms of the south east, London and the north west or the Humber by using the lead as a public policy. I would like to know the views of the panel on whether or not the NPS should be one of those tools. In other words, we use port development to help reduce the economic disparities between the South East of England and, say, the Humber estuary on the one side and the Mersey on the other.

Mr Baxter: I would like to answer that question and maybe interlink the last two as well, if that is possible. I think it is time for vision and time to open up the whole conversation. Firstly, going back to what Mr Stringer said in terms of aviation, aviation did get guidance on one way expansion but it did not
say definitively which ones. Take for example in Scotland. Glasgow or Edinburgh can build a runway depending on demand and I think you could probably do something similar to the ports industry. When I say “vision” I am thinking let us change the game for the benefit of the UK and the benefit of the regions in terms of economic benefit. Ports are massive job creators, both directly in the port and indirectly with logistics companies. There is a factor and multiplier. I cannot articulate too much about the Humber but in the north west we think our vision will create over 10,000 jobs. I think we can link that economic benefit in but we can also link environmental improvement. At the moment we do not have an efficient way of transporting goods through the UK. I think the government can help and can improve on the environmental impact through this industry as well. I think you could touch all bases but you have to change the game and to do that you have to have the vision and get involved.

**Mr Harston:** One of the great advantages of unitised traffic is you can move it to where you want it to go. The point Mr Stringer made earlier is where does the market want it to go. At the time of the National Dock Labour Scheme and the designation of those ports that would be covered by the National Dock Labour Scheme, the port of Felixstowe was not a commercial port, so it was not included on that list of designation in 1947. We are now 60 years further on and it is the port that handles the greatest number of containers in the UK. We also have permission to expand the port of Felixstowe where currently we are investing £350 million to do that. This is not an industry where you invest cheaply. The infrastructure is expensive. It is very technically orientated and it is very productive. The beauty of having done that and created a hub that has the potential to do what Rotterdam does between Bathside Bay on the Harwich side and Felixstowe on the north side of Harwich Haven collectively having up to eight million, twenty-foot containers’ worth of capacity, double what we have today, is that you can then operate very efficient coastal shipping links to ports on the Humber and the Tees and Newcastle, where you can still handle the containers. You can still operate the distribution centre and you can still get all of those regional benefits and carbon savings without building multiple, big ports which have their own carbon impact and their own costs and their own dangers of over-investment. In designating ports and also looking at the efficiency of them, it is very important to look at where the end user is and where the market has to be, but also where the customer wants to be. The customer wants to go on to the continent from the UK. When we try and force that customer to the north, there is no guarantee that they will do that, but we can take the container. The container is a movable beast.

**Q144 Ms Smith:** It is very close to Rotterdam.

**Mr Harston:** I understand that. I have worked on the Humber and I have also been in North Killingholme when the development took place. The Humber has benefited enormously over the last 20 years in terms of the development of ro-ro. So has Liverpool, the Birkenhead side, 12 Quays, the Irish market. There are regional markets and there are national markets. In certain locations the two come together. With a deep sea container, you can move it more efficiently by either coastal shipping or rail. Already we are handling 450,000 containers a year, more than many of our colleagues handle in their deep sea ports by rail to and from Felixstowe to many parts of the country.

**Q145 Ms Smith:** I would be interested to hear the view of ABP on that.

**Mr Williams:** As far as I understand your issue here, are you suggesting that the government should prescribe, linked to financial packages, where ports should be located or expanded? The converse of that is that, if we came forward with applications for expansion of ports due to market forces and other commercial imperatives that were not in areas where you favoured regeneration, would you propose they were looked at more critically?

**Q146 Chairman:** We are not proposing anything. We are posing certain questions to you and we are interested in your views.

**Mr Williams:** Again, I would reiterate the fundamental sentiment that we have that this should be market led. For example, at the moment, we have a number of ports throughout our entire portfolio of 21 in the UK that handle 25% of the seaborne trade in the UK where frankly, because of recent upsurges in sustainable energy creation initiatives, some of the more remote and peripheral ports are now very much central for our business planning because of market forces through supplying the offshore wind energy industry. It really is quite a flexible picture. We have our core ports, the Humber and Southampton, where we have master plans, either published or due to be published later this year, where we are investing. As my colleagues say, we are talking here in terms of hundreds of millions of pounds’ worth of private sector investment to augment the economies of those areas. Immingham for example employs directly and indirectly something like 15,000 people. Again, I would be reluctant to see any intervention in policy that indirectly or directly prescribes where port development should be.

**Q147 Ms Smith:** There is one thing that puzzles me slightly when it comes to representatives of the ports industry, which is that every major port or major estuary seems to claim to be the biggest. Clearly there is some complexity in this and I would welcome
some clarification about this because last week we heard that Scotland had massive capacity for, I think it was, oil movement. Then we hear that the Thames Estuary is the biggest and the best. Then it is Felixstowe. Then it is Southampton.

**Mr Williams:** It depends where you draw the boundaries, I think.

**Q148 Chairman:** What is the biggest?

**Mr Williams:** If I can just say that Immingham handles 55 million tonnes of product per annum, I will leave my colleagues to trump that.

**Mr Bird:** In tonnage terms there is no doubt that Immingham and Grimsby is the largest port in the UK and obviously, if you are looking at other things—containers for example—then Felixstowe would be the biggest. It depends what your particular term of reference is.

**Q149 Chairman:** We are back to where we started.

**Mr Whitehead:** We are glad it is just the one thing that puzzles you.

**Q150 Mark Pritchard:** Turning to security, Mr Whitehead and Mr Williams, do you think the NPS gives proper reference to security of ports?

**Mr Whitehead:** Yes. There is a section on security in ports. We have a tough Transec security ports regime which we have had since the early nineties, way in advance of most of the rest of Europe. It has got even tougher since 9/11. We have regular Transec inspections and I have to say we have a very good, strong relationship with Transec. Quite frankly, I think of all the things in the policy statement, the thing I can almost guarantee will certainly be delivered is the security aspect of it, because it is a tough regime that we are under.

**Q151 Mark Pritchard:** That is a very big guarantee to make in today’s climate. I hope you are right. It is in all our interests that you are. In the light of what happened recently in the United States in the last few weeks, in South Carolina I think it was, are you confident that the measures currently in place or planned to be in place are sufficient to deal with accidental contamination of ports or deliberate contamination of ports? You make reference to changes post-9/11. Of course many of those changes are reliant upon the origin port having fulfilled its own obligations under the new security protocols. I should not imagine, despite your previous guarantee, that you can actually guarantee those origin ports are fulfilling their obligations under those new protocols. Therefore, can you reiterate your previous guarantee if you agree with that logic?

**Mr Whitehead:** The maritime risk is different from the aviation risk. It is characterised in a different way. We are in the hands of Transec on how we deal with that risk, so we are guided by them. We have had meetings since the Christmas Day incident with Transec on this and we are guided by them on what we should do. We await their instructions.

**Q152 Mark Pritchard:** In the last 48 hours Al Qaeda and its affiliates—and there are quite a few of them in the various franchises—have said that they are going to undertake attacks both in the air, on land and at sea. We had a security statement just a short time ago in the House by the Prime Minister. Unless I missed it—it is not a political point; it is a serious security point—there was no reference to shipping. Are you concerned that a lot of the focus is perhaps disproportionately focused at the moment on air travel rather than shipping and entry into ports?

**Mr Whitehead:** I do not have special information on this. The aviation risk is an obvious one. All I can say to you again is that the maritime risk is classified and dealt with in a different way from an aviation risk.

**Q153 Chairman:** What are the views of our witnesses on security in relation to maritime?

**Mr Harston:** I am happy to make a comment as far as Felixstowe, Harwich and London Thameport are concerned. The head of security reports to me as a member of the executive. Although the public perception may be about the aviation risk and it is right from the viewpoint of passenger transport, I can assure you that the contact we have from the security forces and the information that is briefed to the relevant parties within the ports is equally timely.

**Q154 Mark Pritchard:** Without detouring off into operational security matters, is there not an issue about the funding of the policing of ports of entry, given the scarce or strained resources of a lot of police forces at the moment about staffing up with the appropriate level of trained and professional staff looking out for, shall we say, persons or cargo of particular interest? Is that resourcing issue an issue? Do you think there is a time for a discussion, a review, about how our ports are physically policed, whether by the Department for Transport police, a separate type of police or indeed existing constabularies?

**Mr Harston:** Speaking for ourselves, we have a combination of a statutory police force and the security force. Unless there is an incident, there is no recourse on a normal day to day basis for the Suffolk Constabulary. We have a close working relationship with Special Branch and we provide our own policing and security to the standard required by Transec to satisfy the security status that is in place at the time. The onus in that relationship and the policing of that relationship is very much between the port and DfT Transec. From our perspective, it works very well.

**Mark Pritchard:** When I go away from this meeting today, would I be right in thinking that the corporate response of the senior professionals in UK ports is that our ports are secure? Does anybody dissent from the view that our ports are secure?

**Q155 Chairman:** Does anyone want to express a concern about security in ports?
Mr Harston: No.

Q156 Chairman: Do you think there should be more attention to security issues in the National Policy Statement? Does anybody have a concern? Mr Bird: Not a concern. I think this is an area where a great deal is going on that is not brought out in the draft NPS. Given the structure that we have and the encouragement to developers to work very closely with the relevant authorities, I think we would feel that that covered the issue sufficiently.

Q157 Mr Leech: Is the NPS robust enough to accommodate the inevitable changes for example in market conditions or freight demand? Mr Harston: In terms of the words in the document, yes. In terms of the actual forecasts themselves as they are contained in the document at the moment, the wording is that the NPS will be reviewed except under exceptional circumstances. I think perhaps we need a better understanding of what those exceptional circumstances are. Although my understanding from the department is that the intention is to review the forecasts every five years, I am not clear that that comes out in the NPS.

Q158 Mr Leech: Do you think five years is an appropriate timescale? In current market conditions, when would you expect a revision to be required? Mr Harston: I do not think we need something like a 10 year master planning regime that might have been a solving approach to this type of planning in the past. I think five years ordinarily. In business terms, we look five years ahead in terms of detailed planning. The port master plan requires us to look ahead longer term, which we will do, but I think under the circumstances of the current economic situation it might be appropriate for the forecasts to be recast.

Mr Williams: We envisage updating our master plans every five years, but clearly if a business opportunity came along within a shorter period of time we would hope as a company to be suitably flexible. I think the draft policy statement as it stands gives sufficient flexibility. Just to reiterate the comments made by colleagues earlier, I would like economic and regeneration considerations to be given more weight in the context, because I think the NPS is good work in progress, but I think it does fall some way short of being definitive, national planning policy for ports. We are obviously grateful for this opportunity to put our thoughts forward, but master plans as we see them, properly consulted on and properly integrated with regional, spatial plans, regional economic strategies, regional transport strategies, are something unilaterally produced by ABP in a short period of time with their own agenda. As long as they are done properly, in accordance with the DfT guidance issued at the end of 2008, they deserve a much greater place in the NPS system for ports.

Q159 Ms Smith: I just wanted to refer to the written evidence given by the British Ports Association and the UK British Ports Group in relation to the contrast with European countries where, quite often, you have public subsidies in terms of helping develop new port capacity and capability; in contrast with the UK where the argument seems to be that you have to help fund the infrastructure that is built around a port development, typically in the way that a developer would in a residential area in section 106 agreements. I would like comments on that. How much do you think it would help if we adopted the European position rather than the position we have at the moment? Mr Whitehead: I think it goes back really to points made earlier about the understanding of the IPC. You are absolutely right. Continental ports, with whom we are in competition to a certain degree, have a totally different system. Applications are obviously made in the UK based on the UK system. You are right in that there is a system of systemic subsidy at continental ports that goes on. How the IPC addresses that is perhaps a matter for the IPC, but it is something they should certainly be aware of. Extending from that also, the NPS is a little bit light on the European and international context within which ports work. The document is very much written on a UK basis. It should really talk about the dynamics of EU trade on which ports really depend. It should just be expanded a little. These are not fundamental differences. The description could be a bit wider.

Mr Baxter: I would just like a seat at the table. When we talk about subsidy and the difference between the UK and Europe, if you look at rail subsidy in the last control period, the north—the north west in particular—got less than 1% of the budget for transport. In effect what we are talking about is subsidising interconnections to the port. My view is that is why it has to dovetail with the road and rail strategy and the discussion about that. We would just like a seat at the table in the north to have that discussion. At the moment we are not even there. There are mechanisms to do that going forward in control period five and we will be looking at that opportunity. My personal view is, if there is a greater economic benefit, companies can contribute if that is the right thing to do to achieve the overall goal.

Mr Bird: Just to comment on the European aspects, this obviously is something that, although the IPC may need to recognise, it cannot do very much about. It is a matter for government or indeed, even more, for European policy and European law. There are possibilities of the European Commission perhaps taking a slightly different line on state aid to ports which have been signalled recently, which may possibly have longer term implications. There is nothing around at the moment but there have been one or two signals. We have a situation that we have to accept and work as well as we can within. I think we are very concerned that the situation should not be made worse by ports having to pick up even more costs. As you know, there are particular concerns on light dues at the moment which again are not faced
Mr Whitehead: the position? harming UK ports at the moment, the disparity in the view of the panel? European-wide competition. Is that the case? Is that... V ect in terms of have the level playing field in e... Q160 Ms Smith: Can I tease that out a bit? What I appear to be picking up from the panel is a preference for a way forward that would see other European Union countries forced to adopt the UK position. In other words, to drop the state aid so you have the level playing field in effect in terms of European-wide competition. Is that the case? Is that the view of the panel? Mr Whitehead: Yes, in a word. We know that it is never going to succeed but the long term aim of policy is to have that level playing field where ports have the same funding system. What we have been able to do is ship away a bit and, as my colleague has said, I think the Commission will probably come up with tougher rules on state aid, but the long term aim is to have that private sector system throughout Europe.

Q161 Ms Smith: To what extent do you think it is harming UK ports at the moment, the disparity in the position? Mr Whitehead: To give you a specific example, one of the consequences of becoming a private sector industry is paying for road connections. I think it would be unheard of for continental ports to be asked to pay for road and rail connections serving those ports; whereas now it is part of the basics of the system that we have to go into negotiations on who pays what. That is a really big difference about the treatment of ports between here and the continent.

Q162 Ms Smith: Would it not just be easier for the UK to adopt the same position as the rest of the European Union? Mr Whitehead: You would have to rewrite the NPS for a start. I think “easier” is not quite the word for that. It would be a total revolution of how we do things.

Graham Stringer: What would you least like to see in the NPS? What potentially would be the action that the government could take which might harm your industry?

Q163 Chairman: What could harm the industry? Mr Harston: I think a process that gives lack of certainty, because that is where we were in the last round of major public inquiries. There was no certainty over the decision making period that would be employed between a public inquiry closing and the decision being made. The majority of the UK port industry is owned outside of the UK, significant parts of it, and significant parts of that investment in the future capacity for the UK are being made by global shareholders who have a choice where they spend their money. In that respect, for any shareholder, for any board and for any company that is trying to plan its medium to long term future—indeed, from our perspective it is a historic comment now about the historic congestion in the south east that was being experienced in 2003–04—significant parts of the delay to the delivery of the infrastructure that would have reduced that congestion were because of the length of the planning inquiry and the time to decision for the last extension in Felixstowe which was opened by the former Chairman of this Committee, Gwyneth Dunwoody, in November 2004, for infrastructure that was capable of being built in 2000 and the delay there afforded by the planning system. From our point of view, that is why we welcome the IPC because we have some concerns about the NPS, but a process that delivers certainty and, we hope I think at this stage is the best that we can say, a better time frame to achieve that certainty is the most hopeful thing for our industry. If we do not get that, to my mind, that would be most damaging because then you cannot plan.

Q164 Chairman: Would the new system have affected the Dibden Bay decision? Mr Williams: If you are asking, under the regime as it is currently drafted, would we as a company be more encouraged to reapply for Dibden, the answer is no, because there is no certainty. The economic weight that we think should be attributable to the type of investment that a development like Dibden Bay would bring I do not think has been properly reflected or underlined in the way the document has been drafted at the moment. If you go back to the fundamentals and the fact that, in the White Paper that came out in 2007, some of the sentiments expressed in there were that the UK needed greater certainty, clarity and a simplification of the whole planning development control process, then we are not there yet.

Q165 Chairman: Are the thresholds on designating nationally significant ports adequate? Mr Williams: I think they are arbitrary but we are willing to work with them until empirical evidence suggests they may need to be altered.

Q166 Chairman: Are there any other views on that? Mr Bird: We did try and present the arguments for going for lower threshold figures because they have been set very high and it looks unlikely that, particularly given the number of proposals already consented, there is going to be very much port business going through the IPC over the next few years. Coming back to a point made earlier, this of course exposes ports to the rather more uncertain regime of the Marine Management Organisation, which also starts business shortly. We have some concerns about whether the MMO is going to be able to tackle a number of port applications likely to come before it, given that it is starting a long way back and it only has to take account of the National Policy Statement. It is not required to be governed by it, as is the IPC. We do have quite serious concerns that the MMO is going to be operating on a pretty uncertain prospectus.
Mr Donaldson: Some of the witnesses who have given us evidence have concerns about the lack of an international perspective in terms of the ports NPS. Obviously I come at this from the perspective of ports in Northern Ireland but there are also the ports in southern Ireland as well. To what extent do you feel that the trade across the Irish Sea needs to be taken into account in determining the policy on the ports NPS?

Mr Baxter: We have a terminal in Dublin and Belfast, VT3 and MTL. I think what happens in Ireland today works. There is competition there. I think there is a significant downturn which is happening in that trade at the moment. There is sufficient capacity there and I believe there is no need for specific additional reference to the ports in Ireland.

Mr Donaldson: I am thinking of the ports on the western seaboard of mainland Britain and links across the Irish Sea—for example, Liverpool, Glasgow etc. To what extent do you feel the proposals from the government take account of that?

Mr Baxter: In reality, any significant capacity increase is probably below the threshold that would go to the IPC. It is predominantly ro-ro and a little bit of lo-lo and there is quite a bit of capacity certainly in the future. If you go back to the timescale of how far we should think ahead, I think there is enough capacity to revisit it in a five year period.

Graham Stringer: How many sites are there on the English or Scottish coasts that are not currently ports but could be turned into major ports?

Mr Williams: I would suggest not many.

Graham Stringer: I guessed that, but are we talking three or four or 10?

Mr Harston: I suspect it could be about 20. I am thinking of examples like Rosyth. A lot of them are recycling, so ports that have other uses such as naval. In the case of Rosyth, it then became a commercial port. In the case of London Gateway, it was the Shell Haven Refinery. Our own development at London Thamesport was formerly an oil refinery. There are a lot of ports that have other uses which, going forward, we might look at as having different uses and different possibilities as industries and tactics change.

Graham Stringer: I do not want to labour the point that I started with some time ago, but would it not be helpful in this document if those potential ports were listed in terms of either “This could become a port” or some priority? Would that not put some certainty and help into the market system?

Mr Williams: From our point of view, I do not think that is a step we need to take, frankly.

Chairman: Is there enough guidance to the IPC about deciding the balance between economic and environmental factors?

Mr Bird: We are, as I said earlier and my other colleagues have referred to, a bit concerned about this prioritisation issue. I think the volume of guidance is probably there. It runs to about 60 pages altogether so there is no shortage of it. It is a bit undifferentiated. On the environmental side for example, there are clear requirements under European law which obviously have to be considered: the habitats legislation, the WATER Framework Directive, noise and so on. There are other considerations which are more discretionary. On a first reading through of the document, it could bring out rather more clearly the status of these particular areas. We do think this could be quite challenging for the IPC and perhaps particularly again for the MMO, which will be dealing with smaller projects where probably a smaller range of considerations will apply. To focus in on ones which are likely to be particularly significant we think might be helpful.

Chairman: When you say “challenging”, does that mean the guidance is insufficient?

Mr Bird: It is not necessarily insufficient. I think sometimes there is more there. It will give the IPC an introduction to that area, but there is more lying behind it. A lot of the environmental aspects were obviously picked up in an Environmental Impact Assessment and that is a pretty well trodden path for port developments now. The document does seem to add in quite a number of other aspects relating to current DfT priority areas—social policy for example—and we just think that it might be helpful to give a little bit of a steer for relative weighting.

Chairman: Do you have any views on the consultation process on this, either the consultation before the statement was put together or the consultation taking place now? Do you feel it is adequate? Does anyone have a view on that?

Mr Baxter: My view is that we welcome the opportunity to give verbal evidence today and written evidence in more detail. I believe the consultation process is relatively good.

Mr Williams: It is good from our point of view as well.

Mr Harston: I would agree with that specifically from the DfT and ports division perspective, but I think from some of the points that have been made earlier to the Committee and also from the perspective of most of the port industry, there was always an understanding and appreciation that the ports statement would be issued at the same time as national networks. That was not possible and without that it has made the consultation very specific from a port perspective but raised a number of concerns with us as to the wider national networks perspective, which we have no visibility of.

Chairman: How serious is that omission, looking at the ports statement without national networks?
Mr Baxter: To make it simple on a scale of 10, 10. It is so fundamental to how our industry works, the interconnectivity between the port and their Hinterland.

Q176 Chairman: Is that a general view? Does anyone think it is unimportant?
Mr Bird: The only saving grace is that ports have come first. If they had come after the national networks NPS, that would have been an even worse situation. Yes, I very much agree that this is a big opportunity missed.

Q177 Ms Smith: I am slightly confused. I am struggling with the definition given earlier about making things simpler and more straightforward in planning terms. Is the bottom line here that the ports are really looking for a planning system that gives them what they want more easily and more quickly than was the case before, unhindered by the interference of the state?
Mr Harston: I think it would be disingenuous to suggest that, frankly.

Q178 Ms Smith: On the one hand you want integration with rail and road networks. Presumably that would involve significant investment by the government to make some of that new capacity that you are looking for possible. Is there not the need therefore to expect, in return for that, government expectations around the contribution ports can make to regional economies and to the economic prosperity of parts of our country that frankly at the moment are missing out?
Mr Bird: UKMPG has a port in every region so this is obviously an important point. I think you are absolutely right. There does need to be close linkage between port development and wider regional policy. As we have referred to at various points, master plans seem to be a good way of starting that process off. Certainly it would be wise for any developer of a major port project to have the support of and very close links with the relevant RDA, taking that forward.

Witnesses: Mr David Asprey, Head of Shipping Policy, Chamber of Shipping, Mr Chris Welsh, General Manager for Policy and Campaigns, Freight Transport Association, Mr Matthew Farrow, Head of Energy, Infrastructure and Planning, CBI, and Ms Maggie Simpson, Policy Manager, Rail Freight Group, gave evidence.

Q188 Chairman: Good afternoon. Would our witnesses please identify themselves with their name and organisation for our records?
Mr Asprey: Good afternoon, Chairman. I am David Asprey, I am the Head of Shipping Policy at the Chamber of Shipping. Just one comment I would like to make is that members will have seen that we have not made a written submission to yourselves in our own name. We are working towards responding to the department jointly with the ports industry and for that reason we have not been able to prepare a paper yet but I am happy, of course, to answer all your inquiries as we go along.
Mr Welsh: Chris Welsh, Freight Transport Association, General Manager for Policy and Campaigns. I am very happy, Chairman, to take questions.
Mr Farrow: Good afternoon. I am Matthew Farrow, Head of the Energy, Transport and Planning Team at the CBI, Chairman.
Ms Simpson: I am Maggie Simpson. I am the Policy Manager at the Rail Freight Group.

Q189 Chairman: Thank you. Should the National Policy Statement be designated as it is or are there any major issues you would like to raise about it?

Mr Farrow: There are no fundamental flaws with the NPS in our view. We certainly believe it could be improved in a number of areas and I will just pick two initial examples but I am happy to elaborate. It could make more of the implications of energy policy in demand for port movements and we think there should be a link between the NPS and the Delivering A Sustainable Transport System report which the department published about a year ago and perhaps provides the spatial elements which you are clearly interested in. As I say, I do not there are fundamental problems, so with some improvements, yes.

Q190 Chairman: Mr Welsh?

Mr Welsh: The Freight Transport Association would generally agree with that assessment. We think it is a policy statement in the right direction. It certainly could do with some improvements but that is part of the consultation process going forward. Some of the issues that we have probably got are in the detail in terms of the planning arrangements and we agree that tying it together with the other national statements that are due is very significant because it must be seen in the overall round.

Q191 Chairman: Ms Simpson, are there any issues you would like to raise about the statement and any problems?

Ms Simpson: I think the document could be a lot stronger in its support for low carbon. I think as it is it probably not fatally flawed but fairly mediocre. I think in the detail there are a number of areas where we consider there could be loopholes, which developers may well seek to exploit, in not supporting rail or investing in rail. I think it could be a little better. If it were designated as it is I do not suppose the world would end but it would be an opportunity missed.

Q192 Chairman: In your written evidence you are very critical about the failure to support rail freight in the way that you think it should be supported. Is that something very serious?

Ms Simpson: I think it is an opportunity missed to significantly support growth of rail freight from the ports. I was not here for the whole of the last evidence session but the part I caught about the interface with the not yet established maritime organisation is also significant because we understand the document will be a material consideration throughout the planning chain. We are not just talking about the major developments such as are already consented at Felixstowe and other such places where there has been a very strong focus on rail, but also opportunities to increase rail at smaller facilities where perhaps there is almost a greater opportunity to increase modal share.

Q193 Chairman: Mr Asprey, are there any areas of concern you would like to raise?

Mr Asprey: Rather than repeat I will echo my colleagues on the left. The important point was made in the earlier session that the ports one having come first it seems to have got detached from the National Network Policy statements rather than attached to them as it ought to be. I think that would have gone some way to allaying the concerns, quite correct concerns, of the rail industry about how these things join together. If we were seeing the two together I suspect we could see a better integration of thinking.

Q194 Chairman: Does the statement adequately address the need for additional ports capacity?

Mr Farrow: I think it is certainly a good starting point. We feel there is a clear need for additional capacity and I think the NPS is saying the same thing. It refers back to the forecasts which we think are still a good starting point. Going forward, there is a lot of debate around has the recession changed the game for demand for ports and I think we concur with the NPS view that it may have delayed the timing a little bit but it probably has not fundamentally changed the need. In support of that I would say that Richard Lambert was in the FT today pointing out that the CBI projections for growth were about 2.5% for next year, so while this year the economy is still struggling next year we see it returning to steady growth. I mentioned energy, which I think the NPS does not really pick up very much, and if you look at the importance of LNG cargoes to the UK, particularly in recent weeks, of course, if you look at the offshore wind projections where, to meet the Government’s scenario we are talking about the equivalent of 20 London Arrays, all of which have to be established in the North Sea, and again the CBI members, when we talk to them about the economic prospects, those who are operating and exporting to the Asian markets tend to be more positive than the average CBI member, which again suggests we are going to see an export-led recovery, so our view is that the NPS is right to say there is a clear additional demand for port capacity, but, if anything, it could possibly strengthen some of those arguments.

Q195 Chairman: Mr Welsh?

Mr Welsh: Again, yes, I very much agree with that. There is clearly a major need for transport infrastructure investment, particularly ports investment. I think the forecast projections are realistic against both past growth and projected growth, even with the dip that we have had from the recession. I think over a longer period those figures will stand up. When you look at the projections for investment against that forecast, you can see that it is actually quite tight. In other words, we do need a policy here which does promote that future investment because I think it will be needed to cater for UK trade. I think it is very important that the policy statement does give us that steer going forward.
Q196 Chairman: Do you think the statement should be updated on demand forecasts? Can it take into account changes in freight demand, changes in market conditions generally?

Mr Welsh: No, I think it would be unwise to change those forecasts because, as I said, over the longer period I think that demand will be there. Also, the international demand because of liberalisation of world trade and the trend in growth in the container trade particularly indicates that that demand will be ahead of the national level of demand. I think we should stick with what we have got and within the review period of the normal three to five year time span I think that would pick up any serious deficiencies in forecasting.

Q197 Chairman: Are there any other comments on the need for this?

Mr Asprey: Yes, I think that is right. Chairman. The timescale in which investment decisions are developed and are brought forward and the timescale that port operators envisage in relation to those investments are long periods, well in excess of the five year time frame in which these forecasts are set before they need to be reviewed or need to be reassessed.

Q198 Ms Smith: The written evidence provided by the Freight Transport Association was quite fascinating because it refers to the increasing tendency to use larger vessels and therefore to use a feeding-in arrangement as far as the UK is concerned and talks about the increased costs, delays and uncertainty for the supply chain. Yours is the only organisation so far which has mentioned that from what I have read. I just wondered if you could elaborate in terms of the potential impact on UK ports and the UK economy.

Mr Welsh: Yes, container vessels are getting bigger and that has meant that the tendency is, and I am sure David Asprey can follow up on this, that shipping lines are tending to focus their operations around a number of major ports. They tend to be the bigger container ports in the UK like Felixstowe and Southampton, but also major continental ports like Rotterdam, Hamburg and so on. Quite simply, if UK ports do not meet the challenge in terms of future investment and give assurance that they will invest in major ports development in the UK, our fear is that those vessels could just call at the continental ports with containers being fed in. The problem for UK industry is that that adds to the length of the supply chain by anything from three to four days, it gives opportunities for delay and for vessels to get stuck in ports within the overall supply chain system, with the added problems that we have got with reliability and flexibility in the system. Just recently with the bad weather we have had instances where ports have diverted to the continent because ports have been snowbound in the UK, and we have had instances where major importers have had containers stuck in ports for a matter of two weeks at a critical time of the year when they cannot get supplies to the market. That scenario does suggest that the situation is quite balanced; I am not saying fragile, but unless we have flexibility within the system there are opportunities for quite significant disruption to supply chains.

Q199 Ms Smith: What is the role played by Eastern Europe in all of that because you do mention Poland and Eastern Europe as one of the causes of this situation? Can you explain that?

Mr Welsh: Yes. Clearly, there has been a growth in the Eastern European economy markets, particularly in Poland, and a lot of companies are investing in Eastern Europe as a source of manufacture and so I think shipping lines are capturing that demand. They are organising their schedules around Eastern European ports like Gdansk with the possibility that the UK, being on the periphery of Europe, can lose out to that kind of dynamic.

Q200 Ms Smith: I see, so what is your suggested solution to this problem in terms of the investment necessary to ensure that the UK stays at the heart of the ports industry?

Mr Welsh: Absolutely. This is why this National Policy Statement is so important, that it does give the steer for investment, and, as I said earlier, I think that what we do need is long term investment by the ports industry to cater for the kind of demand that we are anticipating, as spelt out in the NPS transmodal forecasts for long term demand.

Q201 Ms Smith: Are you confident that that investment from shareholders will be forthcoming? What would initiate it? What would give confidence to that investment?

Mr Welsh: I would be confident in the market-led situation, that UK ports would meet that challenge; I think they have got to. I think that there have been a lot of past glitches in the system, like the planning system, and we can probably go into a little bit more detail as further questions come forward, but in terms of getting those things right, getting the broader national infrastructure issues right, and previous speakers have referred to the importance of the National Networks statement and that kind of thing, all of those are strong pointers to industry for investment in our transport infrastructure and where it needs to go.

Q202 Ms Smith: That is a call on the public sector effectively in the end to invest in infrastructure, absolutely, and I as a Member of this Committee would support that. Does that therefore though give the state some role, if you like, not so much in the Government interfering in the market but certainly having some voice in determining, not just through the formal planning processes but also economically, where this investment takes place?

Mr Welsh: I think that will come forward within the National Networks statement. There has been a lot of work done in looking at where our infrastructure will be used, where we need to invest, particularly in our strategic rail and road networks and the linkages with ports. I think that is why it is so vital that we have this alongside the existing ports statement.
Q203 Chairman: Does anybody else want to comment on that?

Mr Asprey: There was some concern about the regional aspects and the apparent focus of everything in the south eastern quadrant, if you like, the Southampton to Felixstowe range. That is important at present but in the longer term I think it will be a more mixed picture in terms of the offering that ports can make to shipowners and their willingness to develop their own products to serve those.

Q206 Ms Smith: In terms of the development of these very large container vessels surely though, and I accept what you say and actually welcome it, there must be limitations in terms of which ports would be able to handle, just in terms of geology and everything else, this new generation of large container vessels. In that case would it not just be easier and more straightforward and honest to admit that in the statement and to have some recognition of the fact that, yes, there will be a diversity of sizes of vessels coming into the UK and we may need to develop more of a diversity in terms of ports around the country, but in terms of these very large container vessels there will always be limitations in relation to where port development can take place?

Mr Asprey: Yes, and for the largest vessels they will almost certainly have to be in the south eastern quadrant to link with their continental port calls because none of these largish vessels can bring UK-only cargoes or take away UK-only cargoes because the sheer size of them and the way in which they link into the rest of the global networks makes that impossible. They will be multi-port call vessels but a limited number.

Q207 Mr Leech: Our previous panel made it pretty clear that in general they were opposed to the idea of a more site specific policy. From the perspective of sustainable transport links would you argue that it would be advantageous to you if the National Policy Statement was more specific?

Mr Asprey: No, it would not be an advantage. The advantage to the ship operator is a competitive port environment, ports investing and making competitive offers to provide terminal services, part of that through transport, that our customers are requiring from us. Telling them that they can only go somewhere or not go somewhere else gets in the way. I think, it restricts that competitive environment which we have rather lacked in the last few years because of the lack of investment.

Q208 Mr Leech: What about the rest of the panel?

Mr Welsh: I agree with David. I think the market-led approach is still the most robust because it provides that degree of flexibility for the way in which the market may develop. I certainly do believe that whilst the major container ports will clearly play a major role and they have got long-term investment plans already in place, there is wide scope for other regional ports to pick up some of that scope. One good example of that is the Scottish whisky industry which is the biggest exporter in Scotland and specifically ships its goods by short-sea shipping to the northern continental ports because that is the
way that their supply chain works. There is certainly great scope, for example, for Grangemouth in Scotland to develop and grow its container port, as indeed I think we heard from the port speakers about the capability of an opportunity for Liverpool and the Manchester Ship Canal in those kinds of developments. Being prescriptive is not the way forward. I think that the market-led approach is the balanced way forward.

Q209 Mr Leech: Does the Rail Freight Group agree with that?

Ms Simpson: I think the point that Mr Farrow made about the connection between the work that DfT are undertaking in terms of looking at strategic road and rail networks and the location of the major ports is important because I would be concerned if a developer came forward with a major port that was not going to have the ability to be connected into a strategic rail freight network. I think for smaller ports it becomes less of an issue because the demands on the network are naturally less. I cannot think of any example of either a recently consented development or a development which is being considered where there is a sizeable gap between its location and the strategic freight network as presently defined, so I am not suggesting that there is necessarily an emerging problem that we can see today but I think I would like to see that link explicitly made in the NPS.

Q210 Mr Leech: Would there be any advantages of a more site specific policy statement?

Mr Asprey: To the owners of the sites, yes, but to providing what the nation needs in the medium and long-term, no.

Q211 Ms Smith: Is there not a danger though that we could have a situation in which the infrastructure required to support ports development is always chasing the market and that there needs to be a compromise somewhere along the line between what the country needs to some extent and what the market needs?

Mr Asprey: Sorry, I did not mean to draw a distinction.

Ms Smith: Or what the country can deliver in terms of infrastructure and planning for infrastructure and what the market demands?

Q212 Chairman: And we are asking that in relation to this document.

Mr Farrow: The concern we have is that if you made it site specific, as Chris and David said, you lose some flexibility in terms of how the market may change and innovate, so that is in our view a clear potential loss. What do you gain by it? In a sense a bit of certainty, but it is not clear how valuable that will be apart from for the owners of the sites, and because it is a private sector, market-led sector at the moment you have this important check in that no developer is going to come forward with a proposal that has no infrastructure to link it up, nor are they going to come forward and say, “We just assume or expect that somehow DfT is going to provide this infrastructure”, particularly if it was outwith the DaST1 corridors which will be into the prioritised key areas. If they did come forward you think the IPC would clearly have a look at the NPS and think, “We cannot see how this is going to work”, and that would be a factor in the application, so it is not clear to me what advantages one gets from making it very site specific, given that you are giving up a bit of flexibility in terms of innovation, even though in practice there may only be a set number of suitable types of location.

Q213 Mr Leech: Can we trust the market to deliver on environmental targets that we need to reach?

Mr Farrow: I will kick off on this, if I may. My view would be that if you have the right policy framework yes, and so if you take the example of ports and ports’ on-shore emissions, they would be captured by a scheme called carbon reduction commitment, a DECC2 scheme which we have supported, and the way the CRC3 works is that you have an absolute cap on emissions that all those emitters fit within and then DECC, with advice from the Climate Change Committee, reduces that cap over time to make sure that that part of the economy meets the UK targets. If more ports are built that cap is not suddenly expanded. All those ports have to compete with all the other companies captured within CRC and compete for that set amount of permits. Our view would be to make sure emissions reductions are met, and that is a core CBI objective. We need the right policies, but we do not see this NPS as the key driver for that.

Q214 Mr Leech: Unless there is some additional action, though, is it not the case that the ports in the south east are just going to get much bigger and the ports around the rest of the UK will suffer, just in the same way that with airports you could build X number of extra runways at Heathrow to the detriment of regional airports around the rest of the country?

Mr Asprey: I think we are talking about a framework in which real investment projects are brought forward by people who think they are going to be worthwhile. Port investors around the country will be looking at projects all the time. I can think of at least one major container port outside the south east which has not come forward yet but is at an advanced stage of planning and there may well be others. I do not think it needs a sort of prohibition to make the market work well. The opportunities will be different. The scope for new sites around existing container ports in the south east is obviously more limited than it was before the last approvals were obtained, so new ones are going to be more difficult. As I say, it is almost a kind of self-policing system. It does not need a map drawn from the beginning which is then going to constrain real people bringing forward real projects.

1 Delivering a Sustainable Transport System
2 Department of Energy and Climate Change
3 Carbon Ready Commitment
Chairman: What we are trying to do is relate these points to what is in this document so that we can work out what your views are on the adequacy or otherwise of the document.

Q215 Ms Smith: In that context, it is important to understand how the industry would respond to the demands of the state and the incentives that the state may want to put into place in terms of choosing maybe not sites but regions or preferred locations, and I do not think it needs to be necessarily site specific, you can put those incentives in statements to say, “We prefer further regions”, or, “We have a presumption that certain regions are more favourable than others”. In advanced manufacturing we have had quite significant intervention by Europe and the UK Government to encourage and incentivise companies like Rolls-Royce, Westinghouse and Arriva to invest in areas like South Yorkshire. Would the industry welcome a similar approach in relation to ports investment, given its importance to the UK economy?

Mr Welsh: It is a good question. It should not be seen outside the context of regional development and the development of regional transport strategies, which certainly the FTA has been involved in throughout the country, and that is working with all the industry stakeholders, manufacturers at the major ports, industry and other stakeholders, so there is that link, and I think that one of the key things that comes out of those regional freight strategies is prioritisation of where that investment is needed in ports, and indeed infrastructure in the region to meet the national need and to meet the international need, so I think it is indicatable in that way. Indeed, in response to the earlier question about regional investment in ports, I think there has been a considerable amount of investment going on in those regional ports to capture specific markets that they are seeking to build, so I do not see anything in the National Policy Statement that would in any way inhibit the development of regional ports, and that is why broadly we support it, given that it would have been helpful if it had been released at the same time as the national networks statement to help inform the wider need.

Q216 Ms Smith: But could the document therefore not be strengthened by referring to some of the work that has been ongoing in terms of regional development and the input of the ports industry into those plans? Mr Welsh: Possibly, yes. I think let us wait for the wider network statement.

Q217 Chairman: What about the impact of the document on logistics and warehousing? Do you think there is enough guidance in the document on what the impact in those areas might be?

Mr Welsh: I think one of the previous speakers in the ports session referred to the considerable investment that is taking place in ports as points of interchange and the development of logistics hubs and centres, and certainly, once again, when we have been involved in developing regional freight strategies that has been a strong element in encouraging that kind of investment and ensuring that we have logistics hubs that can meet the regional need as part of the national network.

Chairman: Thank you very much for coming and answering our questions.

Witnesses: Mr Simon Birch, Head of Planning and Environmental Assessment, Environment Agency, Dr Doug Parr, Chief Scientist and Policy Director, Greenpeace UK, and Mr Andrew Dodd, Head of Site Conservation Policy, RSPB, gave evidence.

Q218 Chairman: Good afternoon, gentlemen. Would you identify yourselves, please, by name and organisation for our records?

Dr Parr: My name is Doug Parr. I am the Policy Director of Greenpeace UK.

Mr Birch: Simon Birch, Head of Planning and Environmental Assessment, Environment Agency.

Mr Dodd: Andrew Dodd, Head of Site Conservation Policy, the Royal Society for the Protection of Birds.

Q219 Chairman: Should this statement be designated as it is or are there any major areas of concern that you have? Who would like to start? Dr Parr, you have put in evidence and basically say that this statement totally ignores, and indeed may be counter to, environmental and climate change issues. Is that your view?

Dr Parr: That is right, and that is why I do not think it is fit for purpose. I think in a situation where climate policy is becoming an ever more important national and international one we cannot be in the situation of building long-lived infrastructure without reference to climate policy. I am not saying that shipping has to stay at the current level; in fact I do not have a number in mind, but what is clear is that it has got to take account of the situation in which we now find ourselves where we in the UK live within a carbon budget. It is not unreasonable, despite the shenanigans at Copenhagen, that the world will allow itself a carbon budget, and shipping has got to play a role in that, and, as the chief enabler of shipping internationally, we need to recognise that in the Ports NPS.

Q220 Chairman: Mr Birch, would you like to tell us your views on the adequacy or otherwise of the document?

Mr Birch: Thank you, Chairman. We come from a slightly different viewpoint, as you would expect. We are a non-departmental government body. We have been heavily engaged in the drafting and production of the NPS, and indeed you will see the Agency mentioned 13 or 14 times within it. We feel it can be designated as it stands; we do feel that climate
change aspects can be taken on board. What we do say, though, is that we would like the NPS strengthened in terms of scheme promoters getting involved with their environmental work at a very early stage and not leaving it until later on—we think quite clearly that the NPS will be strengthened there—and, secondly, in terms of environmental permitting, and there is a mention in one of the paragraphs about how you are tracking them. We feel if the new system is going to work promoters do need to get engaged in both those at a very early stage so that aspects which my colleague on the right has mentioned are taken on board and properly examined during the process.

Q221 Chairman: But do you see any major deficiency in the document?  
Mr Birch: No, we do not.

Q222 Chairman: Mr Dodd?  
Mr Dodd: We do, yes. I support what Dr Parr said in relation to carbon emissions. He concentrated on the global shipping emissions. I think we would reinforce some of the comments from the Rail Freight Association in terms of inland transport. I do not think enough is done there to recognise the scope to secure bigger modal shifts on to rail to try and reduce HGV movements. It is a complicated issue so I think the linkages with the National Networks NPS is, as they said, a missed opportunity. We also think there are other issues to do with biodiversity, both at a national level in terms of the NPS itself and the guidance it supplies to the IPC. We think the NPS is breaching the EU Habitats Directive in terms of how it addresses the delivery of biodiversity, both at a national level in terms of the National Networks NPS is, as they said, a missed opportunity. We also think there are other issues to do with biodiversity, both at a national level in terms of the NPS itself and the guidance it supplies to the IPC. We think the NPS is breaching the EU Habitats Directive in terms of how it addresses the delivery of biodiversity, particularly under European wildlife law. We think that needs seriously addressing.

Q223 Chairman: How should that question be addressed?  
Mr Dodd: In our evidence on the Habitat Regulations Assessment the Department has quite correctly concluded that it is very difficult to rule out at this higher strategic level damage to estuarine Natura 2000 sites, which is where most of our major ports reside. That we completely agree with. They had to then ask the question what are the least damaging alternatives to provide the UK’s need for port capacity? Unfortunately, what they have asked is what is the alternative to providing new development as opposed to new capacity. We think that is a missed opportunity in terms of the fact that the ports industry has already itself shown a way on how to provide additional capacity without having to essentially do greenfield development onto wildlife habitats. Southampton container terminal and Felixstowe South, as we have heard recently, have provided new capacity within their own estates without having to build brand new schemes which would damage wildlife sites, and that fails the test under the EU Habitats Directive of finding the least damaging way to meet the public interest of additional port capacity. We think that is a fundamental problem with the way the NPS addresses itself.

Q224 Chairman: Do you think there is enough guidance in the document to be able to make an assessment between economic and environmental issues?  
Mr Dodd: I think it is weak on that. It is very bland in the way it advises the IPC to weight the different interests. In that sense we agree with all of the speakers who have come in the previous sessions that there is not enough clarity on the different weights to be attached to different factors, and I think it very much leaves it to the IPC to deal with that without any clear guidance. It also then ties the hands of the IPC in terms of what scope it has to really probe what the best way to deliver additional port capacity is. It very much confines it to dealing with what the market puts in front of it rather than testing to see whether there are more efficient, more productive ways of doing that without damaging the environment.

Q225 Chairman: Mr Birch?  
Mr Birch: Perhaps I could put a slightly counter view to that because we were heartened in terms of environmental assessment that the IPC is encouraged to look at international aspects—we have heard about the national ones—but also local impacts. We believe there is sufficient guidance in the NPS for the IPC to take full account of the environmental aspects and to take a proportionate approach to those when assessing a scheme so it is actually looking at the environmental aspects, economic aspects and social aspects.

Q226 Mr Leech: Mr Dodd, do you think it would be advantageous to have a more site specific plan in terms of its impact on the environment?  
Mr Dodd: I think I would take it up a level. Rather than site specific I would probably look at location specific. As you have heard already, there are key sites. There is a list of major ports. There are 39 major ports. Some of those, as you heard, depending on the sector, are market leaders. There are only a handful of sites that can deal with major container throughput. There is already a way of homing in on where the most likely locations for port development are going to be. In this respect I suspect there is a hybrid between where we are with the Ports NPS and where the Air Transport White Paper ended up, where it did go through every single airport and looked at the constraints and the opportunities for each site, what would be needed in terms of new inland transport infrastructure to deliver capacity at that site. We fell out with the Air Transport White Paper in terms of it ended up being “predict and provide” from our perspective, but there was a way forward there to look at what issues would need to be addressed. This comes back to that disconnect between the Ports NPS and the inland transport, the National Networks. We do not yet know how that is going to work, so I think there is something to be said here for going more spatial. You do not
necessarily dictate to the market exactly where it brings forward new capacity but you can start identifying the key issues that would need to be addressed in particular locations, whether it is the north side of the Humber, the south side of the Humber, and so on. One port company actually did this on one of its schemes. P&O, as it then was, now Dubai World Ports, for the London Gateway scheme, went round the country and identified other potentially suitable locations for major container port development. Obviously, it concluded that the only site you could go to that was going to be least damaging from a Natura 2000 European wildlife site perspective was the London Gateway site, but it showed that an individual port operator could do that and it is a bit disappointing that we have not seen any attempts to go down that line.

Q227 Mr Leech: Would a more location specific NPS—and I will use the word “location” rather than “site”—be beneficial in terms of meeting our environmental targets to reduce carbon emissions?

Dr Parr: What strikes me, looking at the NPS, is that it very much takes, reflecting what Andrew said, the shipping area in isolation. This is important because, of course, we transfer a lot of freight internally within the UK by road. Some goes by rail, but there is also this tremendous potential which is to go by ship around the ports. Someone was explaining to me earlier this week that there is a great deal that goes up and down the Rhine because it has got land on both sides and connects areas of industrial activity. We have got the same in the UK; it is just called the coast. There is tremendous potential for shifting high carbon transport to lower carbon transport through the ports network and that is a locational activity. We know where the flows are already pretty much and we have got an idea about where it is going to develop, so there are advantages in doing that and suggesting areas spatially which are suitable for further development, but that only works as part of a wider policy on freight and with an intention to move from higher to lower carbon modes.

Mr Birch: I suppose we have got two points. One is that we are comfortable with not being locationally specific, but the second point is that if the NPS did become location specific then a tremendous amount of work would have had to be done to evaluate potential locations because we feel that we would have to look at the potential environmental impact on a whole host of sites, so a lot of work would have to be done up front, and in fact being locationally specific would not be a panacea for ironing out environmental issues at all, so I am not sure it gets you a lot further forward. We concluded that having the market approach and given that there are a limited number of potential sites anyway, as we have heard from the industry this afternoon, we were quite comfortable with the approach in the NPS.

Q228 Mr Leech: In terms of the consultation, do you feel that the consultation has been appropriate?

Mr Birch: Certainly from our point of view we do. I mentioned before that we have been heavily involved from the very start of the work on the NPS, as you would expect.

Mr Dodd: In terms of some of the concerns we remain with in terms of whether the NPS will be deemed legal in terms of the European Habitats Directive and some other concerns we have, that is an illustration of the fact that NGOs like ourselves who have had a longstanding involvement with the ports sector have not been involved in any prior consultation. We were involved three years ago with the Ports Policy Review but, despite offers to talk through some of our issues with the Department for Transport, there has not been any real dialogue on those issues and that may have helped deal with some of our concerns. I cannot say whether it would have done or not. They may still have adopted the policy position they have, which would have been their right, but now it is very difficult to see how we can change their view in terms of some of the serious concerns we have.

Dr Parr: I am less concerned with the mechanics of the consultation—consultations are consultations, and we will participate as we see fit—but it seems to us that the way in which the transport sector has been dealt with by splitting off ports and then having more national network statements coming out in March and then having an airports statement precludes the possibility of having the kind of integrated approach that we would like to see. That approach has not been adopted on energy. On energy there has been a suite of six all coming out at the same time with an overarching statement, and that seems to us a more appropriate way of approaching these issues than by splitting them up segment by segment.

Q229 Chairman: How serious would you say it is that the statements on other transport modes is not available at the time we are looking at ports?

Dr Parr: I suppose they could all be published at the same time and be equally bitty in terms of their overall approach, but what is missing for us, because they are supposed to be national policy statements, is the overall policy. That is why I say I do not have an issue with the mechanics of consultation; I have an issue with the overarching policy, which means that the appropriate public policy questions are not being asked in the right place.

Q230 Mr Leech: I understand that Greenpeace would take part in the consultation process but does the panel feel in general that the public has been properly engaged with the process about the potential for what this policy statement will produce? Do you feel that three public consultations are appropriate or should there have been more of them?

Mr Dodd: I think, probably, in terms of a document that is highly generic, the Ports Policy Review was naturally generic. The NPS is generic in terms of its spatial impacts. While I am sure some enthusiastic members of the public have engaged with it I think it becomes very difficult for them to picture what this
will mean to them in real terms until they get an actual application put in front of them. This has always been one of our concerns with the generic approach; we always knew the Department for Transport were going to take this approach to the Ports National Policy Statement, but it is one of the problems for the public to actually try and picture it. It is difficult enough—

Q231 Chairman: Is that problem to do with the nature of the consultation or is it an inevitable issue that people do not think that is what is coming to us?

Mr Dodd: It is probably both. Yes, it is a problem with the planning system, which is even more kind of local to them, to actually get the public to engage; it just gets very difficult and very abstract for them to understand the implications of something like this.

Mr Birch: I think it would be a lot easier if the locations were listed in the NPS. Given that they are not, I would have thought it would be very difficult to consult further with the general public.

Q232 Mr Leech: Is that not an argument for having location-specific—

Mr Dodd: Possibly. Even just to publish a map of the major ports would be quite useful. That does not actually appear, as far as I can tell, anywhere in the document.

Q233 Chairman: Are you suggesting, what, a document showing the existing sites?

Mr Dodd: That would be a start.

Q234 Chairman: It would be better than nothing at all!

Mr Dodd: There are maps in the habitats regulation assessment, which accompanies the documents, which state they show the major ports but they do not actually show the major ports.

Q235 Chairman: Do you accept that there is a case for a port expansion? I know, Mr Dodd, you have said that there was not really (I think that is what you were saying) for port expansion or new ports. Is the right case for that made in the document?

Mr Dodd: RSPB, as we have mentioned in our written evidence, made some of the first attempts at supply and demand modelling in the UK, so we accept the general direction of travel; we accept that if you have a growing economy then there is going to be an increase in demand for port capacity. There are, clearly, questions at the moment as to what the implications of the current recession are on future capacity. There is one school of thought, which we have heard today, that there is a slight dip but it will pick up again. I have heard other arguments put as to what else might happen. We do not think anybody actually knows, so I think there is probably a case in a year or two’s time to revisit the forecasts. They may show that it is business as usual, in which case the Department for Transport’s current approach is probably sensible. I think, for now. Our problem with this is that they predict the demand but they then go on to say (and this is where we think there is a mixed message in the documents): “The market may need spare capacity over and above that demand. The market decides what that is; IPC cannot interfere with anything the market says it needs.” We think that is a bit of a mixed message at a time when, certainly in the container port sector, the majority of the capacity to 2030 is consented—and if the two schemes that are currently on the books go through nearly all of it. So we are not quite sure what the IPC is meant to do with that as a policy statement.

Q236 Chairman: Are there any other views on predictions on port capacity as in the document?

Mr Birch: We have not seen it as it is our remit to actually question that. Our view is very much that we are here to advise on the environmental impacts of what goes ahead. We certainly do not have the expertise to advise on the future economic growth of the country, so we have not done that.

Dr Parr: I go back to my primary comments, which were in general I would describe it as a “predict and provide” model, and a “predict and provide” model is outmoded and outdated. There are, certainly, cases for saying that ports need to expand. I have referred to the need for freight and modal shift; we want to see port developments to service the offshore wind industry, major developments at ports particularly down the east coast, but a laissez faire approach to this without a recognition of the direction in which climate policy is going and how big a constraint this is, potentially, on the infrastructure, I think, is a bad place to be.

Q237 Ms Smith: The comments that Mr Birch made about, perhaps, including a list of existing major ports in the document, I thought, was very telling. Would it not, also, be useful in terms of consultation and aiding public understanding of the document if it also detailed what those ports actually specialised in? As I said earlier, we get comments about which are the biggest and the best. I suspect it is always related to the fact that different ports specialise in different types of freight.

Mr Dodd: I very much agree. The RSPB can be guilty of this inasmuch as the work we have done over the last few years is very much concentrated on the container port side of things, but the UK economy does need a mix of ports. Within those 39 major ports, some of which you have heard about this afternoon, there is a complete mix of the types of goods they bring in—their specialisms. So I think that would be helpful. Those specialisms may change over time. Certainly, once you get outside of the major container port sector there is a whole range of specialisms there, so I think that probably would be helpful, just as an aide memoire for people to understand what is going on.

Ms Smith: With the energy industry—oil and coal—certainly so. Do you think it would be useful if the document were to include a list of specific sites which should not be used for port development on environmental grounds?

Q238 Chairman: Should there be specific sites that should not be used?
Mr Birch: I think the amount of work that would be required to actually reach that point would be tremendous.

Q239 Ms Smith: It need not be exhaustive, but if there are known areas where you know already that there should not be development. The Environment Agency may be in a difficult position on this one. I suppose, but do you think the document could include sites which should never be used on environmental grounds?

Mr Birch: I think if we started looking, for example, at international designations then it is very difficult to imagine, actually, destroying international designations.

Q240 Ms Smith: So we could include those? Sorry to interrupt.

Mr Birch: That is one possibility. However, on many of the schemes we deal with there are opportunities for mitigation. It depends; if you are taking a balanced view of the development there might be economic priorities which might override the environmental ones. I cannot think of an example but that is precisely why you have got an NPS and why you have an IPC to look at those. You might find, in terms of one part of the country, you want that port development and, on balance, you take the view the economic priority is more important.

Q241 Ms Smith: The River Humber, where you have got the European protection for bird populations?

Mr Dodd: You would actually be breaching European wildlife law, ironically, if you ruled out places for economic development. Ironically, the ports sector (I will explain in a bit more detail) is one of only two sectors in the UK that has regularly been allowed to damage European wildlife sites. The other sector is sitting next to me—the flood risk management sector. I think this gets to the nub of one of our key concerns. While, in this sense, the NPS and some of the supporting documents are quite right in rehearsing the fact that the ports sector is of very high importance to the UK economy—and in certain circumstances the damage that it might cause to these European wildlife sites we have been speaking about can be justified in the economic interest, and we have dealt very positively with many of the major ports to work through that process—the bit that the ports NPS forgets is that the thrust and the whole point of the European wildlife legislation is, first, to avoid damage to those sites, wherever possible. It may not be always possible but this is where this policy framework that we are seeing put in place does not give enough emphasis to the avoidance, which is where we come in in terms of making best use of what you have got already to try and build capacity within the existing ports estate. You may eventually find that you have to go and build new schemes which will damage these important wildlife sites. There are systems then set up to check up and to compensate for it, but we would rather avoid that if we could. We have systems to deal with it if we have to go down that road.

Q242 Ms Smith: Therefore, do you think that the statement should actually include some of the points that you have just made, and that it should make reference to the European legislation, the protections that are in place and the processes that can be used to mitigate?

Mr Dodd: Yes.

Q243 Ms Smith: I am just trying to summarise the key point—that development should not take place ordinarily where damage would be incurred.

Mr Dodd: Yes, that would be our starting point, and we think the policy does not do that yet.

Ms Smith: Just one final point. Can I ask the three members of the panel to comment on the concerns expressed over the role of the Marine Management Organisation, or the potential role of the MMO, in relation to future port development?

Q244 Chairman: Who has a view on the Marine Management Organisation role?

Dr Parr: I do not have a view on that.

Q245 Ms Smith: How it can interact—how it can work?

Mr Birch: We are not anticipating any difficulties with that. When it is set up we will work closely with them. For example, on offshore wind farms, and that sort of development, we would expect to work with them, with ourselves dealing with the landward part of it. I suspect with ports we will work the same. It is an unknown quantity, as we heard earlier, but we cannot anticipate difficulties before they arise.

Q246 Ms Smith: This comes out as a nervousness, to be honest, in some of the written evidence from the industry.

Mr Dodd: We did not comment on that specifically in our written evidence, but given the concerns we have with the NPS in terms of some of the vagueness of the guidance that is given to the IPC that must also apply to the MMO as well, I imagine. Again, I guess the proof of the pudding will be in the eating; to see just how well the MMO deals with this guidance and other material considerations.

Q247 Chairman: Are the thresholds for designating major ports development adequate, and do you know how they were reached?

Mr Birch: We do not have a view on that. We take them as given, I think.

Mr Dodd: We, more or less, take them as given but they do seem to represent kind of fairly—they suggest major port development to us. They are of that kind of scale. This says: “This is big”. It will be relatively arbitrary, I suspect, as to where that point was made. However, it is the law, so we are not going to change anything about it.

Q248 Chairman: Does the Appraisal of Sustainability of the Ports NPS address environmental issues adequately? Are you satisfied with that?
Mr Birch: I will give you the same answer: we thought it was very thorough; we thought it did cover the main points. We have some small technical issues which we have put forward, but we felt, in total, it was a satisfactory piece of work.

Mr Dodd: The RSPB did not. I hasten to add that this, in part, is based very much on a report we had commissioned to look at all of the NPSs in terms of how they dealt with the Strategic Environmental Assessment Directive. Just as an example of the inadequacy of the Appraisal of Sustainability, one of the key things that you need is adequate baseline information to help assess what the impact is going to be. If you go to our specialised area, the biodiversity section, all it comprises is a list of designated sites at an England and Wales level; there is no attempt to relate that to the ports sector. It would have taken no time at all to work out where the major ports are, what the designations are on those sites and what their sensitivities are. No effort at all. It has not been done.

Q249 Chairman: It is not adequate, you say?
Mr Dodd: It does not look adequate to us, no.
Dr Parr: We do not have a view on that.

Q250 Chairman: Do you think that the new planning regime would have changed the decision on Dibden Bay? Does anyone have a view on that?
Mr Dodd: Shall I have a stab at that?

Q251 Chairman: Yes, please.
Mr Dodd: If Dibden came forward as it did in 2000 then I would hope sincerely that it would not have changed the decision because of the way the case was presented at that point in time. However, I think all of the ports industry has learned lessons in terms of how to work with the European Habitats Directive. The thing I would question, if it came forward now, is whether there is any need for additional container port capacity at the moment. If it came forward in 20 or 30 years’ time that would be different, the world would have moved on and you would have to evaluate whether it was in the right location. I would go back to what Dr Parr said about the low carbon economy. The world will change quite significantly in the next five or 10 years in terms of the implications of the low carbon economy as to how we move goods around and where the best locations in the UK are to bring those goods. It is very hard to second-guess that at the moment. Certainly at the moment there is no need for a Dibden Bay.

Q252 Chairman: So should there then be a trigger for re-evaluating the National Policy Statement if the world is going to be changing so quickly and so much?
Mr Dodd: Yes, there probably will need to be. What that trigger will be, whether it will be that the recession goes on for much longer than we think or the way we bring goods into the country changes fundamentally or whether there is greater clarity as to how the transport sector as a whole is going to deliver on low carbon.

Q253 Chairman: So when should the trigger be?
Mr Dodd: That depends on when any of these events happen. This issue of the low carbon economy and making sure the transport sector is starting to take notice of it and trying to deliver it in an integrated way, that is going to be a key point in time. It is probably a question for the Department for Transport next week as to when that is going to be, I imagine.

Q254 Chairman: We will try to give them some guidance. Can we have your comments on Dibden Bay and if you have a view on when there should be a trigger to re-evaluate the statement?
Mr Birch: On Dibden Bay, I do not think we have got a view on whether it would be permitted now. What we can say is things have changed so much that the process would be different. We believe now that scheme promoters have a much better appreciation of what is required. Certainly our own conversations with the industry are much better informed than they were at the time of Dibden Bay and the application. It comes back to what I said right at the beginning, that we feel promoters in future need to engage on their environmental statements and on their permitting right at the beginning. With Dibden Bay they got a long way down the track before the scheme came out into the open. I do not think I have got a view on whether it would get permission now, but it would have a much better chance of having a better airing now. In terms of review, we thought about this in the agency and possibly five years sounds about right, things change but they do not change that quickly normally and particularly with the scale of investments we are talking about now.

Q255 Chairman: So you think five years is about right?
Mr Birch: Probably not less given what we have been through today but nothing might have changed in five years and it might be longer. Certainly five years seems a sensible period on which to have a look and see whether a review is required.

Q256 Chairman: Thank you. Dr Parr?
Dr Parr: I cannot give you a view about Dibden Bay yes or no, but what I would say relates to the earlier conversation about should we have places that are less favoured. In most of my day job I deal with renewable energy and renewable energy, particularly wind energy, has some issues with getting planning permission. What the wind industry really did not need was a very long and protracted battle over a place that was fundamentally unsuitable on the Isle of Lewis. It did not help the industry, it did not help the companies, and it would have been better for everybody if nothing had ever been tried there, including the companies concerned, as I say. It strikes me that Dibden Bay is a bit analogous to that, that it would have been better if everybody had understood from the start that there are certain places where, okay, maybe you cannot rule it out for reasons of law but if you are being clever you really do not go there, just like National Parks for wind
farms, just like Areas of Outstanding Natural Beauty. On the review point, it seems to me that there are specific trigger points that one could put together. One would be a change in international policy on shipping, one would be a change on transport policy and another would be changes on technology. The judgment around those would have to be taken by somebody who understands the industry, probably the Secretary of State, as a trigger point for review.

Chairman: Thank you very much for coming and answering our questions. Thank you.
Wednesday 27 January 2010

Members present
Mrs Louise Ellman, in the Chair
Mr David Clelland
Mr Jeffrey M Donaldson
Mr Philip Hollobone
Mr John Leech
Mr Eric Martlew
Ms Angela C Smith
Sir Peter Soulsby

Witnesses: Sir Michael Pitt, Chair, Dr Ian Gambles, Director of Strategy, and Mr Robert Upton, CBE, Deputy Chair, Infrastructure Planning Commission, gave evidence.

Chairman: Good afternoon, gentlemen. Welcome to the Select Committee. Do Members have interests to declare?
Mr Martlew: I am a member of the GMB and Unite trade unions.

Q257 Chairman: Louise Ellman, member of Unite. Would our witnesses like to identify themselves, please, with their name and organisation, for our records?
Dr Gambles: I am Ian Gambles. I am director of strategy at the Infrastructure Planning Commission.
Sir Michael Pitt: My name is Michael Pitt. I am the chair of the Infrastructure Planning Commission.
Mr Upton: I am Robert Upton. I am one of the deputy chairs of the Infrastructure Planning Commission.

Q258 Chairman: Thank you very much. Sir Michael, in the written evidence that you have given to us you do talk about the importance of giving more consideration to intermodal freight facilities at ports and say it is very important that the National Policy Statement on Ports is consistent with treatment given to the same aspects by the National Transport Network Policy Statement. We only have one draft policy statement. Does that mean that you think it is a major failing to have a ports draft national policy statement without a transport statement?
Sir Michael Pitt: I do not think that is an overriding problem in these particular circumstances. The evidence that we are giving to you today and the viewpoint of the IPC is what is it like to be a Commissioner having to make decisions on individual applications with the National Policy Statement being a document that we must take fully into account. Clearly, it is important from a policy point of view that there is a tie-up between what is said about ports and what is said about national networks. I think, as we mention in our evidence to you, we do not have as at this moment any proposals for ports in the pipeline. We have about 40 or so projects coming towards us in the next 12 to 18 months, but none of those is ports projects. My understanding is that there will be a draft NPS on national networks. I assume that will be joined up in terms of its policies with the NPS on ports and, therefore, I suspect it will not present Commissioners with a major problem.

Q259 Chairman: Many of the witnesses that we have had in this inquiry have identified that as a problem, the fact that we are looking at one policy statement in isolation. Are you saying you do not agree with those concerns?
Sir Michael Pitt: I wonder if I could just make a very short statement about the position of the IPC in relation to national policy statements, because one of the things we cannot do as Commissioners is comment on policy itself. We have to leave that entirely to the Secretary of State and to the government departments concerned, because it is important that we are not seen to be prejudging in any way any applications which may come before us. The matter for us therefore is that, when we have national policy statements which have been approved by the Secretary of State, they are written in such a way that Commissioners can properly interpret them and apply them in making their judgments on individual applications.

Q260 Chairman: Do you think that this policy statement should be designated in the form it currently is in?
Sir Michael Pitt: Our view is that the current draft of the ports NPS could be improved. We have made a number of suggestions in our written evidence to you of ways in which we think the drafting could be improved, but nevertheless we do believe that the document as it stands is fit for purpose. If we were required to work to this document as Commissioners, we would be in a position to undertake our challenge, our mission, as an independent Commission.

Q261 Mr Hollobone: A lot of our witnesses said that they felt it was inappropriate for the ports policy statement to come out before the transport one. You could have a situation where the ports statement said, “All new ports should be built in the north”, and the transport policy statement came out saying, “All major new roads should be built in the south because of the congestion.” Clearly the two would not tie up. Given that the purpose of ports is to offload, in many cases, bulky goods which then have to access the road and rail networks, do you not understand the concerns that have been raised to us, that it is important that these two policy statements are looked at together?
Sir Michael Pitt: I can see the point that is being made. In a perfect world, the various NPSs would all have been issued at the same time. I think then we could have all seen the extent to which they do join up and make overall strategic sense. Having said that, as far as the work of the Infrastructure Planning Commission is concerned, we do not think that will inhibit us in dealing with ports applications because of the timing point I made earlier on.

Q262 Chairman: Has the Government clarified the role of the IPC in relation to security matters?

Sir Michael Pitt: I have not seen anything on that specifically, Chairman. Our understanding is that we will conduct our business in the open as much as we possibly can. In other words, all of the business of the Infrastructure Planning Commission is open to public scrutiny. Our various advice that we give is published on our website and also we will be publishing minutes of our meetings and our correspondence with outside bodies. We are conducting a very open arrangement as a Commission. However, there may well be matters to do with national security where we are prevented from operating in that way, in which case we would have to deal with those matters in confidence.

Q263 Chairman: Do you think you have enough skills to deal with defence issues in relation to ports?

Sir Michael Pitt: I have not seen anything on that specifically, Chairman. Our understanding is that we will conduct our business in the open as much as we possibly can. In other words, all of the business of the Infrastructure Planning Commission is open to public scrutiny. Our various advice that we give is published on our website and also we will be publishing minutes of our meetings and our correspondence with outside bodies. We are conducting a very open arrangement as a Commission. However, there may well be matters to do with national security where we are prevented from operating in that way, in which case we would have to deal with those matters in confidence.

Q264 Chairman: Are you satisfied with the consultation process?

Sir Michael Pitt: Again, if I could speak purely from the point of view of the IPC, we are satisfied that we have had sufficient time to look at the draft document, to formulate our views following discussions within the Commission and to make representations accordingly.

Q265 Chairman: Do you think consultation with the public has been adequate?

Sir Michael Pitt: That has not really been a matter for us. I think that is a matter for ministers and government departments.

Q266 Chairman: How can the National Policy Statement be designated without any input from the Marine Management Organisation which is not yet operational? Does that make any sense?

Sir Michael Pitt: Yes, that does. I do understand the point. We are already talking to the Marine Management Organisation which I think is setting itself up at the moment and will become a statutory consultee to the Infrastructure Planning Commission. In terms of designating the National Policy Statement, ministers will have to take account of timing and the extent to which they can get advice from the MMO.

Q267 Mr Hollobone: How much knowledge and experience do you three individuals have of ports?

Sir Michael Pitt: Speaking for myself, I am not an expert on ports. Formerly, I was a transportation planner, many, many years ago. Other people will speak for themselves.

Mr Upton: I certainly do not claim any expertise, although it is a fact that I once served on the Port Development Board of Hong Kong, which is a significant port.

Q268 Chairman: When was that?

Mr Upton: About 1990.

Dr Gambles: I would not claim any such expert knowledge.

Q269 Mr Hollobone: How big is the IPC?

Sir Michael Pitt: The IPC is a growing organisation. We currently have 40 staff and we have 10 Commissioners. We are currently making a bid for approximately a doubling in size of the number of professional staff working for the IPC and at the moment we are in the process of recruiting more Commissioners to add to the total. There is a very careful analysis done of workload, the projects which we know are coming towards us over the coming months, and the amount of time and staff commitment needed to fulfil that workload. We are very conscious of the statutory timetable that we have to work to on each and every application.

Q270 Mr Hollobone: How many people do you have employed with you currently who have some kind of knowledge of ports? Do you have a target for how many ports experts you might require?

Sir Michael Pitt: If I could go back to the earlier point I made, we have no applications in the pipeline for ports at the moment. If and when those applications come forward, it will be my job as chair to ensure that we either have staff appointed by the Commission, Commissioners or experts appointed externally from outside to ensure that we have the working knowledge we will need in order to act as a Commission.

Q271 Mr Hollobone: You do not have any recruited specialists and the Marine Management Organisation is also in the process of being formed. To the lay observer, it may appear that you, the MMO and ourselves do not really have much knowledge of ports and yet this is a major part of the nation’s infrastructure. You are charged with making important decisions in the future about it.

Sir Michael Pitt: Yes. I think the reassurance I must give to this Committee is that at the time we are dealing with a ports application we will ensure that we do have the appropriate expertise to undertake that work.
Q272 Chairman: If you do not have the expertise, how can you come to a judgment on whether the statement is adequate?
Sir Michael Pitt: The Commission is becoming very expert at reviewing national policy statements across the board, the energy ones as well as ports. We are becoming increasingly clear about the role of Commissioners and what has to be done as Commissioners and, therefore, we are able to interpret whether the wording in the draft NPS is appropriate and could be exercised and used by Commissioners in carrying out their work.

Q273 Chairman: What do you mean by “wording”? Sir Michael Pitt: It is very important to us that the NPS is written in the clearest possible terms. In fact, one of the recommendations we are making to you in writing is that we think it would help the National Policy Statement if there could be clearly defined, perhaps in bold print or in boxes, an absolutely straightforward statement of government policy to summarise what is in the longer narrative inside the document.

Q274 Chairman: One example is that the statement contains an assessment about what national ports’ capacity should be. If you do not have any expertise in ports, how can you assess whether that statement is reasonable or not and whether it is adequate or not?
Sir Michael Pitt: The policy contents of the National Policy Statement has to be a matter for the Secretary of State, ministers and the relevant government department. As I mentioned earlier on, it would be wrong of any member of the Commission to comment upon the policy, whether it is appropriate or inappropriate. We have to restrict our consideration as to whether, as Commissioners, we can interpret a policy document and make use of it in our decision-making.

Mr Upton: As we interpret the forecasts in the draft National Policy Statement on Ports, what they are doing is making the case as to why there will be a need over time for more port capacity in this country. In other words, they demonstrate a significant increase in the case of container traffic, a significant increase in the case of ro-ro traffic and other growth elsewhere. The point is made not actually in the forecasts but we do not know what the growth might be in relation to energy-related traffic. That is the case as to why we need more port capacity. What the NPS actually says for IPC purposes is that it is not for us to assess their adequacy?

Q275 Chairman: Is that you opting out of making an assessment of whether the statements in that document are right?
Mr Upton: I think that is background to the approval of the draft NPS. That is not a matter, I think, for the IPC. The statement that it is for the market to determine what actually constitutes need or demand in any particular instance of proposed development I think is what is significant for us as policy.

Q276 Chairman: Therefore, how would you assess an application when you are looking at the statement if you are saying it is just for the market and there is nothing else? What criteria would you be using? What would be relevant to it?
Mr Upton: I think that brings us back to the way in which the IPC is expected to operate. It is absolutely not a question of us bringing our own expertise, real or imagined, into the assessment of evidence, except in so far as we are actually conducting an examination of the evidence which is put before us. It is for the applicant to make the case as to why a particular development is justified in a particular location and to demonstrate what the demand is that they intend to meet and the adverse effects which they might have to overcome. We will have to look at those applications on what is included in the application, in the draft development consent order, in the background environmental impact assessment and in the light of other evidence which is brought by other parties.

Q277 Mr Hollobone: According to the National Policy Statement, sufficient additional ports capacity to meet the likely growth in container traffic for the next 20 or 25 years has already been granted consent. How will an applicant convince you that further port capacity is needed?
Mr Upton: I think the first question is will there be applications in the near future. As Sir Michael has said, we are not aware that there will be any applications in the near future.

Q278 Chairman: We are assuming that there are going to be. If there are no applications, there is not much purpose in this whole venture, is there? Let us assume there are applications. How would you assess their adequacy?
Mr Upton: The draft NPS also goes on to say, for example, that there may be growth in the energy sector in particular in ways which we cannot predict at present because of the changing nature of the energy market. Then we would have to consider that application on its own merits. The overriding message of the draft NPS is that it is not for us to determine whether there is actually a need that the market should do that.

Q279 Chairman: We have been told in evidence to us that there could be a legal challenge on the basis of inadequacy of evidence in you reaching your decisions. Is that something that concerns you?
Mr Upton: If I understood it correctly, the evidence was that there might be a legal challenge to the NPS.

Q280 Chairman: Not to you?
Mr Upton: Yes.

Q281 Mr Leech: I might already have established the answer to this question from what you just said. Some people in the ports industry have suggested
that the thresholds for nationally significant ports projects have been set ludicrously high. I think that was the term that was used. I do not expect you to comment on whether or not they have been set ludicrously high because that would be a policy issue but, given where the thresholds have been set, is it realistic that within the next five years you will not actually deal with any ports applications? Is that what you were suggesting before?

Mr Upton: What the draft NPS says is that over the long run there will be significant increase in demand. That may have been set back a year or two as a result of recent economic vicissitudes, but it is going to come sooner or later and the market may change in ways that we cannot predict. Therefore, we need this framework now in case the market perceives a need which it wants to meet.

Q282 Mr Leech: Have you made any assessment of the likelihood of applications coming forward in the next five years then?

Mr Upton: We are not aware at this stage that there will be any port applications to us.

Q283 Mr Leech: How would the new planning system have affected the decision on Dibden Bay?

Mr Upton: Of course we cannot get into any hypothetical discussions on the merits of Dibden Bay. I think that the point to be made there is that we now have a completely different planning system for such projects and that the application which would have to come forward for a project like Dibden Bay would be in a very different form from the application which was made before Dibden Bay.

Q284 Mr Leech: Is it your view that probably the same conclusion would have been reached?

Mr Upton: I could not possibly reach that view or any view on Dibden Bay.

Q285 Chairman: Which is it? You could not reach that view or you do not have any view?

Mr Upton: I have no view at all. I am sorry.

Q286 Mr Leech: Would the process have been sped up, regardless of the outcome of the application? Would the new system have allowed the decision-making process to have happened much quicker?

Mr Upton: I think what you have to understand about the new system is that it is very heavily front-loaded in a way in which the old system was not. It requires the applicant to do a great deal more work with stakeholders and communities, in terms of environmental work, before they can put in what is a complete development proposal. What the new system then says is that there are rigid timeframes within which the application must be allowed to go forward or not allowed to go forward, within which it must be examined and within which a decision must be reached.

Q287 Mr Leech: That is a really interesting comment. Basically, are you suggesting that the process might not actually be any quicker but the official timescale of the decision-making process would be quicker? There would be an unofficial time before that in which the applicant was expected to do lots of additional consultation?

Mr Upton: I think it is a great and general truth in planning that time is well spent before an application is made. That has been codified in terms of the new regime. You have had evidence from the major port operators and they refer, for example, to their port masterplans. They spend a lot of time thinking about what their future development plans will be so in a sense they are always in a planning phase. The point is when they start to engage local communities, local stakeholders and other stakeholders with what those plans will be as they want to bring them forward.

Q288 Mr Leech: The intention is to try and streamline the process and to quicken it up. From what you have said, that will not necessarily happen.

Sir Michael Pitt: I wonder if I could jump in on this. I am absolutely confident that we will be dealing with a fairer and faster regime compared to the former regime. The big difference is that the obligation is on the developer to do their work effectively in the right order and to ensure that they bring to the Commission a complete application which has been properly thought through and which has been properly consulted upon. That certainly was not the state of affairs with the previous regime. What that then guarantees is a delivery of a decision one way or the other within the statutory timeframe that has been set. I think the total elapsed time from start to finish for the project will be significantly faster than under the old regime.

Q289 Mr Leech: That includes all the additional work that will need to be done prior to the application being brought?

Sir Michael Pitt: If I could rephrase your point, it means that the promoters will be required to do the work in the right sequence that they should have done previously under the old regime. The big difference now is that the Commission can refuse to accept an application. In other words, it cannot even come through the door if the Commission believes that it has not been properly prepared or if there has not been effective public consultation.

Mr Leech: From what you are suggesting, you have given a very good politician’s answer, I think.

Chairman: That is meant to be a compliment.

Q290 Mr Leech: There is no guarantee that this will improve the time that it takes from the inception, when someone thinks, “We have to bring forward a planning application.” There is actually no guarantee that this new process will be any quicker. You hope and think that it probably will be but if all the proper work is done by the developer, there is no guarantee, is there?

Sir Michael Pitt: There is a fundamental difference under the new regime and that is that, from inception to final decision-making, it is a managed process. I think the previous regime could be described as an unmanaged process. As soon as a project is notified to the IPC, we will start talking not just to the promoters of that development but also to all the
other stakeholders, the local authorities, the objectors and the statutory consultees. We will start to organise all of the arrangements that need to be made. It is entirely up to the developers themselves how they accept or take that advice. The advice we will give to them will help them organise themselves to get the matter dealt with as promptly as possible. I think things in the past were not at all like that.

Q291 Mr Leech: You think it will massively improve consultation with all the stakeholders?

Sir Michael Pitt: There is no doubt in my mind that developers are beginning to realise that this new Planning Act puts upon them a statutory duty to properly undertake consultation, to ensure that they are listening hard to what people are saying and in due course to also demonstrate that they have responded to what objectors or consultees are saying about their proposals.

Q292 Mr Donaldson: We have heard from some witnesses that there seems to be a little bit of confusion about the relationship between regional and local planning documents and the NPS. What weight will the IPC attach to all their plans and strategies such as regional, economic development strategies and regional special frameworks?

Dr Gambles: The statutory provision, of course, is that the Commission must determine applications in accordance with the National Policy Statement. The National Policy Statement is therefore the primary document to which Commissioners will refer. However, Commissioners are free and, indeed, obliged to take account of all other relevant and important matters and documents. I think it is quite safe to say that relevant regional strategies will figure in that category.

Q293 Mr Donaldson: Do you think it is reasonable that the NPS automatically overrides regional development frameworks?

Dr Gambles: If I may, I do not think it would be right to use the word “overrides”. Commissioners will have a duty to weigh up the impacts of various policies, the benefits and impacts of the proposal. Whilst the National Policy Statement has a statutory primacy, it does not, if you like, trump everything else. All other things can be considered and will be weighed in the balance.

Q294 Mr Donaldson: Does the ports NPS need to say anything about port masterplans?

Mr Upton: I do not think it is necessary for it to do that. The ports masterplans are not statutory documents. They are actually prepared and owned by the port developers themselves. Therefore, they represent part of the ongoing process of planning by the owners of the ports that I talked of earlier. To the extent that they often are or should be a matter of public consultation, they have become part of the background of the development of a future application, but I do not think that they need to have any particular status in the statutory system.

Q295 Mr Donaldson: They would be taken into account but, unlike regional and local development strategies, they have no statutory force and, therefore, their status is somewhat diminished?

Mr Upton: I think their status is different. One would expect them to have informed very fully the application which was being made by the port developer.

Q296 Chairman: How will you balance economic benefits with environmental impacts? Have you enough guidance to enable you to do that?

Sir Michael Pitt: Again, if I could talk about the role of the Commissioner, the Commissioner is going to be hearing a great deal of evidence about the project itself and is going to have to come to a view about the extent to which the wider benefits of national infrastructure to the country as a whole and to the region may exceed or not exceed the impact of the disbenefits locally. When we are looking at the local area concerned, I think there will be important factors such as the social and economic impact, whether there would be additional jobs and the extent to which having that infrastructure at that location would be a benefit to that wider, local community. These are all factors which Commissioners have to take on board in reviewing all of the evidence made available to them prior to making any decision or recommendation.

Q297 Chairman: Are you satisfied with the guidance you have on how you would weigh one up against the other?

Sir Michael Pitt: Yes. I think it goes as far as it probably can on that subject. It is only when you get down to the individual cases that you can start to make inroads into the evaluations and to try and sort out which should take priority. It would be rather difficult, I think, in a document like this to take this particular subject very much further.

Q298 Chairman: What about the Appraisal of Sustainability of the Ports NPS? Is that adequate?

Mr Upton: That is a background document which is referred to.

Q299 Chairman: Is that adequate? That is part of the statement.

Mr Upton: It contains a great deal of useful information about the factors which have been brought into account in appraising the ports NPS as it has developed. I think that is there to be drawn on. There is also other material to be drawn on apart from ports masterplans. There is also the project appraisal framework for ports which is I think quite a longstanding process which has developed over some time. Behind the NPS itself if you like, in the Appraisal of Sustainability and the project appraisal framework for ports, there is quite a lot of material, of methodology, to be drawn on.

Q300 Chairman: What about the climate change impacts of decisions? Greenpeace told us they felt that there was a disregard for climate change issues. Do you agree with that?
Sir Michael Pitt: Once again, that will be a factor which Commissioners are required to take into account. Remembering that we are dealing with each site, each project, individually, there are issues about the cumulative effect of successive decisions which I think also needs to be dealt with appropriately. Clearly, the impact on climate change, the footprint of a particular project, is a factor that a Commissioner would weigh up in considering the evidence.

Q301 Mr Leech: I want to follow on from that but also to return to what Sir Michael said in relation to the weighing up of economic benefits against environmental impact. You talked about the local impact. How would you then define “local”? Would it be literally the surrounding area of the proposed development or could it possibly be a more regional impact in terms of the environment? We have heard from a number of people that about 60% of freight which comes into ports in the South East heads north of Birmingham so obviously that has a big environmental impact on the South East and travelling up the motorways. One in two vehicles on the A14 being a lorry, for instance. How is the wider regional impact or national impact of decisions being made, particularly about expansion of ports in the South East as opposed to ports around the rest of the country where there is a great deal more scope for capacity increases?

Sir Michael Pitt: Commissioners do have to look at the wider picture. Commissioners would expect to have information supplied by the developers on, for example, traffic flows, not just in the immediate vicinity of the site but also much further afield as well. Therefore, the longer distance issues are material to the development and I think Commissioners have to take that into account.

Q302 Mr Leech: Do you feel that the balance is correct? You are talking about the wider economic benefits as opposed to the local, environmental disbenefits of an application. Do you feel that the guidance is good enough to give you the scope for looking at the wider, environmental disbenefits of a particular application?

Sir Michael Pitt: One of the things about this is that there is no simple algorithm that you can build and says, “If we put all these bits of data in, out will come the answer either for or against a particular development.” The way that the Act has been drafted is to put the responsibility firmly on the shoulders of the single Commissioner or the panel of Commissioners who are making the judgment and therefore they have to weigh up, using their professional judgment, the factors for and against the development and come to a view about whether it should be approved or not. If it is approved, also to think very carefully about the conditions that should be placed upon that development, because another way of mitigating the adverse impacts of a proposal is by placing conditions on the way in which that particular activity operates in the future.
Sir Michael Pitt: Energy by far is the most significant number. As I mentioned earlier, we are in the order of maybe 40 to 50 projects a year. Currently we are running with about two-thirds of those projects being energy related. That is nuclear power, fossil fuel energy, improvements to the National Grid and wind farms, both on and offshore. Also, we have a number of transport projects which we anticipate as well. That is the general mix. We do not have any ports projects. We do not yet have any projects in relation to water or waste. They may be coming soon. I think they relate more to housing development and when that starts to become more significant.

Q309 Mr Hollobone: In this era of tight public expenditure, why should you not be merged with the National Planning Inspection Service?
Sir Michael Pitt: We are putting all our energy at the moment into implementing the current legislation of the government. Clearly, if there were a change in government policy, then we would respond to that in whatever way we would have to.

Q310 Mr Hollobone: What are the differences between you and the NPIs?
Sir Michael Pitt: Surprisingly, it is quite a different organisation from us. The Planning Inspectorate focuses the great majority of its energy on dealing with planning appeals. For example, if somebody has applied to extend their house and that has been turned down by the local council, that appeal will go to the Planning Inspectorate. They deal with something like 25,000 of those appeals a year. They are dealing with the end of the process after the local authority has dealt with the planning application or the consultations and so on. The Commission is a national planning authority for the 40 or 50 projects that we deal with. We deal with those projects, if I could say, from cradle to grave. Therefore, it is a very different function to the Planning Inspectorate, but that is not to say that some form of merger could not be achieved if that was the wish of government.

Q311 Chairman: Would you like to see some guidance on location in the policy statement?
Sir Michael Pitt: It is quite interesting, is it not, that the energy NPS on nuclear is quite specific about a number of sites where the Government would say that there is a good case to be made for placing a power station, but there do not appear to be any other site specific NPSs so far. I think the Government has made it clear in those documents that it wants to leave choices about location to the marketplace, that these are commercial risks that should be taken by the private sector. From my perspective, that seems to be a perfectly reasonable position for a government to take.

Q312 Chairman: Would you be considering the impacts of new development on existing ports?
Mr Upton: New developments in what sense?
Q313 Chairman: In the sense I am saying. If you have an application for a development, would you assess its impact on an existing port in coming to your decision?
Sir Michael Pitt: I see. You are saying if there is a proposal for a new port or an expanded port at location A, what about the impact on port B? As far as I can tell, that would not be a consideration for us. It would be very much down to the marketplace and a commercial risk being taken by operators. Dr Gambles: If I may, it would have to be a very substantial alteration within the meaning of section 24 of the Act before it would come to the IPC. It would have to meet the same thresholds as a new application. It is defined in the statute.
Sir Michael Pitt: I think the Chairman is saying what about the economic impact on port B because of the proposal.

Q314 Chairman: Would that be part of the consideration?
Sir Michael Pitt: No. I think that would be largely down to commercial judgment being taken by the port operators.

Q315 Chairman: You would not see the Commission having a role in assessing that, or would you?
Sir Michael Pitt: If I could put it back to you in this way: as I see it, the Commission is not there to decide which is the best location for a port expansion in the country. What the Commission is required to do by law is to consider the application that is placed before it and to decide whether that is an appropriate location for that port expansion or new development to take place, so it is quite possible that we would be giving approval to a port development at point A that would have an adverse impact on the economy of port B in a different place.

Q316 Chairman: It would not be your role to judge the impact of one on another?
Sir Michael Pitt: Under normal circumstances, no.

Q317 Mr Martlew: This surprises me a little. The sort of projects you are talking about are large projects, are they not?
Sir Michael Pitt: Yes.

Q318 Mr Martlew: You are perhaps talking about taking considerable areas of green field site. You do not assess the need for that particular project? Need does not come into it? It is just whether the marketplace decides to have it? You are prepared to take the fact that you will be destroying a green field site and you do not look at the need?
Sir Michael Pitt: The Commissioners would be taking into account the impact on the environment and the loss of land and would be taking a view on the suitability of that location for new port development.
Q319 Mr Martlew: Sorry, Sir Michael, you are not really answering the question. You do not look at whether this particular project is needed? It is just whether it is going to upset the greater crested newt?

Mr Upton: The NPS is quite clear that these are major investments. They are not made capriciously. The NPS is quite clear that it is for the market to decide whether it wishes to risk its capital in a particular development. It is for the Commission to decide whether the adverse impacts of that development might outweigh its benefits.

Q320 Chairman: The guidance does say that you should ensure effective competition between ports and provide resilience in the national infrastructure. That implies that you would be making judgments about the impact of the proposed development on existing facilities.

Sir Michael Pitt: I think that reference is there to make the point that it is quite possible that there will be greater port capacity available in the country than the minimum needed to cope with the amount of goods going in and out of the country. There will be an element of spare capacity in order that the marketplace can operate effectively.

Q321 Chairman: Would you say that you would be precluded from assessing the regional, economic impact of a proposal? Would that be outside your discretion?

Sir Michael Pitt: No. The Commissioners concerned would take evidence on regional impact, would want to consult the relevant regional body or bodies and would want to take into account regional implications when coming to their decision about an individual site.

Q322 Chairman: How would that be weighted against other considerations?

Sir Michael Pitt: As Dr Gambles said, we are required by law to give precedence to the National Policy Statement but, nevertheless, Commissioners would want to take into account local development frameworks, other local plans, regional plans and so on in coming to their conclusions. I would expect them to address those plans in their reasoned justification, the report that they write, when they come to their decision.

Mr Upton: I think it is back to Sir Michael’s point that there are no algorithms for this. It is impossible for us to say in advance, “We will give more weight to this than we will to that.” What the guidance in the NPS seeks to do is to give us the framework for exercising judgment. That judgment has to be exercised on the case which is brought to us and the case which is brought against that, if that applies. In other words, it is only when we are into the actual evidence and examination of that we can start to make those judgments.

Q323 Mr Martlew: When you come to a decision you see as very complex, would you find yourselves being taken to court over that decision?

Mr Upton: The Act provides for the possibility of judicial review if we give grounds for judicial review.

Q324 Mr Martlew: As you are a new organisation, there are no judicial guidelines. I suspect it could well happen.

Sir Michael Pitt: We are extremely conscious of the potential for judicial review. The way in which we conduct our business and the very careful way that we are trying to answer your questions is a consequence of that. Though, if we do misdirect ourselves in some way, we would lay ourselves open to judicial review. Perhaps I could just reassure you that we are spending a great deal of time and energy making sure that the processes we adopt and the way that we conduct our business will be legal and, as much as we possibly can, reduce the risk of judicial review.

Q325 Mr Hollobone: If you were taken to judicial review and the judicial review did not find in your favour, would you resign?

Sir Michael Pitt: It would depend on the reason why. I think it is quite possible that we will be tested at judicial review. I think it will be important for the Commission to demonstrate that it conducted its business carefully and reasonably. There could be circumstances where we might lose a judicial review for reasons beyond our control or for reasons that no chair could have foreseen, but if I felt personally that the Commission had badly fallen down on the job in some way I would resign.

Chairman: On that note, thank you for answering our questions.

Witnesses: Paul Clark MP, Parliamentary Under Secretary of State, Mr Richard Bennett, Head of Ports Division, and Mr Philip Grindrod, Team Leader, Ports Policy Review, Department for Transport, gave evidence.

Q326 Chairman: Good afternoon, Minister. Would you and your team like to identify yourselves for our records, please?

Mr Grindrod: I am Philip Grindrod. I am from the ports division of the Department for Transport.

Mr Bennett: I am Richard Bennett, head of the ports division in the Department for Transport.

Paul Clark: Paul Clark, Minister for Shipping in the Department for Transport.

Q327 Chairman: Minister, would you like to make an initial statement?

Paul Clark: Very briefly, thank you, Chairman. Thank you to you and Members for inviting us to come along to the Committee on what I think is an important part of the Department’s work in terms of the National Policy Statement for Ports. It is an important element of the Government’s programme to deliver the reforms to the planning system,
including the Planning Act 2008. Indeed, as Members will be aware, the aim of the Act is to make planning systems fairer and faster, with a fuller public scrutiny of such major developments. Under the Act, the IPC is required to decide planning applications for nationally significant infrastructure projects in accordance with the policy statement, once designated, essentially, unless the adverse impacts outweigh the benefits or, of course, it is out of step with domestic or international law. The NPS will also provide guidance for the smaller development cases falling below the thresholds of those nationally significant projects in the Act. They will be decided by other decision-makers, in particular in this case the Marine Management Organisation, the MMO. The Government’s policy for ports is to encourage sustainable port development to meet demand while leaving judgments about when and where that development should take place to those who are best placed to make those judgments, working within the ports industry and the port developers themselves. The market-led policy has been shown to work and there has been a series of container terminal developments that have been consented in recent years, including those at Liverpool, Teesport, Felixstowe and London Gateway. We know that some are not of course proceeding as urgently at present, but this is a sensible response to market conditions. Despite the uncertainties, all the evidence points to a resumption of growth in demand for port capacity as the wider economy recovers. Meeting that demand is not just a matter of simple arithmetic to predict and provide at national level; it is about exploiting the new opportunities for more efficient logistics. It is about responding to the demand and that demand itself will be responding to a whole range of environmental and decongestion initiatives at sea and on land. In conclusion, let me say something quite a few of our witnesses have come forward and is coming through that process. You will no doubt be producing a report arising from your work that you have been doing as a Committee and we want to be able to respond to that as well, so there are a number of factors that are involved in that timing.

Q329 Chairman: Could you give us a date or possible date?

Paul Clark: I cannot give you a date for when that will conclude, but we are keen obviously to progress as quickly as possible. The conclusion of the consultation is 15 February, so it could not obviously possibly be before that stage, but certainly we will give fair wind to move as quickly as possible thereafter.

Q330 Chairman: Before May?

Paul Clark: It would certainly be within this year. I would hope that we could move as quickly as possible and look to that to be sooner rather than later. I am not being deliberately obtuse in that date, Chairman. I am being realistic in the sense that I have not seen all the consultation and responses that have come in. You will no doubt be producing a report arising from your work that you have been doing as a Committee and we want to be able to respond to that as well, so there are a number of factors that are involved in that timing.

Q331 Mr Hollobone: Quite a few of our witnesses have expressed concern that the Ports Policy Statement should not be designated ahead of other policy statements, for example on major roads and railways. If it were the recommendation of this Committee that the Ports Policy Statement be not designated until other policy statements have been brought forward, is that something that the Department would consider carefully?

Paul Clark: We always consider any recommendations that come forward from the Transport Select Committee carefully. Is it likely that we would necessarily concur with that view? I would have to say I do not believe we do. I have read some of the evidence that has come before the Committee; I saw some of the comments of some people on the national networks policy statement and what they have said. I believe the Ports Policy Statement stands alone but of course it has many references in it to requirements in terms of transport and infrastructure provisions. It also would not be surprising, with the work that has been going on on the Ports Policy Statement and the National Networks Policy Statement within the same department, that people do not work in isolation from each other and, therefore, that has to be reflected. If indeed we are to have strong port facilities that are successful economically, creating jobs and opportunities, they need to have—as indeed is reflected in the document—a transport...
In terms of the national networks be very little confidence in the status of the ports document before us today. I would suggest there will be produced? To be frank, the one thing that all the witnesses have agreed upon so far is the need for that to be integrated with the ports document. If the Department are working together on this, then surely it is possible for the documents to be seen to be connected together? Paul Clark: Obviously there are a number of elements to this and a number of workstreams that are going on what is clearly a complex position. infrastructure and national networks are needed just for supporting ports but for supporting a whole range of networks. Indeed, some of that is reflected very clearly in the document Delivering a Sustainable Transport System with the 14 critical corridors which involve something like 10 or 11 of the major ports around our country. I think you would find it surprising if I were to say anything else other than that it would be surprising if the document then came out from the very same department and did not reflect other work and other streams that have gone on within that department. In terms of the national networks document, rightly so, it is not just about national networks to deliver ports; it is to deliver a whole range of areas. It will not surprise you that the Secretary of State made clear at the beginning of December that he wanted to make sure that the national networks reflected work on what will be a critical part of that. I suspect, which of course is the work that was being done by the High Speed Two Company to be reflected in there as well. Therefore, you need to take those processes as they come through.

Q332 Ms Smith: Following on from that I have to say, Minister, that I did not hear anything then which evidenced to me any reason why the networks document should not be produced at the same time or integrated with the ports document. If the Department is working on this and different parts of the Department are working together on this, then surely it is possible for the documents to be seen to be connected together? Paul Clark: That has been led through the policy and infrastructure that supports them and that will be multimodal. I do not think it is necessary that the national networks document has to be decided beforehand. Certainly one of the things we would always make sure of is that any comments and so on that are received in relation to the ports document on national networks would be considered by the National Networks Policy Statement when that is published in the fullness of time after consultation.

Q333 Ms Smith: Two points on that. First of all, when is it envisaged that the networks document will be produced? To be frank, the one thing that all the witnesses have agreed upon so far is the need for that second document to be integrated with the document before us today. I would suggest there will be very little confidence in the status of the ports document if the networks document is delayed.

Paul Clark: In terms of the national networks document, the Secretary of State has said that by the end of March he intends to have responded on High Speed Two and that would form a critical part of the national networks document. Therefore, in terms of it being by around the end of March, that would be the right target time that we are talking about. I do emphasise if the documents did not recognise the needs across the range of the transport provisions, it would be highly surprising within the same department.

Q334 Ms Smith: The second point I would make is this: you have made two intriguing references in your opening statement, Minister, and just now. The first was a statement you made to the effect that the market-led policy appears to work, and you then listed a number of developments, all of which took place in the South East of England: Southampton, Felixstowe and so on. Paul Clark: Liverpool.

Ms Smith: That is fair, I do apologise, but principally we are talking about the South East of England. If the networks document is predicated to some extent on HS2, we are again looking at North-South links. Surely it is time to use this planning tool to help the different regions of this country to close the gap in economic terms with the South East, and it is time for a document like this to suggest that a presumption ought to be put in place of development first where it is most needed; that is, Liverpool Merseyside, the Humber, the Tees, rather than allowing us to continue the market-led approach which leads to further intensification of development in the South East of England which is leading to unsustainable congestion.

Q335 Chairman: Minister, a market-led approach or a little guidance?

Paul Clark: I gave the examples of Liverpool, Teesport, Felixstowe and London Gateway. They were the four that I gave.

Q336 Ms Smith: I apologise for that.

Paul Clark: That has been led through the policy and the principles of the policy that we have in place now and which is replicated here within the NPS. It is absolutely correct that High Speed 2 is there to deliver on a number of agenda items, but one of them is clearly about having far better facilities and links north and south, running the length of our country. That is absolutely right: I make no apology for that. In terms of the North-South divide, I looked very carefully at the evidence that the Select Committee received previously, when looking at the interim policies and so on, and I know that the Select Committee concluded that the evidence which was submitted was contradictory as to whether you could be able to deliver a policy directed in that way that would deliver what some Members of the Committee wish to see. Let me also say, in terms of economic development, that I could not agree more: we need to take the steps necessary to make sure there are job prospects and opportunities for all people within every region of this country.

Q337 Chairman: What guidance or weighting would you give to regional economic strategies in relation to ports as against a national policy statement?

Paul Clark: That is exactly where the regional development agencies and the regional economic strategies are part and parcel of that process.
Q338 Chairman: What weighting will they have?
Paul Clark: I would expect the IPC to take that into account. Indeed, when you go through, economic issues and job prospects are contained within this as part and parcel, along with other areas, in terms of environmental issues and so on.

Q339 Chairman: The IPC have told us that they will take regional strategies into account but they do not seem very clear about how much into account. Will you be giving any more guidance on this area?
Paul Clark: We will review. I know that some comments have come forward about a greater emphasis in terms of regional economic strategies and the RDAs' roles in this document. That is an area that certainly we will undertake to look at as to whether there needs to be a stronger reference in this document. We are certainly undertaking that as part of this process.

Q340 Ms Smith: Surely it is really important, therefore, as part of that discussion, to take into account that, increasingly, it is the congestion of the network particularly in the South East that needs to encourage us to think more radically about where we develop our further ports capacity. For instance, the M3 to Southampton and the roads in East Anglia are increasingly congested, whereas we have opportunities in the North to develop quite effective networks in terms of getting freight in and out of the country, reducing road miles and therefore congestion and CO2 emissions.
Paul Clark: Clearly we have considered in here, in some guidance on assessment, issues about commercial impact and economic competition but also about congestion and how that feeds into the whole agenda in that way. Through some of the work that has been going on, such as the work of DaSTS, we have been identifying those critical corridors. Of course that will be part of the influence as to where those developments would go, as part and parcel of the normal process that would happen, as to moving clearly around the country, from the port and into the hinterland, in terms of that easy access and the way you can do that.

Q341 Ms Smith: What is the point of a national policy statement if we are going to have all sorts of other pieces of work and strategies brought to bear on decisions to be made?
Paul Clark: The ports policy brings forward very clearly and this strategy lays out the factors that do need to be taken into account. It shows applicants what they need to consider and the items that they need to take on board, and it shows the decision-making body the factors that need to have been taken in and whether those are within the applications that are before them. That is how we can speed up and make more transparent the whole process for local people and those wider afield.

Q342 Mr Leech: Minister, 60% of freight that comes to Britain through ports in the South East is going to end up north of Birmingham. How will the National Policy Statement on ports encourage shippers to take their freight to ports around the rest of the country instead of the ports in the South East?
Paul Clark: Part of it will be, for example, looking at issues of transport requirements and picking up on the issues that have been raised already in terms of congestion. Those issues have to be taken on board. There is a presumption in the document, indeed, that if the vast majority is going to be moved by road, there has to be an explanation as to why that is going to be the case. What are the factors they are going to put in place in terms of alternative modes? That may well be in terms of rail, but coastal shipping as well, and there are various supporting mechanisms that we have as a department to get that modal shift going. I will say, equally, that some two-thirds of all products coming in move within the region they come into. There is a whole range of complex issues that come into play when looking at locations and where to locate. One other part of the evidence that I saw on the question of how many shipping lines would deviate from a line north of the Wash level. That was part of the evidence that I know was given to the Select Committee previously.

Q343 Mr Leech: What you have just said is completely contrary to what we have been told. We have been told that 60% of the freight that comes into the South East ports has a destination north of Birmingham. Yes, it travels around the South East, because it has to travel through the South East to get to the Midlands or the North, but is it not the reality that this National Policy Statement for ports is going to do absolutely nothing to try to encourage ships to take their freight to ports in the rest of the country, closer to the destinations to which the freight is ultimately going?
Paul Clark: As I have already said, there is a whole range of factors in the decision-making process that will be taken into account by those seeking to develop port facilities. One of those will be, as I mentioned right at the very beginning, in terms of the changing demands that happen. Last night I was at a reception around the whole British offshore energy programme. There are discussions going on with some of the ports in the North East, for example, of utilising those to help support that. There are a number of factors that over a period of time will change the demand and the patterns of the use of ports. That will happen naturally through the processes of demand and change of demand that will happen.

Q344 Mr Leech: Is it not the case that a location-specific NPS would have helped to distribute freight around the rest of ports in the UK and away from the South East?
Paul Clark: I do not think the evidence is there that does suggest that is the case. As I said earlier on, evidence to this very Committee before said that it was contradictory as to whether that policy could work.
Q345 Mr Leech: Is it not the case, under the current system, that shipping companies will continue to want to bring stuff into the South East because it is more convenient for them, and we need to see a national policy statement that actively encourages the extra use of ports outside of the South East?

Paul Clark: We need to make sure that the policy we have is such that it supports the needs of our economy to be able to continue to have viable ports which meet a whole range of demands, whether that be in terms of cruises, leisure, goods coming in and goods going out or in terms of meeting new demands; as I have already indicated, offshore wind farms, for example.

Q346 Mr Leech: You have made the point that it is important to weigh up the economic benefits of developments. Do you feel that the current draft is going to work? Do we have the right balance between the economic benefits and the environmental disbenefits of proposed developments?

Paul Clark: The assessment processes here and the list of areas that are covered—which are, as I say, substantial: economic impacts and commercial impacts are listed with environmental impacts, climate change adaptation and mitigation, flooding, coastal change, and transport in section 2.17—is the right balance. That will give us a ports industry that is robust and strong to take us over the next 30 years, to continue to develop and to meet the changing needs as they happen.

Q347 Chairman: Are you going to give any further guidance on how to assess those different aspects? You have already said that you are going to look at the regional economic impacts issue more closely. Are you going to give more guidance on, say, environmental against economic objectives where there is a clash?

Paul Clark: As I said earlier on, we are always willing to look at whether there is a general thought that a better balance needs to be given. I believe, on the whole, that the list of areas that need to be considered in that assessment process by both the applicant and the decision-making body is pretty well balanced, but, as I say, part and parcel clearly of the process we are in is undertaking to look at the representations that we receive. In terms of the balance, I do not know whether there is anything either of my colleagues would like to add.

Q348 Chairman: Mr Bennett; can you tell us any more about whether you will be giving further guidance on how to assess the balance between these different aspects?

Mr Bennett: We have been struck by this being a recurring theme in the evidence you have heard so far. The National Policy Statement is a planning framework document. Those who take these decisions are familiar with some of the language that it uses. We were very careful in the descriptions of the weighting that we used. For example, as you have just been discussing, attaching “substantial weight” to the positive impacts of economic development was deliberately chosen compared to the “limited weight” or “less weight” that are attached to some of the other impacts. Clearly we have to see whether we have got these relative judgments right and we need to look at whether the overall message it is giving is clear enough for the decision maker, and we will do that.

Q349 Mr Clelland: Most of the points I wanted to raise have been covered, but I am just disappointed that the Labour Minister seems to be married to the market process when we have an opportunity here to aspire to the regional policies of the Labour Government and Labour Party over many years by using a planning and national policy process to ensure that we develop the regions as opposed to allowing the market to dictate where the areas are to be developed. Obviously the shipping companies will want to go where it is easiest and most convenient for them, and that then puts a huge strain on the infrastructure of that area. The South is becoming overpopulated and over-congested, uncomfortable for the people who live here and costly for the people who live here, whereas at the other end of the country, where we have excellent facilities, we are not able to develop them because the market has decided they will not be developed. Surely there must be a role for government in ensuring that that imbalance is corrected.

Paul Clark: That is part and parcel of the regional development agencies, the regional economic strategies.

Q350 Mr Clelland: Yes, but this policy seems to be fitting in with that.

Paul Clark: Absolutely. We have said in here that that should clearly be taken into account. It is a discussion I have had with the IPC and so on and I believe the tools and mechanism are there for them to be able to do that. But, indeed, I have already indicated that there has been expansion. There have been improvements, for example, at Teesport and Liverpool. Indeed, one of the discussions that I had only last night was exactly around the use of port facilities to support what is a new, emerging, and larger scale development in terms of energy provision and so on.

Q351 Mr Clelland: We are not getting anywhere near the potential of these areas, Minister, are we? Teesport, the Port of Tyne, Liverpool. The potential there for development, for improvement, for more transport, for more shipping traffic is tremendous, but we are not encouraging it. We are getting the crumbs that might fall off the table, as it were.

Paul Clark: I think it would be unfair to say crumbs—

Q352 Mr Clelland: In comparison. Relatively speaking.

Paul Clark: —in terms of in the round and in terms of the provisions and so on that are made. I do not believe that by having a directed, location-specific policy we would achieve what both he and I and clearly other Members of the Committee would
want to see. I do not believe that we would necessarily be able to deliver it, that that would actually be delivered. I do believe that we need to look at how we best make use of facilities around the country by ensuring that we have a policy that does state very clearly what the criteria are, which is laid out in this NPS, so that everyone is clear about what those options are, what those criteria are.

Q353 Chairman: We are looking forward to seeing how you resolve that. You have indicated that it is an area you are going to look at.

Paul Clark: We will.

Q354 Chairman: The Marine Management Organisation does not yet exist. Is that of concern to you now that the port statement is being broadened?

Paul Clark: Is it a concern? We are working closely, clearly, with our colleagues, and developing the skills and so on that are required obviously with the MMO to be able to take forward the work on those applications that are below the threshold. No, it does not concern me, but obviously I want to see with all concerned that that organisation is in place as soon as possible and that we work with others to make sure that that happens.

Chairman: We will suspend the meeting.

The Committee suspended from 4.13 pm to 4.22 pm for a division in the House.

Q355 Chairman: The National Policy Statement is based on an interim report on ports policy rather than a final report. Why do we never get a final report?

Paul Clark: You will recall that back in 2006 we had consultation and in 2007 we had the interim report. It was arising from that when the Transport Select Committee made provision on that. Then we were discussing, if I recall correctly, government-wise, obviously creating the provisions that ultimately came in the Planning Act 2008, which would be supported by policy statements in critical areas. Of course it is the interim policy report that has helped to form the strategy that we have before us today.

Q356 Chairman: The strategy is the final report.

Paul Clark: It is the policy in the report that will of course govern, yes, our policy on ports over the next 30 years.

Q357 Chairman: How does the National Policy Statement reflect the Government’s other transport policies, such as encouraging rail freight?

Paul Clark: If I might refer directly to it in the section that covers transport directly, it says at 2.17.17, “ ... broadly speaking, rail and coastal or inland shipping should be encouraged over road transport ...” That does very clearly say that that should be the presumption. I also said earlier on, in response to another question, that there is a predominance of using road, for example, justification should be made within the application as to why that is the only route to be followed. There is a presumption here that alternative modes should be the norm rather than relying solely on road.

Q358 Chairman: Some witnesses have told us that the NPS is too focused on container traffic. Do you think the statement addresses a sufficient range of ports activities?

Paul Clark: I do not believe it is; indeed, the forecasts on page 12 of the document show the anticipated increases there would be in container operations but also in roll-on/roll-off traffic and other areas, so I do not think it is. I think it is reflecting what are the best forecasts and so on that we see for the development of port demand within Britain, in what is going to be an escalating and increasing provision across the world in terms of world shipping and demand.

Q359 Chairman: Defence has also been identified as an issue. Do you think the IPC has sufficient skills to deal with defence issues in relation to the ports?

Paul Clark: The document does refer to issues of security of ports. Where they are critical applications in terms of security issues, then consideration should be taken through the channels that exist now in terms of advising on security issues and provisions in that way, which includes that the Centre for the Protection of National Infrastructure provision should be taken into account. We also have facilities and work that goes on through various organisations including TRANSEC which is of course the transport security provision which gives advice and keeps under review information relating to national security and threats to transport modes.

Q360 Mr Hollobone: With all respect, Minister, you are not an expert on ports, nor am I, and nor, would it appear from our earlier evidence session, is the IPC. On the basis of the current document, how long do you think it should be before it is revised?

Paul Clark: There is provision in here, clearly, for revision to happen as an overall document in terms of the policy. That is down to the secretary of state at the time to make a judgment on when that is necessary. If there are major shifts in demand, then clearly you would expect the secretary of state at the time to consider and take that into account. Indeed, it could be through an inquiry by the Transport Select Committee that believes that a change should happen. In terms of demand and forecasts of provision that is required, we have indicated that those reviews should be undertaken in the region of about every five years.

Q361 Mr Hollobone: Why should it just be the secretary of state who can trigger a review of the NPS? Why can there not be some other trigger mechanisms to facilitate a review?

Paul Clark: I am sure the honourable member would not want to make a provision of layers upon layers of trigger points within any policy. The secretary of
state, whoever he or she is, has a responsibility overall for transport and particularly for ports policy, so it would seem right that he or she should make that decision. Of course, they will take into account evidence and information that comes from many sources: from industry itself; as I have indicated, from the Select Committee; or from other sources that clearly are relevant.

Q362 Mr Hollobone: Some witnesses have told us that the statement that is drafted lacks an international perspective. Clearly we are an island, ships are coming to our ports from other ports elsewhere. Ports on the Continent are obviously in competition with our own. Are you concerned that the statement lacks an international perspective?

Paul Clark: It clearly is a statement about ports in England and Wales. That is the policy focus of it. It cannot ignore, as you say, the fact that 95% of items coming in by sea. Clearly that involves an international flavour, therefore the work continues to reflect issues around, for example, shipping security, which is an international issue and needs to be taken into account in that way, as well as other discussions and so on that go through the IMO. Again, I do not know whether my colleague would like to add anything in terms of the international perspective.

Mr Grindrod: There are several references in the draft NPS to our international obligations, treaty obligations and legal obligations, including the EU Directives and so forth. In that sense, there certainly is an international context to the document.

Q363 Chairman: The statement does not seem to take account of climate change considerations. Why is that?

Paul Clark: If I may say, I think it does. Overall, there is the environmental impact assessment, but particularly sections 2.13 and 2.14 refer to climate change mitigation and climate change adaptation, taking into account those areas that are already on-stream, trying to mitigate those that are already in the pipeline that are affecting ports and the work there, and mitigation in new proposals coming forward to take into account alternatives and operations there. I believe the climate change agenda is well reflected in the document as it is there. It lays out very clearly what is expected of the applicants and the decision-making body.

Q364 Ms Smith: A comment was made about the European Union context in terms of the international perspectives on the statement. Has the department taken into account, however, the impact of the global economy and the emerging markets in Asia, particularly in China, on the cargo that comes in and out of the country? In other words, we are going to get different trade patterns in the future and that will impact on the ways in which our ports are used.

Paul Clark: Indeed. There are two things to say there. In terms of the position we are in and the assessments that are made in terms of cargoes coming in and routes in, they are clearly made on the best evidence that we have now, on the forecasts that are undertaken by numerous sources, to be able to take account of that. Indeed, in relation to an earlier question in terms of looking at how those patterns change and forecasts change, we have said that that should be taken into account, probably, over roughly a five-year cycle. Indeed, it could well be that if there were substantial changes that could well trigger a need to look again at that policy as a whole.

Q365 Ms Smith: Is it taken into account in this document as it now stands?

Paul Clark: In terms of the projections of cargo coming to visit the country from a range of sources, it has to take that into account to be able to produce the table on page 12 of this document, to be able to make an assessment of the level of business that will come into this country from international sources.

Q366 Ms Smith: Moving on to Dibden Bay, the application for Dibden Bay was turned down. Do you consider that the new planning system in the National Policy Statement might have affected a major proposal like Dibden Bay in any way?

Paul Clark: I sincerely hope that this will affect all major proposals. It lays out very clearly the areas that applicants need to look at. There is a clarity of what we are looking for, there is a clarity of what steps need to be taken, and a clarity for the decision-maker to consider what has been presented. Whether it would have made any difference in terms of a decision about Dibden Bay is not a matter that I would be able to speculate upon.

Q367 Ms Smith: If Dibden Bay were to be resubmitted—and of course it may well be—in terms of its impact on the environment and so on, will this statement make it any easier or will it make it more difficult for approval to be given to such a scheme that can have such a significant environmental impact?

Paul Clark: It certainly gives clarity to what is required to be taken into account of any major application for a port development and for the decision-maker to make a judgment against that.

Q368 Ms Smith: Surely, Minister, it is a job of the department to give clarity as well in terms of the priorities on the part of the decision-maker, especially in relation to things like climate change and environmental impact.

Paul Clark: Absolutely. That is why I do believe that the provisions within this on biodiversity, climate change, flooding and coastal change, waste generation, air quality and water and so on, are all issues that are part and parcel of the complex picture of such critical applications that we are expecting to be considered against this policy statement.
Q369 Ms Smith: What changes? Again I ask the question: What is different from what we have already?

Paul Clark: Because it is much clearer as to what is expected to be covered in those major applications, as I say, both by the applicant, in terms of what they are expected to cover and deliver on and put before the IPC, and by the IPC, as the decision-making body, to judge those against. We have already agreed that we are looking, because of the consultation exercise and the comments that have been given to the Committee and that we have been receiving, in terms of the weight and the balance in those issues, and we have said that we will look further at those.

Q370 Ms Smith: You made a comment earlier—and perhaps you could repeat it for me, so I am sure I am accurate on this—that two-thirds of the cargo that comes into the country is distributed within the region that it enters the country.

Paul Clark: It stays within the region.

Q371 Ms Smith: Can you break that down in terms of the type of cargo? I suspect that coal and oil will stay very local: it will go to the local power station or the local refinery. I would like to know what the figure is for container traffic, whether that stays within the region it is brought into, whether if it comes into Southampton, it stays within the south East, and if it comes into Felixstowe—

Paul Clark: I understand entirely the question and I will write to you with the detailed figure, of the figures that we have and the evidence that we have on that.

Q372 Chairman: The NPS says that “pre-existing approvals fulfil the capacity requirements anticipated until 2030 or beyond.” Could additional capacity be approved by the IPC allied to that statement?

Paul Clark: It says provision certainly up to 2020. Yes, clearly additional capacity could be approved in that period. I have indicated that some of the decisions that had already been given are not moving forward as fast as was anticipated, because of the global downturn we have faced, but clearly it would be possible for the IPC to give approval for further such claims.

Q373 Chairman: Has the impact of the recession on demand been taken into account?

Paul Clark: I know that a number of people have said that perhaps we should consider amending the forecasts that are laid out here in the NPS. Our view is that it is not necessary to do that. There are fluctuations, as you appreciate, constantly in terms of demand in these sorts of statistics. This is to cover a period to 2030. Indeed, when we published those forecasts originally, there were some quarters that were saying that they thought we were not being bold enough and that we were underestimating what was going to be required. I do believe that in the fullness of time they are the right figures to be using at this stage, but, as I have already indicated, the decision in the guidance is that they should be reviewed broadly on a five-year cycle.

Q374 Chairman: Does that mean that the forecasts will be updated before the statement is designated?

Paul Clark: No, it is not our intention that they should be updated at this stage.

Q375 Chairman: Do you think that will lay you open to legal challenge?

Paul Clark: I would not have thought so, because, as I have indicated, these are indicative figures over a long period and a long timescale, so I think they are robust in that way.

Q376 Chairman: Why were the National Networks and Ports statements not issued at the same time?

Paul Clark: For the reason that I gave earlier on. There are a number of statements that we have to produce within the Department for Transport. An airport statement will be another document that we will need to produce in due course. As I have indicated, in terms of the national networks there is a substantial piece of work that is being undertaken on High Speed 2 and the options for further links and much improved links running broadly north-south but also the options for east-west. Clearly the secretary of state has said that he wishes to consider that and to add to what is clearly obviously the right document, the National Networks document, and will need to do that. The secretary of state received that document, the High Speed 2 report, just prior to Christmas. He has indicated that we would expect to have that report out by the end of March.

Q377 Chairman: The inland transport networks are very important to ports development. Does it not seem incongruous that there is no transport corridor statement when we are looking at ports?

Paul Clark: I have, as I said earlier, looked very carefully at some of the comments from some quarters who have shared that view. Equally there are others who do not believe it is necessary—for one reason, in terms of provisions already made, that no major applications are anticipated before the National Network document comes out. Having said that, one cannot pre-judge everything, but it is not anticipated that that will be the case. Indeed, even if it was received now, it would not be considered before the National Networks document is scheduled to appear. Equally, the National Networks document is required. You could argue this for a number of other policy statements that would come out, because the argument would be that you need that national network for the provision of airports, you need that national network for the provision of energy sources and so on. I do believe that this is a freestanding policy statement that does refer very carefully to transport assessment that is required in terms of ports
applications by those applicants, and I think it does cover the necessary issues about transport provision, particularly road, rail and coastal shipping, in the document as it stands.

Q378 Chairman: Quite a number of our witnesses have said that the absence of the National Networks Policy Statement is sufficient not to designate the port statement. They think it is that serious. How do you react to that?

Paul Clark: I am sorry that they do believe that. I saw some of the comments that, equally, they believe the policy as it stands clearly is right, with some requirements that are needed in terms of tweaking at the edges. Having said that, I do not agree with them. I do not believe that there is a necessity. As I have indicated, this has not been worked on in isolation from national networks within the same department and, indeed, with other policy initiatives that are already out there and in the public domain, of which Members here and many others are well aware; for example, the DaST document. I do not know whether there is anything my colleagues would wish to add on that in terms of the importance. I understand this is an issue that has been raised by a number of people in terms of the National Networks policy.

Q379 Chairman: A number of our witnesses see this as extremely important and sufficiently serious an issue as to conclude that the port statement should not be designated at this stage on those grounds.

Mr Bennett: We appreciate the comments that have been made by witnesses and we can understand that not having seen the National Networks draft NPS there is some uncertainty about what might be in it or not, but, as the Minister has said, we are not working in a policy vacuum on road and rail connections. There are clear policy statements already available, including DaST work, which if the IPC were to get an early application for ports development, they could take into account and weigh against a framework in the NPS which itself also contains some pretty clear guidance into how the transport assessment, the inland connectivity issues, should be dealt with.

Chairman: Thank you very much.
Written evidence

Memorandum from Network Rail (NPS 01)

Summary

— Network Rail broadly supports the Government’s policy for new port development set out in the draft National Policy Statement (NPS). Network Rail agrees with the policy regarding the need for additional capacity in the port sector, and the need to define the acceptable levels of adverse impacts such developments may impart.

— Network Rail’s main consideration in responding to this consultation is in the way in which port development affects the national transport system, and in particular the rail network, and in the levels and means of mitigation of any adverse effect such port developments may have. Network Rail expects to see clear policies on the provision of inland transport to support ports, as a coherent, appropriate, proportionate and practical framework within which to assess future port planning applications;

— In particular, Network Rail strongly supports the aim of port developments supporting trans-modal shift from road to rail as a more sustainable form of transport;

— Providing rail freight connections to ports specifically can significantly reduce their negative impact on the local environment by reducing the air and noise impacts of road freight. Rail delivers considerable environment benefits over road transport in terms of greenhouse gas emissions, as well as helping to relieve congestion on the road network;

— Network Rail expects that planning decisions will result in port developers continuing to provide financial contributions towards key enhancements of the rail freight network to support the increased traffic they will generate;

— Port developments will be the major driver behind the growth in demand for rail freight in future and are therefore a key consideration of long-term industry planning. With imports expected to remain vital in providing the country’s requirements for a range of products and commodities the importance of ports within the infrastructure delivering those products and commodities will remain in the decades to come;

— Network Rail would like to see a requirement that the applicant’s assessment of transport requirements includes reference to Network Rail’s Freight Route Utilisation Strategy (RUS) and development of the Strategic Freight Network (SFN) where appropriate given that they are so strongly influenced by the development of ports. Furthermore, we hope that any future iterations of the RUS and SFN, will be taken into account in proposals from port operators and developers and in decisions by the Government, the Infrastructure Planning Commission (IPC) or the Marine Management Organisation (MMO);

— Network Rail believes that it should be a specifically named statutory consultee (as opposed to a consultee as a statutory undertaker) for the Ports NPS, for schemes being considered by IPC in relation to ports, and all other NPSs which have implications for the rail network;

— Network Rail has been asked to consider whether it is the intention that rail schemes associated with port developments would be incorporated into the main port application to the IPC or dealt with separately. Network Rail believes that it would not be practical to combine the applications except for the smallest schemes which are in close proximity to the port itself, since the scheme development and consultation processes would become unwieldy. It is important that changes to the rail network which are needed to facilitate port developments do not have the perverse effect of making it more difficult to plan, develop and operate the rail network in a way which helps to achieve further modal shift and economic growth, for example by creating unnecessarily restrictive commercial rights over the capacity that is created through contributions associated with planning consents. Further discussion with the IPC on this point would be welcomed;

— It is important that there is also a requirement for any changes to the existing rail network to be agreed with Network Rail as the infrastructure operator; that Network Rail leads the planning of any changes to the rail network; and that any new infrastructure associated with a port development is managed within the existing industry contractual processes with regards to operations, maintenance and network access.

Response to specific questions in the consultation

1. Network Rail will be responding to the consultation on the draft NPS by the deadline of 15 February. As a result, this written evidence limits itself to the additional questions set out by the Committee in the call for evidence.
Q2: Do the general planning principles set out in the proposal for a National Policy Statement on Ports form a coherent, appropriate, proportionate and practical framework within which the Infrastructure Planning Commission (IPC) can assess future port planning applications?

2. Broadly speaking, yes. The principles cover the areas a decision maker must take into account when considering an application, and these are aligned with the factors that apply to other, related planning decisions. Network Rail is particularly supportive of the principle within the NPS that port developments should provide a basis for trans-modal shifts from road transport to shipping and rail.

3. Network Rail would expect that planning decisions will result in port developers continuing to provide financial contributions towards key enhancements of the rail freight network to support the increased traffic they will generate. It is crucial that the infrastructure, when completed, is managed as part of the rail network in accordance with existing industry procedures, particularly with regard to operations, maintenance and network access arrangements.

4. In principle, Network Rail is supportive of the mechanisms put in place by the DfT, though these have yet to be tested by real schemes. The success of these mechanisms may depend to some extent on the ability of the department to be able to provide some funding for wider benefits.

5. Network Rail is responsible for the development of rail freight strategy in conjunction with its stakeholders including government departments, freight operators and their customers. The strategy aims to ensure that sufficient railway capacity and capability is available to accommodate users’ needs.

6. The Freight Route Utilisation Strategy (RUS) was published in March 20071 and subsequently officially established by the Office of Rail Regulation. The Freight RUS was further developed into a Strategic Freight Network (SFN) following the 2007 Rail White Paper. The SFN was published by Network Rail in its 2008 Strategic Business Plan and subsequently confirmed in the Department for Transport’s Strategic Freight Network publication in September 2009.2 Development of the SFN is now DfT policy, and this is overseen by a stakeholder steering group.

7. The Freight RUS presented a view of the freight growth and alterations in existing traffic flows that could reasonably be expected to occur on the network by 2015 and presented a strategy to address the key issues that arise in accommodating these changes.

8. A growth of just under 30% in freight tonnes lifted was forecast over the study period (the 10 years to 2014–15) which equates to up to 240 additional trains per day on week days (including return trips running empty) compared to the base year of 2004–05. Whilst growth was predicted in the volumes of most commodities carried, the greatest overall level of growth was expected in deep sea intermodal traffic.

9. The Freight RUS considered the forecast increase in traffic generated from these and other sources, compared this to the forecast capacity available on the network, identified where there were “gaps” and set out potential solutions to resolve these.

10. Whilst the current economic climate has affected volumes, forecasts suggest that overall demand for rail freight, expressed in freight tonne kilometres carried, could rise by up to 80% between 2006–07 and 2030–31. It is conceivable that, over that period, the movement of goods to and from ports by rail will rise to an even greater degree, though this is dependent to an extent on location and modal policy.

11. Individual schemes are developed and taken forward by private promoters and government at both national and local level. Within this framework, the SFN has been supported with DfT funding, though the industry—through the steering group—has selected the interventions it believes provide greatest value, and these interventions are being developed by Network Rail.

12. Therefore, in considering whether a port proposal requires additional rail capacity, reference should be made to the strategy as well as any planned schemes, to identify whether further interventions will be required.

13. It is vitally important that future port developments are considered in conjunction with the SFN planning process to ensure that the resulting freight traffic can be accommodated.

14. The SFN is being continually developed by a stakeholder group led by Network Rail. Port operators are represented on the group by the Rail Freight Group and are encouraged to provide input.

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1 The Freight RUS was overseen by a Stakeholder Management Group consisting of Network Rail, English Welsh and Scottish Railway (now DB Schenker), Freightliner, GB Railfreight, the Association of Train Operating Companies, the Department for Transport, Transport Scotland, the Welsh Assembly Government, Transport for London, the Rail Freight Group and the Freight Transport Association. Passenger Focus was consulted at regular intervals during its development. The Office of Rail Regulation (ORR) attended Stakeholder Management meetings as observers. The above organisations are now generally members of the Strategic Freight Network steering group. The RUS is available at: http://www.networkrail.co.uk/browse%20documents/rus%20documents/route%20utilisation%20strategies/freight/route%20rus.pdf

2 http://www.dft.gov.uk/pgr/rail/strategyfinance/strategy/freightnetwork/
Q3: Are the sustainability and environmental criteria outlined in the draft Ports NPS appropriate, proportionate and practical?

15. Yes. In addition, the NPS aim of modal shift to rail is welcome, and the correct approach.

16. Providing more rail freight generally is key to delivering sustainable economic growth in this country as a mode that allows large volumes of goods to travel quickly, easily, affordably and with a low environmental impact.

17. Providing rail freight connections to ports can significantly reduce their negative impact on the environment by reducing road freight. Rail delivers considerable environment benefits over road transport in terms of greenhouse gas emissions, as well as helping to relieve congestion on the road network.

18. On climate change mitigation, it is noted that the draft NPS highlights the positive impact port developments can have if they result in trans-modal shifts from roads to shipping or rail, and the benefits from these shifts when greater than any additional emissions that may be associated with the proposed development.

19. Rail freight produces a 74% reduction in carbon emissions over road freight while removing just 10% of road freight would save nearly £1 billion in costs per year.

<table>
<thead>
<tr>
<th>Freight mode</th>
<th>gCO2 per tonne km</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rail</td>
<td>32</td>
</tr>
<tr>
<td>HGVs</td>
<td>120</td>
</tr>
</tbody>
</table>

20. Network Rail has recently published its sustainability policy, which sets out the company’s commitments to economic, social and environmental sustainable development defined as “development that meets the needs of the present, without compromising the ability of future generations to meet their own needs”. On environmental sustainability, Network Rail’s aims include;

<table>
<thead>
<tr>
<th>Goal</th>
<th>Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>To achieve sustainable consumption and production</td>
<td>— to reduce waste, in terms of materials, water and land production</td>
</tr>
<tr>
<td>To improve energy efficiency and reduce the reliance on fossil fuels in running the railway</td>
<td>— increase the use of sustainable materials</td>
</tr>
<tr>
<td></td>
<td>— encourage modal shift from less-efficient forms of transport</td>
</tr>
<tr>
<td></td>
<td>— improve the energy efficiency of running trains</td>
</tr>
<tr>
<td></td>
<td>— improve the energy efficiency of our activities and reduce our reliance on fossil fuels</td>
</tr>
<tr>
<td>To protect natural resources</td>
<td>— reduce the risk of impact on air quality and the natural environment</td>
</tr>
<tr>
<td></td>
<td>— protect our heritage and natural habitats and seek opportunities to enhance them where reasonably possible</td>
</tr>
</tbody>
</table>

21. Modal shift from road to rail would deliver improvements in all of the environmental areas above. In this case that would be achieved through the development and provision of rail infrastructure to serve increased traffic at ports.

Q4: Have issues or principles which should have been included in the draft Ports NPS been left out?

22. Network Rail has been asked to consider whether it is the intention that rail schemes associated with port developments would be incorporated into the main port application to the IPC or dealt with separately. Network Rail believes this is not practical except for the smallest schemes which are in close proximity to the port itself, since the scheme development and consultation processes would become unwieldy. Further discussion with the IPC on this point would be welcomed.

23. It is important that there is also a requirement for any changes to the existing rail network to be agreed with Network Rail as the infrastructure operator; that Network Rail leads the planning of any changes to the rail network; and that any new infrastructure associated with a port development is managed within the existing industry contractual processes with regards to operations, maintenance and network access.

3 From DEFRA conversion factors 2009. Car statistic converted to passenger km using Transport Statistic GB 2008 data
24. As we stated in our response to the consultation undertaken by Communities and Local Government on National Policy Statements last year, Network Rail believes it should be a specifically named statutory consultee (as opposed to a consultee as a statutory undertaker) for the Ports NPS, for port schemes being considered by the IPC and all other NPSs which are relevant to the rail network.

January 2010

Memorandum from the Royal Institution of Chartered Surveyors (NPS 02)

RICS welcomes the opportunity to submit its draft response to the Committee’s Inquiry following the evidence given by member James Trimmer at the Committee’s inquiry session.

About RICS

The Royal Institution of Chartered Surveyors (RICS) is the leading organisation of its kind in the world for professionals in property, construction, land and related environmental issues. As an independent and chartered organisation, the RICS regulates and maintains the professional standards of over 91,000 qualified members (FRICS, MRICS and AssocRICS) and over 50,000 trainee and student members. It regulates and promotes the work of these property professionals throughout 146 countries and is governed by a Royal Charter approved by Parliament which requires it to act in the public interest.

RICS members are involved in a wide range of roles within the ports sector, including asset management, dealing with associated valuation and compensation issues, and managing the planning and construction of ports infrastructure.

1. Integration and Policy Content of the National Policy Statements

RICS is concerned that the draft Ports NPS must dovetail with the forthcoming draft NPS on strategic networks (road and rail), as well as other key NPS documents. The draft Ports NPS only gives one or two paragraphs to the essential role ports play in the energy infrastructure sector, and seems to give little specific reference to the major energy infrastructure detailed in the Government’s suite of draft Energy NPS documents.

The overall section on the Government’s policy on ports is confined to relatively few paragraphs. Given the significant role ports play in the energy sector it is essential to ensure there are no gaps in policy and guidance between the documents, and referencing the other NPS documents and including more detailed policy content could help the IPC, applicants and the public to navigate the documents in a more transparent way.

2. Reducing Associated Road Freight

In the draft Ports NPS, the Department for Transport has missed an opportunity to take a lead on reducing road freight transport in favour of waterborne freight. In section 2.17.22 of the draft NPS, the draft NPS references target modal shares for rail and coastal shipping, and stipulates that these “may sometimes be appropriate but are not mandatory”. RICS supports the draft NPS including more explicit guidance for the IPC on ways to ensure ports freight is transported in non-road modes of transport. This would support the Government’s position expressed in section 1.10.3 of the NPS, which states that the Government wishes to see port development “providing a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable”.

RICS has historically campaigned on this issue and in its response to the Department for Transport’s consultation Delivering a sustainable transport system (November 2008), RICS called for more preference to be given to waterborne freight over road transport where domestic waterways are located in strategic transport corridors.

3. Wider Transport Capacity Implications

The draft NPS for Ports does not give the IPC specific direction to consider the consequences of new applications on wider transport infrastructure, such as motorway junctions or associated capacity issues related to an increase in onward short sea shipping routes. RICS would like to see more text provided on the strategic guidance being given to the IPC to make decisions included in the draft NPS, rather than just references to other documents and methodologies. The NPS will be a publicly viewable document and it is in the interests of transparency that the document contains details of how the IPC will weigh up its decisions.

January 2010
Memorandum from the Town and Country Planning Association (NPS 03)

1. ABOUT THE TOWN AND COUNTRY PLANNING ASSOCIATION (TCPA)

1.1 Founded in 1899 the Town and Country Planning Association (TCPA) is the UK’s oldest independent charity focused on planning and sustainable development. Through our work over the last century we have improved both the art and science of planning in the UK and abroad. The TCPA puts social justice and the environment at the heart of policy debate and seeks to inspire Government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

— Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country;
— Empower people and communities to influence decisions that affect them; and
— Improve the planning system in accordance with the principles of sustainable development.

2. BACKGROUND TO THE INQUIRY

2.1 The Transport Committee (hereafter referred to as the Committee) has launched an inquiry into the proposal for a National Policy Statement on Ports (hereafter referred to as the draft Ports NPS), published by the Department for Transport on Monday 9 November 2009. The draft Ports NPS sets out a new policy and decision-making framework for port development in England and Wales. The TCPA presented oral evidence to the Committee on the 13th January 2010.

2.2 The Committee’s inquiry will focus on the following four main areas:

— Responses to the questions in the Department’s consultation;
— Whether the general planning principles set out in the draft Ports NPS form a coherent, appropriate, proportionate and practical framework within which the Infrastructure Planning Commission (IPC) can assess future port planning applications;
— Are the sustainability and environmental criteria outlined in the draft Ports NPS appropriate, proportionate and practical, and
— Have issues or principles which should have been included in the draft Ports NPS been left out.

3. SUMMARY OF TCPA SUBMISSION

3.1 The TCPA welcomes the opportunity to contribute to this timely inquiry by the Committee into the draft Ports NPS. This submission provides evidence in response to specific areas of interest outlined in the Committee’s Call for Evidence, including the consultation questions.

3.2 The Committee should note that the essence of the TCPA’s submission is based on the extent to which the implementation of the NPS, as a policy document and a decision-making framework for the Infrastructure Planning Commission (IPC), and as a material policy document in spatial development plans for planning authorities, will ultimately help achieve a sustainable future pattern of development and economic growth in England and ensure good connectivity, as part of a wider spatial planning framework. The TCPA is committed to the need for a national spatial framework so long as it delivers sustainable development and in particular priorities action on social justice and climate change.

3.3 The TCPA presents our submission in two distinctive parts:

(a) On Process

— Status of the NPS and its systematic testing: The TCPA believes that the process of preparing this NPS and the other draft NPSs currently out for consultation (the draft Energy NPS suite) is inadequate and fails to provide sufficient scrutiny given the powerful nature of the NPS as essentially a development plan document under the Town and Country Planning system.
— Proper and transparent public involvement: The NPS process of running the public consultation and the parliamentary scrutiny in parallel does not allow sufficient time for effective public involvement. It is also unclear whether there is a clear communications and public engagement strategy.

(b) On Contents

— National development framework for Connecting England: The TCPA calls for the Ports NPS to be informed by, and link to, improvements in inland transport infrastructure (road and rail) that will unlock capacity and bring benefits to local economies. This can be achieved by establishing a development framework for England to ensure integrated and sustainable development.
— Co-ordinated approach to regional-local policy and delivery: The TCPA emphasises the need for potential applications for port developments to be “region-proof” by assessing them against
alignment or “fit” with regional and local transport strategies. Together with potential applications for other types of forthcoming nationally-significant transport projects, this would ensure that a coherent and much needed co-ordinated approach is taken to transport infrastructure planning.

— Carbon accounting: The TCPA emphasises that for transport NPSs, overall, priority assessment must be given to climate change mitigation in line with the UK’s international and EU obligations for emissions with the prescription of guidance in the development of ports. This would ensure that the UK’s carbon budget is not exceeded and justified along purely economic grounds.

— Other matters: The TCPA believes that for the NPS to be truly effective and coherently spatial, and to avoid unnecessary delays in implementation, it must be aligned with existing planning policies and dovetail with the plan-led system. The TCPA supports the role of good design in delivering wider social, economic and environmental objectives, and recommends explicit references to DfT’s own ports masterplan guidance.

3.4 In light of issues raised above, the TCPA shares the Government’s vision and plans for a more transparent, efficient and accessible planning system, and accepts the principle of national policy statements.

4. MAIN TCPA SUBMISSION

On Process

4.1 The Status of NPS

4.1.1 The status and role of the NPS is clear and explicitly set out in Section 104(3) of the Planning Act 2008. The IPC “must decide the application in accordance with any relevant national policy statement”. The Act does provide for exceptions which are tightly defined, but includes the circumstances where impacts might outweigh benefits (Section 104(7)).

4.1.2 The weight to be given to NPS in decision making appears to be more forceful than that given to existing development plans under the Town and Country Planning regime. The Planning and Compulsory Purchase Act 2004 reinforced the plan-led system with decisions being made in accordance with the plan. However, the exception to this provision is much more broadly drawn including any material considerations which may include other policies issued by the Secretary of State, i.e. the NPS. The point is that the NPS have the legal status of a kind of “super development plan” which appears to provide much more limited discretion for the decision-maker than any other form of planning.

4.1.3 The TCPA notes that the draft NPS can be relevant and material to decisions in the rest of the Town and Country Planning system. This is reflected in CLG’s letter on the NPSs to all Chief Planning Officers on the 9th November 2009. In this letter, it is made clear that Local Planning Authorities (LPAs) and responsible regional authorities should consider the extent to which emerging plans and strategies can reasonably have regard to emerging NPSs, depending on the stage which the development plan has reached. NPSs are also likely to be material consideration in areas where development plans are out of date. Where there are conflicts with local or regional plans, the designated NPSs will prevail (Annex A Paragraph 18).

4.1.4 The TCPA’s concern is that NPS have a specific legislative purpose for the decision-making and consent-granting responsibility of the IPC. They are primarily designed to guide the decisions of that body. As a consequence, while the TCPA welcomes limited degree of clarification from CLG’s letter, their legal status in the rest of the planning system is uncertain and will have to be resolved in the courts. Providing policy that is vital for Town and Country Planning in the NPS documents will result in uncertainty and delay and is an unnecessary complication of an already procedurally complex system.

4.2 The systematic testing of NPS

4.2.1 The TCPA believes in the proper scrutiny of planning policies proportionate to their influence over final outcomes. The NPS holds a powerful status in planning which implies that the testing and examination of NPS should at least meet the standards of lower tier local and regional planning documents. This is even more important given that the IPC cannot reopen policy issues settled in NPS (Section 106 (b) 2008 Planning Act) and because the IPC is not democratically accountable for its individual decisions.

4.2.2 As well as formal arrangements for public participation, other planning documents have a systematic and transparent framework for the examination of development plan documents and their supporting evidence. This is known as the “soundness test”. Guidance for the testing of soundness in examinations in public for both Regional Spatial Strategies and Local Development Framework Development Plan Documents are provided by the Department for Communities and Local Government (CLG) and by the Planning Inspectorate to ensure that participants understand how the test is applied. The test is vital to ensure that plans are fit for purpose. This means that differing plans have to conform to minimum standards of justification and effectiveness (including proper evidence gathering and community participation as well as deliverability).

4 Section 38 of the Planning and Compulsory Purchase Act 2004
5 CLG, November 2009, Dear Chief Planning Officer Letter on National Policy Statements
4.2.3 The TCPA believes that a clear assessment framework is a vital pre-requisite for public confidence as well as ensuring consistency of approach and assessments of the different NPSs.

4.2.4 This concern is reinforced by the fact the different select committees from different Government departments will be examining differing NPSs. The TCPA is not aware of any comprehensive or systematic guidance provided to the select committees on assessing the soundness of NPSs. Crucially the whole weight of this necessary function falls on the relevant parliamentary select committees. We remain concerned that such select committees will not have the time, resources and expertise to provide sufficiently stringent scrutiny of a “development plan document”. For example, a Local Development Framework (LDF) examination might last between four and six weeks and in session most working days.

4.3 Proper and transparent public involvement

4.3.1 The TCPA believes that the comparison between the level of statutory public engagement in regional and local planning and the NPS preparation is stark. First and foremost, the Planning Act 2008 gives wide discretion to the relevant Secretary of State as to how to proceed with public consultation on NPS but without a requirement to produce a statement setting out the details equivalent to one required for regional and local planning bodies.

4.3.2 The planning system requires a minimum level of public consultation and involvement in the preparation of spatial plans, strategy and policy documents. LPAs must prepare a Statement of Community Involvement (SCI) which sets out how people will be involved and prioritises public engagement. This is a requirement also extended to Regional Planning Bodies. In addition there are two defined periods of public participation in plan preparation (PPS 12) and a statutory right to be heard for any participant who makes representations in an independent examination (Section 20 (6) Planning and Compulsory Purchase Act 2004). This provision safe guards the system from potential Human Rights Act (HRA) challenges under Article 6 (right to fair hearing). This potential engagement of the HRA is related to the Local Development Framework’s (LDF) allocation of site specific development proposals. We note however that the NPS is not a site specific document but that it is still considered a development plan.

4.3.3 Table 1 below provides a comparison of public involvement and engagement requirements between the NPS and other spatial planning documents. It is significant that there is no examination in public of NPS. Instead the full weight of independent testing of the NPS falls on the parliamentary process.

### Table 1

**COMPARISON OF PUBLIC INVOLVEMENT AND ENGAGEMENT REQUIREMENTS OF DIFFERENT SPATIAL FRAMEWORKS**

<table>
<thead>
<tr>
<th>National Policy Statement</th>
<th>Regional Spatial Strategy</th>
<th>Regional Strategy</th>
<th>Development Plan Document (LDF)</th>
</tr>
</thead>
</table>

**Pre Plan Production**

<table>
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<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Section 6: Regional planning body to publish and keep under review a statement of policies for involvement</td>
<td>Section 75: Responsible Regional Authority to publish and keep under review a statement of policies for involvement</td>
<td>Section 18: Local Planning Authority to publish and keep under review a statement of community involvement</td>
</tr>
</tbody>
</table>

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8 CLG, 2009, Planning Policy Statement 12: Local Spatial Planning
9 Human Rights Act 1998
4.4 A national development framework for Connecting England

4.4.1 A key recommendation from the TCPA’s 2006 Connecting England report was that a national framework for infrastructure development and investment was vital in order to create a coherent and efficient transport network. The TCPA also highlights the recommendations from this report for a balanced ports strategy which ensures the sustainable growth of English ports by determining growth limits in southern ports, and encouraging growth in northern ports. The TCPA accepts this NPS specifically deals with the Government’s policy for new port development, but that our comments should be considered in the context of an integrated and connected England.

4.4.2 The TCPA notes that the NPS re-states the market-led policy of the Interim Report for the Ports Policy Review in July 2007. The Executive Summary of this Interim Report states the confirmation of Government’s view that “commercial port operators are best-placed to make decisions about where and when to invest in the port sector”.

4.4.3 The TCPA does not discount the important role of the market to provide the level of investment required to initiate, develop and manage port operations. However advocating a market-led approach to planning for ports in the context of national benefit and need raises significant concerns for long term sustainability. The TCPA notes that both the draft Ports NPS and the Government’s Delivering a Sustainable Transport System (DaSTS) highlight the uncertainty in projecting future demand. It is likely that the market will view this as a barrier to investment and reaping profitable returns. The implication for the draft Ports NPS is that there will be a need to plan, in spatial terms, for uncertainty by presenting a certain spatial vision and development framework. The TCPA highlights the Transport Committee’s own conclusions on this issue in its final report on the ports industry in England and Wales in 2007.

4.4.4 Delivering a Sustainable Transport System (DaSTS) published in 2008, is considered as the Government’s national framework for transport. In DaSTS the Government recognises its responsibility to set a national policy and investment framework set upon long term goals and priorities. In particular it is recognised that the different components of the transport infrastructure, including ports, “collectively are..."
critical to the functioning of the system as a whole”. As part of this, the illustration of the strategic national corridors of the transport system includes ports. The TCPA notes that there is no ports strategy for England and does not believe that the DaSTS is, and can be, a substitute. However aligning the Ports NPS spatially with this DaSTS on national framework* in the absence of a national development framework for all infrastructure and spatial development) will be sensible and greatly assist the IPC in making coherent decisions on port development which looks beyond the short-term.

4.4.5 For nationally-significant port schemes, it is important to make a determination based on an assessment of how the proposed scheme impacts, positively and adversely, on the wider strategic considerations. To determine a scheme with national benefit it is also important to assess wider strategic considerations; these must be adequately addressed in order to make a proposed scheme viable and sustainable in a preferred location. All this points to a need for a plan-led approach, of which the NPS is intrinsically a part of, and indeed as the top tier policy and plan document. As part of this and the development plan document role of the NPS, it would require making judgements on potential suitable ‘spatial’ locations for new ports or significant improvements to existing ports in the context of wider strategic priorities highlighted in TCPA comments. Again this would greatly assist the IPC in making sustainable long term decisions in the national interest.

4.4.6 Finally, the TCPA concludes this section by highlighting ’interim’ recommendations and conclusions in relation to ports from an emerging study undertaken by Sir Peter Hall and Peter Hetherington for the TCPA and Local Government Association. Connecting Local Economies recommends that:

- The National Policy Statement for Ports should take a strategic approach rather than leave the determination of port expansion policy to be led exclusively by the currently dominant providers in the present market. This should be informed by and link to improvements in inland transport infrastructure (road and rail) that will unlock capacity and bring benefits to local economies.

- Rail and road pressures from freight traffic for all of the largest ports should be assessed and a programme of rail gauge enhancement undertaken where appropriate to take more freight off the road, reduce congestion and to make ports in less congested regions more attractive destinations for container traffic and promote economic development in other English regions.

4.5 Co-ordinated approach to assessing need within the wider regional-local policy and delivery frameworks

4.5.1 There are a number of issues in relation to whether the draft Ports NPS is properly co-ordinated with wider strategic and local policy and investment frameworks, and whether the draft Ports NPS will enable the IPC—through the consents process—to make appropriate determinations based on thorough assessments of local impacts and benefits.

4.5.2 Firstly, unlike the portfolio of draft Energy NPSs—which at least provides the opportunity for the public and key stakeholders to make a collective judgement on the merits and shortfalls of the policy documents—the draft Ports NPS is being consulted on in absence of the intended NPSs on National Networks and Airports (however, please note that the TCPA expresses similar concerns for process and content in the draft Energy NPS suite). In particular, the TCPA is concerned that without the publication of the NPSs on National Networks and Airports consultees will not be able to make proper assessments and judgements about the spatial implications for a sustainable framework of development, at least for inter and intra-regional transport and freight. This is a pertinent point in the context of considering existing capacity and potential improvement opportunities of multi-modal networks to accommodate freight traffic and availability of inter-modal freight terminals, particularly to and within the northern regions. The TCPA highlights the DIT’s interim Ports Policy Review report which accepted that “a crucial aspect of port policy is inland connections to ports”, and transferable lessons from mainland European countries which are investing more systematically in new rail freight links.

4.5.3 Secondly, while the TCPA does not discount the important contribution of ports to the economy, the Association is not convinced that the draft Ports NPS clearly sets out the long-term need, provision and likely market changes for port infrastructure based on robust and independent evidence, particularly in assessing the suitability of locations. The draft Ports NPS’s own admission that “the total need for port infrastructure is a consequence of overall demand for port capacity together with the need to retain the flexibility that ensures that port capacity is located where it is required, including in response to any changes in inland distribution networks and ship call patterns that may occur; and the need to ensure effective competition and resilience in port operations”;

15 Connecting Local Economies—the Transport Implications takes forward TCPA’s Connecting England report (May 2006) and the LGA’s Prosperous Communities II: vive la devolution! report (Feb 2007). This report will be submitted to the Committee once published in early 2010.
16 Draft Ports NPS, Section 1.11.1, pp.11
4.5.4 This is a particularly significant issue as the draft Ports NPS, when approved by the Secretary of State, will become a framework for IPC decision-making, which in planning terms, makes the NPS essentially a development plan document. And that the IPC will be required to not assess need. Section 1.12.1 of the draft Ports NPS states that "when determining an application for an order granting development consent in relation to ports, the decision-maker should accept the need for future capacity". The TCPA emphasises the basis of decision-making under the planning system which is to use robust evidence to plan positively, and therefore it is an imperative that the needs assessment in the draft Ports NPS is tested and scrutinised more thoroughly, comparable to the process required in adopting a development plan document (please see Section 4.2 of this submission).

4.5.5 Thirdly, the draft Ports NPS does not make considering regional and local transport and other spatial priorities an assessment criteria. The TCPA re-asserts the principle of “region proofing” and, as part of this process, suggests that port capacity/ additional capacity may/ should be aligned with region’s proportion of national GDP/GDP growth. And that an additional allowance should be made to recognise the fact that many northern port locations have less congested land connections than ports in the south do. The Connecting England Commission recommended “region-proofing” decisions which “in effect would not be to direct investment to inappropriate places but rather to ensure that central and local government (and regional bodies) were able to offer clear and co-ordinated support for agreed regional development outcomes, as opposed to region competing with region”.

4.5.6 The TCPA questions how and to what extent the Ports NPS will address the spatial implications of ports development if the reliance of a market-led approach on need is accepted. What about the degree of coherency to existing RSSs (spatial diagrams), RESs (or the single integrated RSS), as well as the DaSTS’s framework of national infrastructure? This issue again raises the need for “region-proofing”, with the first step involving the engagement of strategic partners, including regional planning bodies/ regional leaders’ board who have responsibility for regional spatial, transport and economic development planning.

4.5.7 Allied with the above, the TCPA is not able to identify in the draft Ports NPS whether determinations for significant port developments by the IPC will have regard or consider pressures on regional and local infrastructure needs as a result of the nationally significant development. In addition this will result in an uncertain decision-making framework for the IPC in mediating interests, balancing impacts, accounting for the social and economic implications at the local levels. The TCPA has been made aware of moves to reduce the transit process for inland freight from ports. This involves locating logistic facilities/ assembly plants/ warehouses closer to the “port gate”/ consumers to minimise emissions by eliminating stages from the transport logistics process. This will result in a higher concentration of ports-related activities and employment opportunities closer to the port itself. The spatial implications of this will be profound for local planning for infrastructure. This specifically relates to social infrastructure such as skills and education which will be needed to service the anticipated need for locally-skilled workers. There will also be an increased demand for transport, housing, utilities and community infrastructure improvements.

4.5.8 The development of a port should be consented if national, regional and local benefits outweigh local impacts - it must satisfy this balancing test. The TCPA believes that the draft Ports NPS in its current form does not allow the IPC appropriate flexibility to take into account valid regional and local interests. The TCPA believes that the Government must provide greater policy clarification and further guidance to the IPC on this issue.

4.6 Carbon accounting

4.6.1 The TCPA welcomes the reference to climate change within the Key Considerations; however we note that the assessment criteria for climate change mitigation and guidance for the IPC in any new port development clearly sets a presumption in favour of approving schemes if benefits significantly outweigh the reality of additional emissions. The TCPA notes that the draft Ports NPS does not require the applicant to take account of emissions from shipping. The TCPA also notes that the draft Ports NPS recognises the importance of good design in minimising emissions, but this only relates to the energy efficiency of buildings.

4.6.2 The TCPA believes that given the contribution of ports and related ports activities to carbon emissions the lack of prescription and guidance in Section 2.13 of the draft Ports NPS is unlikely to provide the right framework to guide the decisions of the IPC. The TCPA has provided detailed evidence to the Energy and Climate Change Committee which deals with our grave concern that the NPSs fail to provide the IPC with a proper metric to consider carbon emissions. The key conclusion of this evidence is that NPS must ensure that the IPC considers the full life cycle of emissions from proposed development. Such information is required by the Environmental Impact Assessment (EIA) process.

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17 Draft Ports NPS, Section 1.12.1, pp.15
18 TCPA, May 2006, Connecting England, Section 4.1. Though region-proofing was an idea raised under the skills, research and innovation section of this report, the TCPA believes that, similar to the practical application of “Rural Proofing” can be applied as an underlying appraisal process of plans, programmes and strategies, including that of the NPS.
4.6.3 The TCPA highlights a report published by the Environmental Audit Committee (EAC) on the 11th January 2010 on Carbon Budgets. In this report the EAC states that “The Government must put in place a mechanism to ensure that the sum of the decisions taken by the IPC are consistent with the carbon budgets and the milestones that the Committee on Climate Change has set out to ensure the infrastructure needed to meet future budget periods is put in place in the next few years.” While accepting that the context to this quotation is targeted at the Energy and Climate Change Committee and the draft Energy NPSs, the TCPA believes the fundamental issue of carbon accountability within the IPC’s decisions to the Committee on Climate Change’s carbon budget remains a valid one and applicable across all NPSs, including the Ports.

4.7 Other matters

4.7.1 Consideration of existing planning policies: The DfT recognises the Ports NPS as part of the planning system rather than in parallel to it. It mentions the role of planning in delivering sustainable development. The TCPA is surprised and alarmed that there is no mention and explicit reference or attempt to align with the spatial planning process, including at least policy references to key planning policy statements affecting the sustainable development of ports, including PPS1 (Delivering Sustainable Development), PPS Supplement on climate change and PPG13 (Transport). Please note that PPG13 may need updating as it was adopted in 2001.

4.7.2 Similarly above, in Section 2: Guidance on Assessment - Key Considerations of the NPS, there is lack of consideration and integration to other planning policies. The TCPA are especially about the lack of recognition of the development plan-led system and the stakeholder roles of strategic and local planning authorities. Strategic ports policy should link the development of ports to the consideration of localised socio-economic and transport impacts of ports development. The TCPA emphasise the role and capability of the planning system to deliver developments in the most sustainable of places in an integrated way through proper environmental assessment.

4.7.3 Delivering on good design in port development: Reference to good design as a statutory consideration is outlined in Section 10 (3) of the Planning Act 2008. However there is no policy guidance on how best to achieve, deliver or implement this. Of specific concern there is no reference to the DfT’s own Ports Masterplan final guidance and encouragement for major ports to produce masterplans. Masterplans are the mechanism for ensuring integrated and sustainable development of ports, associated facilities and the wider spatial context, in particular mitigation and adaptation to climate change. The NPS must require all Ports applications to be accompanied by a masterplan, in collaboration with planning authorities and local communities.

REFERENCE DOCUMENTS


Department for Transport (DfT), November 2008, Delivering a Sustainable Transport System: Main Report.


Hall, P and Hetherington, P, (Forthcoming), Connecting Local Economies—the Transport Implications, draft version. TCPA and LGA. (To be submitted as supporting evidence once published in early 2010).


January 2010

Memorandum from the Local Government Association (NPS 04)

INTRODUCTION
The Local Government Association is providing oral evidence to the Committee on 13 January.

The LGA is supportive of the new planning regime and understands the need to improve the decision making for nationally significant infrastructure projects. The new arrangements give councils key roles at each stage of the planning process, and the Local Impact Report(s) will be an important source of evidence and insight for the Infrastructure Planning Commission’s examination of applications.

We are however concerned about the arrangements for resourcing councils to discharge their responsibilities under the new planning regime.

KEY LGA ISSUES
We have a number of key points to make about the National Policy Statement on ports which we will be happy to expand upon next week:

— The National Policy Statement on ports does not give sufficient weight to Local Development Plans and local land uses. There are interactions with the local planning framework and local planning authority which we would like to explore with the Committee.

— There is no guidance on where port developments might be encouraged or supported. We see a need for a more strategic approach that considers capacity, proximity to points of origin and onward destination, regional economic development and integration with the road and rail network.

— Whilst the NPS covers environmental impacts, it could give more weight to the economic and social impacts which will be important to local people.

— The interactions with other forms of infrastructure development need to be more fully explored—integration with the road and rail network is obvious, but other forms of infrastructure development are relevant such as the offshore siting of energy generation and associated onshore development.

January 2010

Memorandum from Greenpeace UK (NPS 05)

GREENPEACE

1. Greenpeace UK is the autonomous regional office of Greenpeace, one of the world’s leading environmental campaigning organisations. Greenpeace has regional offices in 40 countries, 2.8 million supporters worldwide and around 150,000 in the UK. It is independent of governments and businesses, being funded entirely by individual subscriptions.

INTRODUCTION:

2. Transport is responsible for 24% of the UK’s greenhouse gas emissions and therefore reducing the emissions of this sector is central to meeting the UK’s overall legally binding climate targets of an 80% reduction in emissions by 2050.

3. As the Committee on Climate Change noted in their first report, between 1990 and 2006 domestic transport emissions have increased by 9%.

THE GLOBAL IMPACT OF SHIPPING:

4. Globally, shipping is responsible for a large proportion of transport emissions. The most recent figures from the International Maritime Organisation (IMO) state that in 2007 the global shipping industry accounted for approximately 2.7% or 843 million tonnes of CO2 each year.

5. The Committee on Climate Change estimates that shipping emissions could double or even treble by 2050 to reach 2.4-3.6 GtCO2—meaning they the industry would account for between 10-15% of CO2 emissions globally (given that a global carbon budget would be around 7.2 GtCO2).
UK SHIPPING EMISSIONS:

6. Governments and the shipping industry claim that it is very difficult to allocate responsibility for shipping emissions to individual countries given the international nature of the sector. The most widely used method is by bunker fuel sales but this is inadequate and vastly underestimates the level of shipping emissions for which the UK is responsible.

7. Government estimates of the UK’s share for shipping range between 7 MtCO2 (based on bunker fuel sold) and 24 MtCO2, depending on the methodology used. The Tyndall Centre looked at what might be a “fair” proportion of emissions from international shipping, based on a crude method of apportioning the global figure for international marine bunker fuel sold, using the UK’s proportion of total global GDP. The estimate for CO2 from shipping for 2005 ranged between 20 and 30 MtCO2 (which compares to 35 MtCO2 for aviation) depending on assumptions about global marine bunker fuel.

8. The rate of growth in global shipping emissions over the past two decades has been reflected in the UK. Since the early 1990s, UK port container traffic has increased from approximately 3.5 million twenty-foot equivalent units (TEU) in 1990 to nearly 9 million TEU in 2007. In the absence of clear evidence to the contrary, one can assume that the growth of UK shipping emissions will track growth at a global level—which as stated above are projected to treble between now and 2050. In such a case shipping emissions would represent a very substantial component of the UK’s carbon budget under the cuts envisaged under the Climate Change Act 2008—by 2050 UK greenhouse gas emissions need to have been cut by 80%. Under a carbon budget, any expansion in one sector has to be offset by reductions in CO2 emissions (and their associated costs) in others.

DRAFT NPS ON PORTS:

9. The National Policy Statement on ports sets out a programme of expanding port capacity to meet forecast demand but without any consideration or mention of the compatibility of that scale of growth with the UK’s climate targets and the emissions reductions required to keep global temperature rise below two degrees Celsius.

10. The NPS fails to take into account the crucial point that urgent action must be taken to curtail and then reduce emissions including those from shipping, if we are to keep within those limits.

11. The draft NPS states—“Shipping is one of the most environmentally friendly ways of moving large quantities of goods from one place to another. Emissions of greenhouse gases from deep-sea shipping are considerably lower mile for mile than those produced by moving similar quantities by air or by road. So ensuring that our ports have sufficient capacity to facilitate the movement of goods by ship plays an important role in minimising our greenhouse gas emissions and tackling climate change.”

12. The draft NPS goes on to say that—“the decision-maker does not need to consider the impact of a new port development on greenhouse gas emissions from ships transiting to and from the port.” The rest of the NPS is focused on port developments adapting to the impact of climate change, rather than shining a light on the contribution of the shipping industry to the problem.

13. Decisions on transport infrastructure, including port expansion, must be taken within the context of the UK’s climate targets. Given the potential for modal shift, this means that such decisions should really be taken in a more comprehensive policy context which drives down emissions across the board from shipping, rail, road and air.

14. As the Tyndall Centre and the Environmental Audit Committee acknowledge, given the urgency with which cuts in global carbon emissions are needed, the shipping sector will have to play its part by making very substantial cuts of its own.

15. In the government’s “Low carbon transport: a Greener Future”, the DfT suggests that there will be a major step change in technology and operations however it is clear that policies need to be put in place to incentivize this and even then, the phase-in of technology will take place over a period of time.

16. Measures such as enforcing slower travelling speeds and optimising routes in respect to weather and currents would have a significant impact on emissions, as could new technologies such as sky sails or air cavity systems to reduce drag in the water. Cleaner fuels and shore side measures could also play a much smaller role in delivering emissions reductions.

17. Shore-side measures could include cold ironing—where ships whilst docked shut off their propulsion engines and connect to onshore electricity generated from renewable sources. Measures must be put in place to drive these changes.

CONCLUSION:

18. Recently the Climate Change Committee considered the aviation sector and the scope for technological innovation to allow expansion in demand, if CO2 emissions were held at 2005 levels by 2050. The Government asked the Committee on Climate Change to do this because they had recognized there was a tension between the expansion of aviation and the climate change targets in UK law (and in EU and international policy). It is clear that a similar tension exists between unconstrained expansion of shipping capacity and climate targets.
19. New ports and port expansion represent long-lived carbon-dependent infrastructure which in a world driven by the climate imperative represent either stranded assets or expensive challenges to the rest of the economy as citizens and businesses elsewhere in the economy have to take up the slack of the emissions reductions needed. Neither is a sensible option.

20. The NPS needs to reflect this and to more generally acknowledge the need for demand management in surface transport (across road, rail, shipping and air).

January 2010

REFERENCES

i P253, “Building a Low Carbon Economy”—Committee on Climate Change (Dec, 2008).


iii P324, “Building a Low Carbon Economy”—Committee on Climate Change (Dec, 2008).

iv www.defra.gov.uk/environment/statistics

v Tyndall briefing note No.26—Tyndall Centre (June 2008).


vii P17, Draft National Policy Statement, DfT.
http://www.dft.gov.uk/consultations/open/portsnap/

viii P1, Tyndall briefing note No.26—Tyndall Centre (June 2008).

ix “Meeting the UK aviation target—options for reducing emissions to 2050”—Committee on Climate Change, December 2009.

Memorandum from Associated British Ports (NPS 06)

Associated British Ports appreciates the opportunity to appear before the Transport Select Committee and discuss the consultation draft of the National Policy on Ports as published November 2009 pursuant to the provisions of the Planning Act 2008.

ABP owns and operates 21 seaports in the UK including Southampton, Grimsby & Immingham, Hull & Goole and smaller but regionally significant ports in Wales, Scotland and North West, South West and the East of England. In 2008 ABP handled over 134 million tonnes of cargo approaching 25% of all UK seaborne trade, making the company the largest and leading UK ports group.

ABP has consistently supported improvements to the UK Planning regimes that grant development consent for ports projects. The cost, uncertainty and timescale of the ultimately unsuccessful application by ABP for HRO/TWA/Planning Consent to develop Dibden Bay, Hampshire as the major UK South Coast Container Terminal brought the need for review of the consenting process for major UK infrastructure into sharp focus. ABP worked with the Planning Reform Team DCLG created under the aegis of the Cabinet Office in 2007 which reviewed the need to improve the systems for determining planning applications for nationally significant infrastructure projects. ABP welcomed in principle the subsequent White Paper “Planning for a Sustainable Future” in August 2007, although concern was expressed over the deliverability of a planning system for ports which established a “timely, efficient and predictable” context for the framework to determine major port infrastructure applications and requested further clarification on the systems to determine the more frequent application for port development below what is now the IPC thresholds. ABP supports the objectives contained within the Planning Act 2008 to create the independent IPC to determine major ports development projects (as defined) in accordance with an adopted National Policy Statement for Ports.

Of particular interest to ABP is the overarching acceptance in the Draft NPS that ports are fundamental to the UK economy and that to develop and expand a pragmatic and sustainable framework is needed which gives applicants and decision makers greater certainty. It is, furthermore, accepted that market forces should determine the geographical location of port operations as opposed to localised prescription by government.

ABP would wish the consultation Draft Ports NPS to clarify guidance on the following:-

DELIVERING A SUSTAINABLE TRANSPORT SYSTEM

In November 2008 the Department for Transport published Delivering a Sustainable Transport System (DaSTS). The document identifies 14 strategic national corridors and 17 key international gateways, including 10 major ports, through which most people and goods enter and leave the UK. These are “critical . . . to the economic success of the nation”. It is surprising that the draft NPS overlooks this document. In order to take a robust and informed view of economic impacts, as well as landside
infrastructure issues, the IPC (and MMO for projects under the Nationally Significant Infrastructure Projects threshold) should take account of the key international gateways and strategic national corridors identified in DaSTS. It is important to emphasise that this is not inconsistent with a market-led approach to port development.

**Considerations**

The draft NPS identifies a range of considerations that the IPC and MMO should take into account. As mentioned above, one consideration should be whether a project proposal is captured by the key international gateways and strategic national corridors identified in DaSTS. It would also be sensible to give more clear guidance as to which considerations should be given more weight. Clearly, it is important to emphasise that relatively more weight should be given to economic benefits (especially if a project lies within a key international gateway or a strategic national corridor).

Furthermore, it is important that the guidance brings out the potential linkages with other national policy statements. This might be useful in cases where a scheme is related to other projects that require approvals, such as upgrading landside transport infrastructure or electricity distribution networks. It also makes sure that a project is properly considered in the context of all relevant policy objectives, as expressed by other national policy statements (examples include the National Networks NPS and Energy Networks Infrastructure NPS), and will help ensure consistency. This can easily be achieved if the guidance simply highlights the need to consider other relevant national policy statements as appropriate. This also overcomes the fact that many national policy statements are still to be published.

**National Networks**

Greater integration with ports and the national rail and road networks to support port expansion although it is thought inappropriate for the IPC MMO or local planning authority to dictate modal splits.

**Local Authority Influence**

It is unclear as to the extent of Local Authority influence in the IPC process or indeed in respect of ports planning applications that will fall to be determined by the MMO when the transfer of HRO/HEO powers from the Department of Transport under the Harbours Act 1964.

**Devolution**

Further guidance on the respective responsibilities of the devolved governments of Wales and Scotland would be welcomed.

**Financing Transport Infrastructure**

ABP is concerned to note that the draft Ports NPS maintain the premise that port developers should contribute funding to national road and rail infrastructure outwith what would generally be considered acceptable under Section 106 Planning Obligations and Section 278 Highway Agreements.

**Associated Projects**

It may be that a particular project proposal being considered by the IPC requires other projects to be approved, for example to upgrade landside transport infrastructure. Clearly, these projects may fall outside the scope of the IPC but in so far as they are linked to a proposal being considered by the IPC then they should also be considered in the same timeframe. It may be that this requires provision for the IPC to consider associated projects even if they in themselves fall below the threshold.

**Collateral Consents**

The proposals to expedite the planning regime for ports whether through the IPC MMO or any other determining body must also ensure that non-planning consents are similarly prioritised and processed having due regard to economic factors in the context of UK and EU legislation. All statutory organisations responsible for issuing non-planning development consents should be obliged to co-operate with the IPC/MMO/Local Authorities accordingly, and to operate according to the same timescales.

**Fitness for Purpose**

The NPS should make explicit reference to the scope for adjusting thresholds once there has been sufficient opportunity to review the efficacy of the IPC and MMO in handling applications in practice. Clearly, it is essential to make sure that the respective organisational capabilities and processes of the IPC and MMO are fit for purpose in terms of the size and scope of applications they are handling.
Annex


Q1: ABP accepts that the MDP Transmodal Forecasts are a reasonable basis to assess future needs for new port infrastructure.

Q2: ABP does not believe that the IPC or MMO should determine traffic modal share. We would also propose that NPS decision makers take due account of Port Master Plans prepared in accordance with Department of Transport guidance published in December 2008. We agree with the points raised by HMG that the NPS for national road and rail networks should take full account of future port development.

Q3: The NPS comments on the economic significance of ports are welcomed.

Q4: It is not thought appropriate for the Ports NPS to influence greenhouse gas emissions which are dealt with in general UK legislation and policy.

Q5: Development of Coastal Shipping is important to ABP. In respect of HMG seeking to influence modal split, this is not, however, thought appropriate through the NPS.

Q6: Safety, security and health issues are dealt with adequately in legislation and policy outside the NPS.

Q7: The NPS should not be used as a vehicle to implement social objectives which are adequately dealt with elsewhere.

Q8: Yes.

Q9 & Q10: More emphasis should be given to national and regional economic factors.

Q11: Yes.

Q12: More emphasis should be given to national and regional economic factors. The guidance also needs to include whether a project fits with the key international gateways and strategic national corridors identified in the Department for Transport’s Delivering a Sustainable Transport System as a key consideration. This is vital for making sure a proper view is taken of a project’s potential economic impact, as well as landside infrastructure. We also believe that there needs to be a proper facility whereby consideration can be given to fit with other national policy statements as appropriate. Obvious examples include the National Networks NPS and Energy Networks Infrastructure NPS. This is particularly relevant for projects that require related approvals to, for example, upgrade landside transport infrastructure. It also helps ensure that all relevant policy objectives are captured and will help to guard against inconsistency.

Q13: Yes.

Q14: Yes.

Q15: In addition to the points already mentioned, we believe that the MMO may require more detailed guidance on how to handle port development applications.

Q16: It is clear that whether a project proposal is captured by the key international gateways and strategic national corridors identified in the Department for Transport’s Delivering a Sustainable Transport System needs to be included as a discrete consideration for the IPC and MMO. This is a sensible way to make sure that the right view can be taken about potential economic impacts, as well as landside infrastructure issues.

The other main deficiency to overcome is to give the IPC and MMO greater guidance in terms of which considerations should be given more weight. It is inevitable that some considerations such as economic and environmental factors, as defined by current legislation, will be more relevant than others. Achieving greater clarity here is also important here in the context of achieving the key policy objectives which are reflected in the National Policy Statement for ports.

It is also essential that the guidance is better adapted to handling applications for schemes which require approvals in more than one area. For example, this could be where a new renewable generation scheme in a port requires an associated upgrade of the electricity distribution network.

One of the remedies to this problem would be for the guidance to bring out the need to consider other relevant NPSs as appropriate. This is also important for making sure that a project is properly considered in the context of all relevant policy objectives, as expressed by other national policy statements. The most obvious examples include the National Networks NPS and Energy Networks NPS. Clearly, amending the guidance in the ports NPS to include this generic requirement overcomes the problem that many NPSs have still to be published.

Q17: Yes.

Q18: The development of ports is largely dictated by operational and safety requirements not aesthetic design issues.

Q19: No comment.

Q20: Yes.
Q21: Yes.
Q22: No comment.
Q23: No.
Q24: Yes.
Q25: No.
Q26: No comment.
Q27: Appears reasonable.
Q28: Yes.
Q29: No comment.
Q30: No comment.
Q31: Yes.
Q32: No.
Q33: No comment.
Q34: No comment.
Q35: Yes.
Q36: No.

**January 2010**

**Supplementary memorandum from Associated British Ports (NPS 06a)**

During the course of an oral evidence session regarding the Transport Committee’s Inquiry into the Draft National Policy Statement for Ports on 27th January 2010, Mr. John Leech MP stated that “60% of freight that comes to Britain through ports in the South East is going to end up north of Birmingham”. This statement was apparently based on written evidence submitted by Peel Ports.

We would like to make the Committee aware that this information is misleading, as evidenced by the following extracts from two reports carried out on behalf of the Department for Transport by MDS Transmodal:

**Container Transhipment Study (May 2006)**

“To simply force traffic to use feeder services to reach regional ports tends to divert traffic from rail and not from road. It is important to note that of the 1.2 million TEU of containers currently moved to and from Northern England, around 60% are already landed at local ports and some 30% arrive or depart by rail. Long distance road haulage between south-east ports and Northern England is the exception rather than the rule. Regional ports tend to have wider road served hinterlands than rail terminals, adding to road freight overall, and higher SLMs.”

**Update of UK Port Demand Forecasts to 2030 (July 2007)**

“To simply force traffic to use feeder services to reach regional ports tends to divert traffic from rail and not from road. This is because the great majority of containers for Northern Britain already use northern ports or arrive at regional rail terminals from South-East ports.

This is readily illustrated. Let us assume that the distribution of container traffic for deepsea cargo . . . also reflects that for short sea traffic. That would imply that the 3 Northern English regions account for around 2.1 million TEU trip ends (i.e. 30.2% of 7.0 million TEU . . .).

In 2005, there were approximately 715,000 (1.15 million TEU) containers moved to and from the ports by rail (source Freightliner), of which approximately 60% (690,000 TEU) were with terminals in Northern England. Northern English ports (Liverpool, Irlam, Goole, Immingham, Hull, Tees and Tyne) handled some 1.33 million TEU (source Maritime Statistics). It follows that almost as many containers were handled through northern English port and rail terminals (a total of 2.02 million TEU) as appeared to have a northern origin or destination (2.11 million TEU). While there will inevitably be some leakage (containers through Liverpool, Tees and the Humber for the Midlands), the overall conclusion must be that the volume of containers moving by road between South-East ports and Northern England is limited.”

We trust that the Committee will find the above helpful in reaching its conclusions.

**February 2010**
Memorandum from the Infrastructure Planning Commission (NPS 07)

SUMMARY

The IPC welcomes the publication of the draft National Policy Statement on Ports. While we consider that the draft is fit for purpose, we have identified a small number of areas where it should be improved to achieve greater clarity.

INTRODUCTION

1. The IPC was established on the 1 October 2009, under the Planning Act 2008, to examine applications for development consent for Nationally Significant Infrastructure Projects (NSIPs), including port developments above the thresholds specified in the Act. The IPC will be able to receive applications for energy and transport NSIPs after 1 March 2010.

2. Once the National Policy Statement (NPS) has been designated by the Secretary of State, the IPC will have the duty to decide such applications under Section 104. While the NPS remains in draft the IPC must make a recommendation on the application under Section 105 for the Secretary of State to decide, giving appropriate weight to the draft NPS.

3. An important feature of the new infrastructure planning regime is the separation of policy making from decision making. Government sets the policy and the IPC is the planning authority which determines applications in accordance with it, taking account of other factors as set out in statute. It follows from this separation of powers that it would be wrong for the IPC to comment in any way on the policy of the Government. Our comments in both written and oral evidence to the Committee will therefore be restricted to the clarity with which policy is set out in the NPS and other aspects of the NPS’s fitness for purpose.

4. The IPC considers that the Appraisal of Sustainability associated with the NPS lies behind the policy, rather than forming any part of the NPS itself, and it would not therefore be appropriate for us to pass any comment on it at all.

OVERALL FITNESS FOR PURPOSE

5. The IPC considers that the draft NPS on Ports is fit for purpose. The NPS provides a sufficiently clear statement of Government policy and appropriate guidance to applicants and interested parties. It gives the IPC sufficient guidance on how various aspects of that policy should be considered in determining applications.

AREAS FOR IMPROVEMENT

6. We have identified three main areas in which we believe there is scope to improve the clarity and fitness for purpose of the NPS.

(a) Both the IPC and applicants and other interested parties would benefit from a clearly and distinctly identified summary of the policy on ports set out in Section 1. Section 1 as it stands comprises both contextual discussion and policy, and what is required for purpose of reference and citation is to highlight the policy itself—largely set out in unambiguous terms in paragraphs 1.11, 1.12.1—in an appropriate text box at the end of the section.

(b) The draft confuses the role of the applicant and the role of the IPC. Throughout section 2—for example in paragraphs 2.1.1 and 2.6.4—the NPS appears to be directing the IPC to carry out an assessment using particular methodologies or approaches. Conducting assessments in this way is the responsibility of the applicant. The IPC will examine all evidence presented to it in the manner set out in the Planning Act, including considering whether applications are consistent with the NPS.

(c) The draft does not give detailed consideration to inter-modal freight facilities at ports. It should ensure that this NPS is consistent in its treatment of such facilities with the proposed National Networks NPS.

7. We also have a number of specific observations, some of which have been set out directly in correspondence with Government lawyers, while others are set out here:

(a) In section 2.1.1, at the beginning of the Guidance on Assessment part of the document, the introduction for the first time in the NPS of reference to the Government’s wider objectives for transport seems out of place. If these wider policies are important here, they should be set out in section 1, the Policy on Planning for Ports, with appropriate reference to source documents.

(b) In section 2.2.2, there is reference to the “costs” of development in the final sentence. It would provide added clarity if this is reworded to “adverse impacts”.

(c) Section 1.12.1 makes it clear that additional capacity arising from individual port proposals should be accepted. In section 2.3.4, unless the intention is actually for the IPC to revisit the evidence for the extent and urgency of national need, it would be beneficial to clarify that the need referred to here is solely for the specific project under examination.
(d) In section 2.4.4, the role of the IPC in relation to security matters is left unclear. The IPC has already asked the Government to clarify its position in this regard with respect to all National Policy Statements.

(e) In section 2.9.1, the policy of promoting the historical legacy of working ports lacks specificity and is open to a range of interpretations. It would provide added clarity if the NPS were to indicate the lead consultee on this matter, presumably English Heritage.

(f) In section 2.13.9, the use of the word “offsetting” may not be appropriate in the context of climate change mitigation. If our understanding of the Government’s intention is correct, the meaning would be clearer if the text were amended to refer to replacement or compensatory habitat.

(g) In section 2.15.7, the reference to applicants arranging pre-application discussions with “the decision maker” should be amended to refer to discussions with “the IPC”. Such discussions will be with members of the IPC Secretariat rather than with decision-making Commissioners themselves.

January 2010

Memorandum from Rail Freight Group (NPS 08)

1. Rail Freight Group (RFG) is pleased to respond to the Department for Transport’s (DfT) consultation into the draft National Policy Statement (NPS) for Ports.

2. RFG is the representative body for rail freight in the UK and has around 150 member companies who operate in the rail freight sector. Our aim is to grow the volume of goods moved by rail where it is environmentally and economically appropriate. RFG members include many of the major UK ports, their customers and transport providers. In considering this response, RFG has sought to comment principally on matters relating to surface transport to and from ports.

3. RFG believes that a supportive planning framework is key to growing rail freight, and welcomes the introduction of the NPSs, and the Infrastructure Planning Commission. Many of the proposed NPSs are relevant to some degree to rail freight, and especially the National Networks NPS, due in draft in the Spring which is expected to give clear planning guidance on the development of Strategic Rail Freight Interchanges, as well as for the national rail network.

4. The Ports NPS is important because a significant proportion of rail freight has its origin or destination at one of the nations ports. Indeed, many ports have good rail facilities and well established rail services and several recently consented port developments have rail related planning conditions which should serve to increase further rail’s market share. However there are still many ports where there is no rail service or where rail facilities are sub optimal, and where opportunities to increase rail use are significant. A supportive planning framework for ports is therefore key to rail freight growth both for major developments and also smaller schemes.

General Comments

5. The Planning Act, and NPSs, represent a step change in the Governments approach to developing nationally significant infrastructure. It is therefore surprising that the opportunity has not been taken to take a step change towards sustainable transport. The draft NPS gives an accurate portrayal of the status quo but does little to promote the case for low carbon modes and is an opportunity missed for rail freight and for transport carbon emissions.

6. This is particularly surprising given the discussion in these NPSs on the need to reduce carbon emissions. It could be inferred that Government believes that the proposed changes in power generation alone can deliver the carbon reduction targets, so that areas such as transport can continue “business as usual”.

7. DfT acknowledge that rail freight produces around 70% less carbon than the equivalent journey on road. Encouraging modal shift from ports can therefore make a significant effect, particularly as a higher proportion of longer distance trips start at ports.

8. RFG therefore suggests that the Ports NPS should give much greater support to the development of rail freight solutions at ports, and strengthen the detailed guidance to support developers and planners who wish to develop rail at particular sites. There should be a presumption of rail use at all new developments, not only in respect of design and operation of the facility, but also in respect of the movement of construction materials to the site by rail and/or water.

9. It is also regrettable that the National Networks NPS has not yet been issued in draft as it is important that there is close alignment between the two statements.
10. Similarly, the Ports NPS makes no reference to the Delivering a Sustainable Transport System (DaSTS) and associated documents. We consider that the fit between any proposal and, for example, the strategic transport networks (road and rail) should be a consideration for the IPC.

Specific Comments

11. Para 1.2.1. It must be clarified whether the Ports NPS is, or is not, a relevant consideration for the Maritime Management Organisation (the present wording is “it may be”). We had understood that NPSs would be a material consideration throughout the entire planning system and this must therefore be specifically stated.

12. Para 1.10.3. We note that Government wishes to see port development that offers more efficient transport links with lower environmental disbenefits, and which provides a basis for trans-modal shift to rail. Again it is therefore surprising that the remainder of the document does little to promote rail.

13. Para 1.11.7. Whilst we support the DfT’s position in relation to the larger scale developments, it must be recognised that the NPS will be a material consideration in the planning process for many smaller scale schemes many of which will provide opportunities for encouraging modal share growth.

14. Para 2.8.1. We agree that the development of transport links must respect to some extent the competitive position that exists between ports and is considered desirable. Where port developers are contributing to the cost of upgrading inland links, there are mechanisms provided by the Office of Rail Regulation to assist the developers, such as access options and rebate mechanisms, to enable those contributing to gain some comfort that they will be able to have reasonable use of the link to which they have contributed finance.

15. Para 2.13.1. We note that the environmental benefits of modal shift are acknowledged here, as offset for other emissions from the development. In appraisal terms, the environmental benefits of rail freight should be used to justify the upgrade of inland links, not to offset international shipping.

16. Para 2.13.7. This paragraph should be extended to include the design of the rail facilities. Well designed sites can make a significant difference to the cost and efficiency of rail services and should be considered from the outset.

17. Para 2.17.1 There should be a clear unequivocal statement here that rail (or water) is preferred over road.

18. Para 2.17.3. Increasing the use of rail can help reduce road delays.

19. Para 2.17.5. Although we broadly understand this principle, we consider that a high weight should be placed on the applicant to demonstrate why rail cannot be used.

20. Para 2.17.16. We are concerned by this paragraph which appears to suggest that demand management on road is preferable to investment in rail infrastructure. Whilst demand management may be desirable it will not lead to the same carbon reduction as modal shift. The paragraph as worded will enable port developers to avoid appropriate rail investment and should be modified. This also appears in the Overarching Energy Statement and the two should be aligned.

21. Para 2.17.17. It is unclear what ‘carefully considered’ means in practice. This paragraph should be stronger in its support for rail. (See also 2.17.22). Further guidance may be necessary on when modal share targets are, or are not appropriate.

22. Para 2.17.19. This is not an issue for non unitised goods. The text should note that lower deck wagons are available and can operate successfully i.e. gauge clearance, whilst desirable, is not essential. For smaller developments this is likely to be the optimal solution and should not be precluded. Certain wagons are also able to accommodate short sea containers.

23. Para 2.17.21 We agree that conditions should be structured flexibly but are concerned that the wording will leave it open for developers to avoid investing in rail infrastructure.

24. Para 2.17.22. We support targets for modal shift but agree that they are not an end in themselves. The application of modal shift targets should be consistent between similar facilities to avoid market distortion. Government may also wish to consider whether facilities which are unlikely or unable to deliver significant modal shift should receive consent, if other proposals serving the same sector are able to do so.

25. We also support planning conditions which incentivise developers to promote rail freight services which might include working with their customer to promote sustainable transport etc.

26. Para 2.17.23. This paragraph is wholly incomprehensible to all but the most seasoned transport economist. It must be clarified.
27. Paras 2.17.29 - 2.17.31 Where developers are expected to make a contribution to national infrastructure beyond the immediate location of the development, Government will need to consider the impact on third parties if the scheme does not progress as expected. With Government funding expected to be limited, the likelihood of such funding may be reduced.

January 2010

Memorandum from Merseytravel (NPS 09)

Merseytravel (the Merseyside Integrated Transport Authority and Passenger Transport Executive) welcomes this opportunity to engage positively with the Transport Select Committee on the draft National Policy Statement on Ports.

Merseytravel is a public body comprising the Merseyside Integrated Transport Authority (ITA) and the Merseyside Passenger Transport Executive (PTE), acting together with the overall aim of providing an integrated public transport network for Merseyside which is accessible to all. Merseytravel has around 900 staff and views were compiled via an internal consultation group consisting of officers from across the various departments of the organisation.

This organisation considers that the development of the Ports NPS creates a key opportunity for policy intervention to closely integrate land use and transport planning, take into account the need to tackle climate change and make best use of our strategic port and maritime assets and to encourage transfer of freight to less energy intensive forms of transport. Consideration must be given to the impact of shipping, international trade and globalisation on climate change and make best use of our strategic port and maritime assets and to encourage transfer of freight to integrated public transport network for Merseyside which is accessible to all. Merseytravel has around 900 staff and views were compiled via an internal consultation group consisting of officers from across the various departments of the organisation.

This organisation considers that the development of the Ports NPS creates a key opportunity for policy intervention to closely integrate land use and transport planning, take into account the need to tackle climate change and make best use of our strategic port and maritime assets and to encourage transfer of freight to less energy intensive forms of transport. Consideration must be given to the impact of shipping, international trade and globalisation on climate change and the UK’s CO2 emission targets. Therefore promotion of sustainable transport of freight to and from ports must be given a high priority in this document. But ports clearly are an important part of the national infrastructure and make a significant contribution to the economy nationally, regionally and locally.

Consultation Questions:

Q1: Do you think that the draft Ports NPS provides suitable guidance to decision makers on the question of what need there is for new port infrastructure?

We welcome the publication of the draft National Policy Statement on Ports which provides, for the first time, an opportunity for debate on the national need for the various types of infrastructure, in this case port infrastructure. But the NPSs must be joined up. Together as a series of NPS documents they form a national infrastructure framework, but what is clearly lacking, is a spatial context across the NPS documents to integrate them all as a framework. Without this, the nation cannot be certain that it will get the right infrastructure in the right place, and without which, the Government will fail to address the real national needs in a locally sensitive way. The Ports NPS lacks spatial context and as a result infrastructure issues seem to be considered on a compartmentalised basis by infrastructure type with limited regard for their wider spatial implications and cumulative impact of the series of NPS documents.

Unlike the Airport White Paper 2004 which gave an indication as to which airports needed to expand capacity to meet growth forecasts and market demand, the Ports NPS fails to do this and lacks spatial certainty. It seems to suggest that forecast demand for next 20 years is met by the existing approved new terminals at Felixstowe, Harwich Bathside Bay, London Gateway, Teesport, Liverpool and Bristol. But further new terminals may be needed to meet other demands or long term demand. The ever increasing scale of port and maritime operations in terms of ownership, vessel sizes, logistic hubs, port facilities etc will have major demands and impacts on transport, land, environment and community relations. This has major implications for land use and transport planning. Port operators only are likely to consider the needs of their specific port, but it is the Government and the IPC that should balance the competing needs of ports at a strategic level and give some national coordination. The document does not state which ports geographically need to expand capacity to meet growth forecasts and market demand, and as a result doesn’t articulate the case and national need for port expansion on a spatial basis. Also what happens when there are competing bids in close geographical proximity? And how are the cumulative spatial impacts of such proposals to be considered? This is disappointing, given that NPSs were designed to take this uncertainty about the case and national need out of the public inquiry process. The Infrastructure Planning Commission (IPC) will thus need to spend its time establishing the case and national need for expansion at a specific port, rather than just dealing with the technical aspects, which was its intended aim. Decisions could thus risk becoming political, rather than technical planning decisions. So more spatial clarity on need is required we feel.

The NPS must provide certainty so that local transport authorities can clearly understand what landside transport links and facilities are likely to be required (eg rail terminals, rail links, etc) to support new port infrastructure projects. There also needs to be an expectation that the port and maritime sector should contribute financially towards the cost of surface access links that may be needed to support port infrastructure and other developments.
We are also concerned and disappointed by the lack of reference to other policy levels such as Regional Strategies, Local Transport Plans, Local Development Frameworks and Port Master Plans and the important role that these play as part of the wider policy framework at the national, regional, city regional and local levels. At the national level there needs to be more linkages made between the NPS documents, for example there are obvious synergies between the Ports NPS and the National Networks NPS but also the Energy NPS for example. Ports have great potential not only as providers of freight and passenger facilities but also to service the energy industry. This is already the case in terms of the oil and gas industries but can be the case in the future for the renewable energy industry. Indeed ports can be locations for renewable energy facilities (wind, wave, biomass etc) and be generators of energy thus contributing to the national grid and being net exporters of energy.

Looking at international best practice abroad, Hamburg is a good example of what is possible in this respect in terms of integrating renewable energy and green business into a port city and its future. Hamburg has been designated European Green Capital in 2011 for its excellence in this area. As a result of consistent reduction of carbon emissions, sophisticated waste recycling, resource-conserving construction practices Hamburg has been awarded the title “Green Capital” for the broad-based approach of its environmental policy, not for individual showcase projects and when the task is to put economic activity on a sustainable basis, all players get involved. The Port of Hamburg is a prime example: Seven of 10 incoming containers are shipped on by train—that is one of the highest rates worldwide. Moreover, Hamburg more than most other cities has turned to tapping the potential of the inner city, as exemplified by the Hamburg Hafencity docklands regeneration, the biggest urban redevelopment project in Europe. Today, the Port of Hamburg is the site of the largest onshore wind turbines in the world, and rotors for giant offshore wind parks are turning at testing grounds in Brunsbüttel and Cuxhaven. The unique concentration of wind energy enterprises and facilities in Hamburg is truly electrifying. Hamburg is the logistical heart of northern Europe. Tens of thousands of containers a day are unloaded from the giant vessels arriving at the harbour and sent on to destinations in the farthest corners of the continent. Instead of trucks, the Port of Hamburg uses waterborne container taxis for an environmentally friendly transfer between terminals. 70% of the containers continue their land journey by train—one of the highest rates by international comparison.

Hamburg has a lot of best practice in terms of port cities and the environment that would be worthwhile emulating in the UK context with our ports and cities. Hamburg’s system of waterborne container taxis for an environmentally friendly transfer between terminals, coupled with maximising use of rail transport for onward journeys inland, may be something to emulate with ports in the UK. In Germany even the small container ports have the majority of containers being transferred onward to their final destinations by rail rather than road. Thus we feel that UK port cities could benefit by emulating the example of Hamburg etc and also becoming centres of excellence for renewable energy, sustainable development and sustainable port operations. So there are clear synergies between the NPS documents and the linkages need to be made clear.

Cruise terminals and ferry terminals can also be important parts of the transport infrastructure that have national significance and these should not be overlooked. Recently the DfT decided to not approve the upgrading of the City of Liverpool Cruise Terminal at Pier Head to a full turnaround facility due to the £9 million of EU grant funds used to create the cruise terminal causing issues that would result a breach of EU competition rules. Nevertheless Liverpool City Council and Peel Ports want to see the number of cruise liners using Pier Head increase from 15 to 50 a year. This would result in Liverpool’s share of the UK cruise market increase from 2% to 7%. As a result Liverpool City Council and Peel Ports are now commissioning a business plan to see how best to achieve this. Liverpool City Council is also examining the options for upgrading the Pier Head cruise terminal to a full turnaround facility, despite the DfT decision, including possibly repaying the £9 million EU grant funds and also leasing out the operation of the Pier Head cruise terminal to a private operator and upgrading it to a full turnaround facility with car parking, coach parking, baggage handling and customs facilities etc. So options are still being explored for the upgrading of the City of Liverpool Cruise Terminal at Pier Head to a full turnaround facility. Since the cruise terminal at Pier Head opened in 2007 it has brought around £13.6 million into the local economy and tourism industry in its first two full years of operation (2008–09). By the end of 2009, 55 ships will have visited the cruise terminal including 29 cruise liners and 26 Royal Navy ships.

Q2: Do you think that the draft Ports NPS provides suitable guidance to decision makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

We are pleased that surface access issues are highlighted in the guidance and we welcome the statement that developers should prioritise rail and coastal shipping/inland waterways before road, as these are more sustainable modes. Seaports increasingly function as the interface between ocean-borne and land traffic and international trading centres.

Therefore sustainable and efficient transport surface access to ports is vital to help ensure that port operations have minimal adverse impact on the transport network. However rail and road do have limited capacity and capacity constraints, but the coastal waters and water transport have significant untapped capacity and we feel have huge potential to play a greater role in regard to surface access.
It is absolutely crucial to maximise the potential of water and rail freight and minimise the use of road thereby encouraging sustainable transport of freight. This in turn will help minimise adverse impacts on the local area around the port and traffic congestion that would be caused if most port traffic were to be by road. Typically a container ship can carry thousands of containers, if each container individually was then transferred to its destination on a lorry by road then one can imagine the huge adverse impact on the roads and traffic congestion that would cause due to the sheer number of lorries needed to take all the containers from a ship individually. It should be completely unacceptable for the majority of containers from ports to be transferred onwards to their destination by road. Ports should be strongly encouraged to maximise use of water and rail before road for onward distribution purposes. Hamburg’s system of waterborne container taxis for an environmentally friendly transfer between terminals, coupled with maximising use of rail transport for onward journeys inland, may be something to emulate with ports in the UK. However handling charges are levied every time a container changes mode and this can be a major disincentive to shipping lines to use multimodal transport (eg water/road, rail/road, rail, road, water etc) for onward distribution. Thus at the moment shipping lines seem to prefer to send 100% of containers by road to avoid extra handling charges caused by multi modal transfers despite these being more sustainable. We would encourage the Government to look into streamlining handling charges to just one “ship to shore” charge that can then be divided up between the various surface access modes used for onward distribution (water, rail and road). This streamlining would do a lot to encourage multi modal transfer of containers to their final destination inland after arriving at the port by deep sea ship.

Q3: Do you think that the draft Ports NPS provides suitable guidance to decision makers on the economic impacts of port infrastructure?

Ports clearly are an important part of the national infrastructure and make a significant contribution to the economy nationally, regionally and locally. The economic impact of ports is wide ranging and bring many benefits as ports also support a wide range of related sectors such as the maritime industry, professional services, energy, renewable energy, logistics, transport, ship repair, skills and training, tourism, leisure and many others.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft Ports NPS adequately fulfils this requirement?

Q5: Do you think the draft Ports NPS provides suitable guidance to decision makers on the extent to which coastal and inland shipping should be considered?

Rail and road do have limited capacity and capacity constraints, but the coastal waters and water transport have significant untapped capacity and we feel that coastal shipping and inland waterways have huge potential to play a greater role in regard to surface access to and from ports. Therefore we welcome the high priority given to encouraging coastal shipping and inland waterways.

Q6: Do you think the draft Ports NPS provides suitable guidance to decision makers on the safety, security and health impacts of port infrastructure?

Q7: Do you think that the draft Ports NPS provides suitable guidance to decision makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Q8: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure on the local population?

Q9: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure on the natural environment?

The draft guidance does give sufficient guidelines on sustainability issues for growth at individual ports but in areas where there may be competing port developments in close geographical proximity it does not give guidance on the combined environmental effects of the ports and how to consider these cumulative impacts on the environment.

Q10: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure on biodiversity?

In paragraph 2.12.8 it states that “development should aim to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives: where significant harm cannot be avoided, then appropriate compensation measures should be sought.” We feel that this needs strengthening by the removal of the word “significant” before harm in the sentence. In paragraph 2.12.14 it needs to state that designated sites must be protected. Then in paragraph 2.12.19 it states that “the decision maker should expect . . .” We feel that this should be amended to say that “the decision maker should ensure” that mitigation measure are included.
Q12: Do you think the draft Ports NPS provides suitable guidance to decision makers on the key considerations to inform the assessment of future port development applications?

Q13: Do you think the draft Ports NPS gives appropriate guidance to decision makers on how they should consider alternatives when it comes to particular projects?

Q14: Do you think the draft Ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision makers?

The document does not state which ports geographically need to expand capacity to meet growth forecasts and market demand, and as a result doesn’t articulate the case and national need for port expansion on a spatial basis. Also what happens when there are competing bids in close geographical proximity? And how are the cumulative spatial impacts of such proposals to be considered? The draft guidance does give sufficient guidelines on sustainability issues for growth at individual ports but in areas where there may be competing port developments in close geographical proximity it does not give guidance on the combined environmental effects of the ports and how to consider these cumulative impacts on environment.

Q15: To what extent do you think the draft Ports NPS as a whole provides suitable guidance to decision makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision makers:

(a) The IPC for port applications over the NSIP threshold; and

(b) The future Marine Management Organisation for port applications under the NSIP threshold.

Q16: Do you think the draft Ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft Ports NPS fulfils this requirement?

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft Ports NPS fulfils this requirement?

Q19: To what extent do you think the methodology used to assess the sustainability of the draft Ports NPS is appropriate?

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

Q21: Has the AoS considered all the relevant plans, policies and programmes?

In paragraph 2.18 the waste section does not mention “Site Waste Management Plans”, but they are a requirement for construction projects worth over £300,000. In paragraph 2.22 the noise section does not mention the draft Environmental Noise Regulations 2006, nor does it mention the effect on marine wildlife from vessels and shipping.

Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?

Q24: Are the AoS objectives and sub objectives as set out in the AoS framework appropriate?

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?

Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?

Q28: Do you agree with the results of the assessment of alternatives?

Q29: To what extent do you think the approach used to identify and assess effects is appropriate?

Q30: To what extent do you think the assessment correctly identifies the sustainability effects of the draft NPS?

Q31: Do you agree with the recommendations proposed in the assessment?

Q32: Have any key findings from the AoS report not been taken account of properly in the NPS?

Q33: To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?

Q34: To what extent do you think the Appropriate Assessment is a suitable high level assessment of the impact of port development on protected sites and species?
Q35: *Do you agree with the analysis of costs and benefits set out in the Impact Assessment?*

Q36: *Are there any impacts of producing a National Policy Statement that have not been considered?*

We hope that you find our submission to the House of Commons Transport Select Committee on the Government’s Draft National Policy Statement on Ports useful and we would be happy to discuss any of the points raised above with you in more detail if required.

*January 2010*

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**Memorandum from Councillor Antoinette Cooper (NPS 10)**

We have only recently become aware of this consultation and will be making a full response based on argument and evidence to be submitted by 15 Feb. relating to Inland Ports.

These are our main concerns:

1. the cumulative Impact on Health on the local residents; and  
2. the complete lack of infrastructure. We have only one B road with an 18 and 7.5 weight restriction on a section within the village and on the border of Broxbourne.  
3. Impact on the natural environment.

We have not, as yet, been consulted on our Local Development Plans.

From your list of consultees you have not consulted with the Lee Valley Regional Park. The area of the Park contains many waterways and runs for some 26 miles from Hertfordshire into London.

Large parts of our area being contained within the designated Lee Valley Regional Park.

I am a Councillor for Lower Nazeing Epping Forest District Council responding on behalf of local residents.

*January 2010*

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**Further memorandum from Councillor Antoinette Cooper (NPS 10a)**

Nazeing together with the area of Broxbourne on our borders is all within a radius of 1.8 miles, however, within that small area we have:

- A Power Station.
- 27 acre Industrial Estate with only two routes in and out. One a single track through the Lee Valley Park Recreational Area.
- A significant number of Glasshouses and Packing Sheds.
- Smaller Industrial Parks.
- At least two Cement & Ready Mix Concrete business’s.
- Large lakes with fishing and sailing clubs.
- Flood Relief Canal.
- Areas in the 1/100 Flood Plain.
- Very high levels of ground water.
- Areas of contaminated land—some areas of which are within the Lee Valley Park to provide a “green lung” for London.
- It is a natural wildlife corridor known as a migration route for birds.
- Situated within the M25 to the south, A10 to the east, A414 to the north and M11 to west it is only connected to these by minor/unclassified routes.
- An area of mineral extraction and land fill for many years, 70 years at least.

Recently the introduction of Waste sites is a concern. These are neighbouring residential and horticultural properties processing contaminated wood and soil. The dust from these has significant risks to health. I don’t know what the impact is for particles to contaminate the food grown. The recycling of contaminated wood is well documented. Two fires last year added to the risks.

Public water supplies are close by but many residential and business units extract from private boreholes. The increase of HGV is significant. On paper the one “B194 is shown as a Primary Route in reality it is a B road with none of the features you would need to carry such traffic.
The Lee Valley also carries 1/6th of London’s Electricity which no which no doubt will need up grading. Many of these pylons being in Nazeing.

Some 5,000 people live in Nazeing. It has one Primary School.

I don’t know figures for people living on our border in Broxbourne.

I am very aware I am not qualified in Planning but we do believe the intensity of development in this area is overwhelmingly of the type which creates pollution and long term health problems.

As a long term Glasshouse area the people are supportive and have done their best in the change of use during the down times of the Glasshouse Industry.

The introduction of Waste Processing Sites and extending Mineral and Landfill operations seems to be a step too far in an area which is in a Valley preventing contaminated air from escaping, especially with low cloud cover.

The impact on the amenity of local residents is significant which has deteriorated rapidly since 2006. Sleep deprivation from HGV movements and Waste operators. Dust and smoke. Noise etc.

Councillor Antoinette Cooper
Lower Nazeing—Epping Forest District Council responding on behalf of local residents

February 2010

Memorandum from Hampshire County Council (NPS 11)

Hampshire County Council welcomes the call for evidence from the House of Commons Transport Committee on the National Policy Statement for Ports, recognising the important role the committee has in providing Parliamentary scrutiny of the new NPS. The County Council’s Cabinet will not be considering its response to the NPS consultation until its meeting on the 25 January. Until such time, the following should be regarded as a provisional response pending Cabinet endorsement.

This covering letter outlines the County Council’s broad response to the Government’s consultation on the NPS. Also attached is a schedule setting out the Council’s draft response, where appropriate, to the consultation questions. Collectively they will later form the basis of the authority’s response to the Department of Transport’s consultation.

The Port of Southampton, one of the largest ports in the United Kingdom located in the County of Hampshire, has recently published its Port Master Plan, which includes an aspiration to develop new port facilities at Dibden Bay. A previous proposal for a new container terminal at Dibden Bay was refused by the Secretary of State for Transport in 2004. With the possibility of similar future proposals in mind, it is important that the new National Policy Statement for Ports provides appropriate robust guidance for decision-makers.

The County Council is therefore disappointed that the NPS for Ports does not provide the appropriate spatial context and framework for either major or smaller port proposals. The County Council agrees that it would be wholly inappropriate for the NPS to be site-specific in regard to locations for future new port developments yet to be consented. However, it considers that the Government’s “predict and provide” approach, which relies on forecasts that the Government itself acknowledges are subject to “substantial uncertainty”, together with judgements about when and where new developments might be proposed to be made solely on the basis of commercial factors by the port industry, to be equally inappropriate. A better balance is required between market forces and the Government providing the appropriate spatial context as to how the nation’s future demand for port capacity should be met.

The County Council is concerned that, as drafted, the NPS could result in disjointed and piecemeal decisions being taken. This is of particular concern to the County Council as a highways authority. It is essential that supporting landside transport infrastructure is identified and delivered; for example, infrastructure to support the transportation of freight arising from port development.

As a minerals and waste authority, the County Council is also concerned that the NPS does not provide the necessary guidance on how smaller port-related developments such as wharves and waste processing facilities should be considered at the planning application stage at this level. Non-cargo-related needs are also not considered.

In conclusion, the NPS fails to provide necessary guidance for decision-makers, and in the absence of an adequate spatial context could result in decisions being based on port operators’ attempts to justify additional capacity using uncertain forecasts.
Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

Comments

No. The NPS fails to provide the necessary spatial context and framework for decision-makers in relation to both major and smaller port proposals and is over-reliant on the market and a “predict and provide” approach. Caution should be applied to the demand forecasts, particularly in the light of the current economic situation. Even the Government acknowledges that its own forecasts are subject to “substantial uncertainty”. Whilst it would be inappropriate for the NPS to be site-specific in regard to potential locations for future new port developments yet to be consented, it is equally inappropriate to leave it solely to the market without some spatial context or framework from Government as to how the nation’s future demand for port capacity should be met and delivered. This is also important to enable supporting landside infrastructure to be identified and delivered. Otherwise, such an approach could lead to disjointed and piecemeal decisions. The NPS should seek to achieve a more appropriate balance between commercial market considerations and identifying the nation’s overall needs.

The role of ports for the import or export of minerals or waste is also not discussed. Similarly, the NPS does not provide any capacity requirements for the import and export of aggregates (dry bulk materials) or waste, focusing rather on container capacity.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

Comments

Any large-scale increase in UK port capacity will result in additional onward landside road and rail movements, putting additional pressure on already congested transport networks, and potentially worsening journey time reliability. Any new major port will be expected to make a significant contribution towards mitigating the effects of this additional traffic on strategic road and rail networks, such as the 14 Strategic National Corridors identified by the Government as part of Delivering a Sustainable Transport System (DaSTS). As well as strategic access to ports, investment will be needed to ensure that journey time reliability on local road networks is not made worse by traffic caused by port growth, which could hinder access to jobs and services in urban centres near to the port.

The Government’s aspiration to ensure that where port development takes place that this should offer “a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable” (paragraph 1.10.3) is supported. However, even with modal shift to rail and short-sea shipping, the forecast levels of port growth will result in a net increase in the number of onward HGV movements from UK container ports, and this is likely to have impacts on congestion, wear and tear on roads and carbon emissions.

Onward transportation of containers from UK deep-sea container ports operates on a commercial basis. Rail and short-sea shipping are only more competitive than road on price over longer distances. Therefore, policies designed to achieve a better modal split would need to consider how shorter-distance flows to the port hinterland can be made less dependent on road transport. The County Council would wish to see more detail of what this aspiration would mean in practice. Modal shift to rail and short-sea shipping is laudable, but if the scale of forecast port growth and expansion means that overall numbers of lorries increase, then this will not improve sustainability.

In addition, target modal shares for rail and coastal shipping (paragraph 2.17.22) should be mandatory for ports where access is required via congested strategic road and rail links. Such targets should be embedded within a port travel plan that is wider in scope than just employees based at the new port facility. The text regarding an “agreed understanding” of the “broad mechanisms” by which they can be achieved is otherwise likely to mean that only lip service will be paid to modal share targets by port operators, that the majority of onward transportation would be by road and that these targets will remain only aspirations. This weakness needs to be resolved, to help ensure that those using road transport networks used by port traffic do not suffer worsening journey time unreliability and congestion.

The requirement to produce a Transport Assessment (paragraph 2.17.4) that only requires the applicant to assess the “likely modal split of journeys to and from the site” is weak and vague. In practice this would need to be a more realistic assessment of what proportion of onward freight can be transported by rail and deep sea shipping in light of the cost of transport, locations of rail terminals, and the capacity on the rail network to accommodate it. There is a risk that the promoter merely cites aspirational levels of modal split for onward transportation, without a proper consideration of whether this is economically viable or practicable. It is also unclear whether for expansions of existing ports this modal split figure would apply only to the new capacity, or the overall combined capacity of existing and new freight handling facilities.
Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

Comments

Broadly, yes, as promoters are expected to follow the existing NATA/webTAG economic impact methodology and Project Appraisal Framework for Ports. Nevertheless, in respect to funding of new infrastructure, whilst it is encouraging that the “principle is that the developer is expected to fund provision of infrastructure required solely to accommodate users of the development without detriment to pre-existing users” (paragraph 2.17.29) it would helpful and appropriate if this sentence was amended to explicitly refer to off-site infrastructure as well as improvements within the port boundary. This is required because port operators in the past have in practice not been willing to contribute towards off-site infrastructure improvements to networks used to access ports, claiming they have no responsibility for mitigating the impacts of additional port traffic on transport networks. Suggesting that co-funding by the Government to cater for non-port related increased demand for travel may be possible means that it is likely that port operators will seek to minimise their own contribution towards infrastructure. This could mean protracted negotiations, or that ports do not contribute adequately to mitigate the impacts of extra port traffic.

Any pressure for negotiations on required levels of new infrastructure to be completed quickly could lead to port developers not contributing adequately to mitigation measures such as new infrastructure. In practice, these negotiations are complex, involving the Highways Agency, Network Rail and local highway authorities.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

Comments

No. The NPS does not appear to have effective mechanisms for managing and mitigating the carbon emissions of port-related additional HGV movements.

Paragraph 2.13.5 (Inland transport) is weak on the subject of where a development will lead to an increase in inland transport needs and hence carbon and greenhouse gas emissions. It is unclear whether such an increase in emissions from inland transportation of port-generated freight is acceptable or whether mitigation measures will be required to reduce the growth in emissions to the minimum or no net increase. This requires clarification.

Whilst it is understandable, in the absence of internationally agreed targets to reduce greenhouse gas emissions from shipping, that the Committee on Climate Change has not recommended national targets, it is nevertheless disappointing that decision-makers do not need to consider the impact of new port development on greenhouse gas emissions from ships transiting to and from the port (paragraph 2.13.3). Some initial assessment should be required to provide at least some, albeit basic, understanding of the port’s overall climate change impacts.

Coastal Change (section 2.16) refers to impacts upon marine ecology and biodiversity. However, it should also relate to inter-tidal and terrestrial biodiversity as these are also impacted by coastal change.

Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

Comments

Yes.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

Comments

It is appropriate that the NPS addresses issues such as air quality, noise and security. In terms of health and safety, the requirement for port operators to develop a travel plan with clear targets that is regularly monitored could also mitigate some of these impacts.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Comments

The high priority given to enhancing access to the jobs and training created by port development, including to the most disadvantaged, is welcome. Ports, such as the port of Southampton, are often found in areas subject to higher levels of unemployment, lower skills and deprivation. Accordingly it is essential that the economic assessment of port development should not be limited to the need to sustain economic
growth and improve productivity, but should be expanded to include the extent to which the local economy, and particular the more disadvantaged communities, share in those benefits in terms of access to the jobs and training created.

However, the guidance for the decision maker does not go far enough in this respect (paragraph 2.6.5 and 2.6.6). In emphasising that substantial weight should be given to the positive economic impacts of port development, including extra employment and training benefits, the guidance should make clear that the assessment should give particular weight to any provisions for ensuring access to those benefits to the local labour force, including the more disadvantaged in the local area.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

Comments

In order to reflect the high environmental quality of many coastal areas, the Guidance on Assessment (paragraph 2.1.1) should include, as an essential consideration for decision-makers, the need to give appropriate weight to environmental considerations, including the impact of development on local communities.

Paragraphs 2.21.1 to 3 (Dust, odour . . . etc) state that in relation to the impact on amenity the aim should be “to keep impacts to an acceptable minimum”. This is vague and open to wide interpretation. The NPS should provide greater clarity for the decision-maker.

As well as strategic access to ports, investment will be needed to ensure that congestion on the local road networks is not exacerbated by traffic caused by port growth. This should consider the impacts on the wider transport network, as well as the impacts on the local population.

The scope of the travel plan (paragraph 2.17.6) is unclear. There is a concern that it would only encompass travel to work for employees (and parking) based on the new facility. The travel plan should cover how freight movements originating from and arriving at the site will be managed to minimise impacts on the transport network beyond the port gates (incorporating measures such as lorry booking systems, rail-freight terminals), and plans for how the transport impacts of disruption will be managed and set out how deliveries to the port will be managed.

For expansion of an existing major port, the scope of the travel plan needs to encompass existing port facilities as well as new capacity, in order to have maximum benefits. A requirement is needed to ensure that the port regularly updates and refreshes the travel plan.

Paragraphs 2.17.14 to 2.17.16 (mitigation: demand management) appear to overlook the fact that many large deep-sea ports currently operate demand management measures such as lorry-booking systems. Where such system is already in place, then no significant benefits can accrue, and infrastructure improvements need to be considered. With such systems, lorries often arrive early, using motorway service station areas to wait for their slot. This can lead to lorries using parts of the strategic road network in the morning and evening peaks. Paragraphs 2.17.25 and 2.17.26 refer to on-site and nearby lorry parking, but ignore the need to provide facilities on the wider strategic road network. With forecast levels of growth, there will be a need to invest in additional lorry parking capacity on the motorway and trunk road networks to cater for the increased number of lorries using these routes to access the ports.

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

Comments

Noise (paragraph 2.22.13): Decision-makers should also be satisfied that any proposals will avoid significant adverse noise impacts upon wildlife.

Protection of statutorily designated landscapes should also include avoiding adverse impact to their setting. Whilst paragraph 2.23.9 goes some way to this end, more explicit recognition on this should be indicated in the NPS.

The applicant’s assessment (landscape and visual amenity: paragraphs 2.23.3 to 2.23.5) should make reference to the visual assessment of impacts on the seascape as suggested in the Appraisal of Sustainability.

Strategic and Local Gaps have helped shape the pattern of new development outside Green Belts for at least two decades. Whilst Government has deleted policies relating to both in the South East Plan, the supporting text of the South Hampshire chapter states that Local Development Documents may put forward proposals for Local Gaps. Having regard to such situations occurring the NPS should include the need to take into consideration designated gaps, as they are important separating landscapes that have increasing potential to fulfil a multi-functional role in green infrastructure.
Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

Comments

Biodiversity and geological conservation (paragraph 2.12.3) should be clearer that there is a whole range of other potential adverse impacts. A significant example (and one of prime concern under the Habitats Regulations) would be the loss of habitat (and consequent impact upon species) through port expansion outside current boundaries.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

Comments

Yes.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

Comments

No, unless the responses to the previous questions are taken into account in a revised NPS.

Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

Comments

No. See response to Q 34

The meaning of paragraph 34 of the Assessment is very unclear with regard to the consideration of alternatives by decision makers.

The Department cannot be satisfied that there are no alternative solutions to the policies in the NPS. Para 31 of the Assessment says avoiding all possible developments on or near protected sites is not feasible, but this is contradicted by paragraph 32 which says the opposite.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/ synergistic impacts of port development should be considered by decision-makers?

Comments

No comment.

Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers

(a) the IPC for port applications over the NSIP threshold; and

(b) the future Marine Management Organisation for port applications under the NSIP threshold.

Comments

(a) The County Council’s overall response to the NPS outlined in Q1 refers.

(b) It is not clear how smaller port-related developments, for example aggregate wharves and waste processing facilities, should be considered at the planning application stage at this level. Some of the smaller port-related developments may have a significant economic value, which does not seem to be recognised by the NPS. Non-cargo related needs are also not considered.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

Comments

No. Refer to the responses to the previous questions, particularly in relation to the transport impacts of port development.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

Comments

No comment.
Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

Comments
No comment.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

Comments
No comment.

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

Comments
No comment.

Q21: Has the AoS considered all the relevant plans, policies and programmes?

Comments
No comment.

Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

Comments
No comment.

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?

Comments
No further comments beyond those raised in other questions.

Q24: Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?

Comments
No comment.

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?

Comments
No comment.

Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?

Comments
Refer to the authority’s response to Question 34 relating to the HRA and the consideration of alternatives.

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?

Comments
Refer to the authority’s response to Question 34 relating to the HRA and the consideration of alternatives.

Q28: Do you agree with the results of the assessment of alternatives?

Comments
No. This issue is addressed in the County Council’s response to Q34.

Q29: To what extent do you think the approach used to identify and assess effects is appropriate?

Comments
No comment.
January 2010

Memorandum from Seeports (NPS 12)

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

1.1 In recent years much time has been spent in public enquiries seeking approval for major port developments in the establishment of the need for additional capacity. Whilst the issue of whether further capacity was required at any particular location was a legitimate consideration, it appeared necessary to prove at least some degree of national need on each occasion. As such the strongly stated conclusion in part 1 of the NPS that the Government believes that there is a compelling need for substantial additional port capacity is of itself a huge step forward. The guidance to the decision maker that follows this conclusion is therefore also very much to be welcomed.

1.2 At the time of the Interim Ports Review and the publication of the forecasts of port traffic prepared by MDS Transmodal, the then Minister endorsed the demand forecasts and noted that they would have to be revised every five years or so. Observing the impact of the recent recession on trade tends to endorse the position of reviewing the statistics at intervals that are long enough to discount short term effects but frequent enough to ensure that changing trends in global trade are captured. A period of five years seems about right for reviews of the demand forecasts which underpin the conclusions of the Government, and perhaps this should be restated.
1.3 The NPS discusses and endorses the role of competition between ports. There is an acknowledgement that ports in near continental Europe enjoy a degree of public funding for their infrastructure, and that this make it more difficult for UK ports to compete for some trades. This is an issue for ports wishing to service the growing business of renewable energy. The conclusion that the decision-maker should accept the need for future capacity in this regard should therefore be put in the additional context of the previously stated desire of the Government for ensuring security of energy supply.

Q2: Do you think the draft ports NPS provides suitable guidance to decision makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

2.1 The NPS correctly identifies the main problems arising on the local inland infrastructure caused by the expansion of port facilities, and the main methods of mitigation of adverse effects, particularly congestion. The provision of new or enhanced rail freight facilities at ports must be considered as a part of all major developments. In line with the Departments end-to-end journey philosophy this does of course imply that inland rail freight handling facilities will need to be provided to match the expansion of unitised rail freight, and the industry will look for suitable encouragement for these in the forthcoming NPS on road and rail networks.

2.2 In the past ports have been asked to fund rail enhancements remote from their location with no guarantee concerning future availability. The mechanisms outlined in the NPS are a welcome safeguard and a significant step forward where lump sum contributions for rail enhancements are sought from port developers.

2.3 Ports should provide adequate facilities for holding outbound traffic under all normal states of activity. In the event that this is difficult to achieve within the port estate then suitable arrangements should be made, possibly in cooperation with other private sector providers, for offsite facilities to be employed, even if only at peak traffic times.

2.4 The NPS identifies the further problems caused to the local and national networks caused by exceptional events and some of the mitigation measures to the landside infrastructure may be at some distance from the port. Where contributions are sought from port developers in line with the Departments guidance then there should in general be a decreasing requirement for developer funding with increase in distance from the port facility, and greater weight put upon the wider beneficial results and economic benefits to local communities of the mitigation measures.

2.5 In terms of demand management there still remains much that can be achieved by the use of intelligent technology. The increasing roll-out of managed motorways and similar live signage schemes allows the effects of road congestion to be addressed (though not necessarily solved). The logistics and distribution industry itself is increasingly looking at IT based monitoring and communication technology and installing suitable equipment in containers and ro-ro vehicles. In the latter case live information to accompanied ro-ro vehicles can allow alternative route choices to be made.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

3.1 The economic impacts are described in a high level way and these can be said to be generally beneficial, as evidenced by the lack of mitigation measures described. In comparison with a number of environmental issues which are described later in the document in some detail, the relative dismissal of the consideration of economic impacts in just a couple of pages appears at first sight to be unbalanced. In an island economy, relying on its seaports for the overwhelming bulk of its international trade, the economic benefits to UK plc and its sub-economies appears to have been rather quickly glossed over.

3.2 In practice most major ports have already carried out studies demonstrating their importance to their local, regional, national and even international economies. This work will generally need to be fully refreshed and updated as part of any application for consent to develop new or additional facilities. A little more guidance in the document might be helpful in order to standardise the preferred format across applications—for example, direct, indirect and induced employment, contribution to GDP, GVA etc.

3.3 Necessary weight needs to be given to the fact that ports are essentially long term businesses, with a degree of permanence which exceeds that of many other industries. Whilst ports will always seek to find economies in running costs, with implications for the number of people directly employed by the port, there remains a base for long term employment opportunities. This effect is multiplied by the cluster effect of ports and the various supply chains set up to service the activities of the port or the traffic handled.

3.4 In ports carrying significant numbers of passengers the employment opportunities generated are much greater than in ports handling freight only. Again this number becomes multiplied by the indirect and induced employment from activities related to services provided to passengers and within the tourism industry. Many of the induced jobs are remote from the port location.

3.5 Whilst there are examples in the UK of port related development and regeneration going hand in hand to the benefit of both, there are perhaps some more significant examples on the near European continent of how port development opportunities can be seized to allow maximum benefit to the local community. Examples include the development of completely new port facilities constructed outside the urban
environment funded by the sale of expensive central waterfront land. This generally allows the freight activities to be carried out away from the urban centre whilst retaining any passenger or cruise facilities in the city to the benefit of the local economy.

3.6 The ability of smaller ports to take some of the growth of larger ports should also not be overlooked as many of the smaller coastal towns have basic port facilities and their economies can be much boosted by even a small increase in port traffic.

3.7 Finally the opportunities presented by the emerging renewable energy industries should not be underestimated. Some ports are already engaged with the offshore wind industry, providing a manufacturing or assembly base, or facilities for longer term maintenance of wind farms. However there are also opportunities for involvement in wind and tidal energies, and for the importation of biomass for power plants. Provided that the power plant is located in or immediately adjacent to the port then the demands of these alternative energy industries on the local inland infrastructure are small, but the benefits to employment and skills development are high.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

4.1 The NPS adequately sets out policy and mitigation measures with respect to climate change. The number of possible scenarios which could be investigated is huge so the guidance recommending certain preferred scenarios and preferred estimate ranges is very helpful.

4.2 By their nature large ports are situated adjacent to large expanses of open water. Whilst there is an undoubted need for the use of SuDS to assist surface water drainage management in many locations, the use of unnecessarily complex, high capital costs or high maintenance cost solutions may not be appropriate where direct runoff to sea (via oil/water separators as appropriate) is available.

Q5: Do you think the draft ports NPS provides suitable guidance to decision makers on the extent to which coastal and inland shipping should be considered?

5.1 Whilst there is some encouragement for coastal and inland shipping offered in the NPS the opportunity of increased distribution of goods via coastal shipping does seem to have been underemphasised. This also seems to reflect the relative lack of interest in the UK to date in the European short sea shipping and Motorways of the Sea initiatives. The NPS should at least require developers that they have positively investigated the provision for coastal shipping solutions and to explain their reasoning should they reject such a solution.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

6.1 In high-level terms the NPS provides a sufficient coverage of the topics. In the particular case of health impacts these can be broad in scope and can depend upon the type of traffics that use the port. In these cases there is a wealth of guidance elsewhere so it seems inappropriate and unnecessary for the NPS to give more detail in this document.

6.2 In recent cases where there has been a concern about air quality on health it has been a useful exercise to compare a group of the population living adjacent to the port with another control group living further way. Over quite a short time this can be a useful tool to determine whether there are deleterious health effects and if so to help frame suitable responses.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

7.1 It provides adequate guidance on a subject which is legislated for elsewhere.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

8.1 In the past ports generally served a relatively local area, such that the local population were more inclined to take any perceived downside of the operations of the port as a necessary part of realising the local benefits. With the increase in trade and the development of ports with a national hinterland then the local acceptance of the dis-benefits has often decreased markedly. Regulation has tended to exacerbate the problem, with once-open piers and quaysides becoming restricted from public access, and high levels of night-time lighting required. There is also much more public awareness of air pollution from shipping and transport operations.

8.2 Much of this possible nuisance is already extensively covered by pollution control mechanisms and the NPS encourages developers to seek early consultation with the relevant regulators. Indeed it is difficult to see how the decision-maker can be satisfied on local nuisance issues, and thus give consent, unless such
discussions are at an advanced stage of agreement such that mitigation measures are at least determined and realistic. It may well be advisable for a programme of monitoring to be put in place ahead of the development such that a base case is established.

Q9: *Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?*

9.1 *Generally satisfactory. The guidance concerning the issues surrounding the provision of cold-ironing facilities is well balanced, in view of some of the as-yet unresolved technical issues. In the case of passenger ferries and cruise ships an additional consideration should be the possible effects on safety of switching power supplies at times when there are significant movements of people within the vessel during loading and unloading operations. Consideration should take into account whether the shore side electricity is powered by local renewable energy sources or whether it is likely to be generated by coal or similar sources. In the latter case the net effect is largely a shifting of the source of pollution from one location to another, so the early provision of expensive facilities at the port becomes more difficult to justify.*

Q10: *Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?*

10.1 *Generally satisfactory. In relation to dredging activities there is only brief mention of the possible re-use of dredged materials to help in the creation of new habitats. In the UK and across continental Europe there have now been a number of successful examples of the beneficial re-use of dredged materials, and there should be more encouragement for developers to seek beneficial solutions in this arena in association with Natural England and the Environment Agency.*

Q11: *Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?*

11.1 *Many ports in the UK have long histories of hundreds and sometimes thousands of years of port developments on roughly the same site (cf the bronze-age boat found at Dover on the site of the Roman harbour and the later medieval harbour). Such ports have developed continuously over the years and in this situation it can be difficult to make a choice between which historic assets and artefacts can effectively be preserved. Whilst preservation *in-situ* is generally assumed to be preferable, a further option not mentioned is the possibility of moving some historic assets to other more suitable locations to allow development to take place. This can have the advantage that they are more accessible to the general public than within a port area subject to security restrictions.*

Q12: *Do you think the draft ports NPS provides suitable guidance to decision-makers on how they should consider alternatives when it comes to particular projects?*

12.1 *The high level considerations are generally satisfactory. The reference to the taking into account of other relevant UK policies and plans presumably includes relevant regional economic strategies, regional spacial strategies and other local statutory planning documents. Subject to status then prepared port masterplans, as encouraged by the Department, will also be relevant.*

Q13: *Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?*

13.1 *Reviewing the various public enquiries into applications for major port developments in recent years it is apparent that the consideration of alternatives was an issue of concern, as there effectively appeared to be no boundaries. The scope of possible alternatives appeared to be regarded differently in different enquiries. The guidance in the NPS is therefore to be welcomed.*

13.2 *Whilst there is no requirement for the decision-maker to consider whether the proposed development is the best option, there should be a little more encouragement for the developer to enter into early consultations with its main stakeholders in order that the development presented for approval is generally regarded as the best (compromise). Joint statements with appropriate stakeholders will assist the decision-maker to conclude that reasonable alternatives have been adequately assessed.*

Q14: *Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/ synergistic impacts of port development should be considered by decision-makers?*

14.1 *The NPS draws attention to the possibility that a development which satisfies all the necessary tests when taken individually may not be deemed satisfactory when they are all considered in a cumulative manner. In that such a combination will then effectively be unique to each development it is difficult to imagine how further guidance in the NPS can sensibly be given in a general document such as this. In the end obtaining the consent of the decision-maker must be about more than just employing them to tot up the score on a checklist, and must involve an element of informed judgement. The Appraisal of Sustainability is helpful as guidance in this regard.*
Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers:

(a) the IPC for port applications over the NSIP threshold; and

(b) the future Marine Management Organisation for port applications under the NSIP threshold.

15.1 The NPS is framed in a national context and provides suitable guidance to the IPC, subject to some of the caveats expressed in this response.

15.2 With regard to the Marine Management Organisation the answer is slightly less straightforward, in part because whilst the remit of the MMO is clear, the detail of process etc. is still emerging. The vast majority of port development applications will be made to the MMO rather than the IPC.

15.3 Under the MMO route, due to the smaller size of the ports in question, the balance of issues under consideration is likely to change. The economic benefits in particular are likely to be more focussed locally, though the potential resulting beneficial impacts on local communities should not be underestimated. This will be particularly true if the development incorporates an element of local regeneration, as many coastal towns have underperforming economies and need injections of confidence as well as funds. The social role may also be of greater significance; conversely though, even a relatively small development can have a large effect on local infrastructure in more remote communities.

15.4 Finally there is the issue of proportionality, touched upon in the NPS. Preparation of an application is a lengthy and expensive business, and it would be unfortunate if in practice the burden became beyond the resources of smaller ports, with all the disadvantages of loss of competition and local economic benefit that would result. This is a difficult issue for the NPS to address, and it will be for the MMO to ensure that this point is recognised once it starts work.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

16.1 As mentioned in the response to Question 3 perhaps the positive economic impacts of port developments have been somewhat lightly dealt with.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

17.1 The policy in the draft NPS is founded on and effectively restates the policy set out as a result of the Governments ports policy review carried out in 2006 and 2007, as such the requirement is fulfilled.

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

18.1 Design is a large topic and encompasses everything from the overall layout of a development down to the details of materials and style of individual buildings. The NPS should give a little more guidance on this topic, differentiating where necessary between elements which will become a feature in the landscape and those which will not, and between publicly accessible buildings and those which are purely functional. Even the latter can still have style however, as can be seen at a number of French ports which sometimes contract starkly with the temporary buildings sometimes favoured in the UK. Within the topic of design some further encouragement should also be given to the provision of low energy buildings.

January 2010

Memorandum from Natural England (NPS 13)

SUMMARY OF OUR RESPONSE

Natural England welcomes the preparation of the ports National Policy Statement to guide decisions on major ports developments in England. It is important that a clear statement of the national need for additional ports capacity is set out and necessary growth is provided for in ways that deliver sustainable development. Whilst there is much to welcome in the draft NPS, the wording needs to be strengthened and expanded in places order for the NPS to properly fulfil its purpose.

Ports developments can have significant impacts on the natural environment, particularly on international and national sites of nature conservation importance, many of which are located on or close to coasts and estuaries. It is, therefore, imperative that impacts are fully assessed, avoided wherever possible, appropriately mitigated and, as a last resort, compensated for.

As a statutory consultee on all Nationally Significant Infrastructure Projects likely to affect England, Natural England will be fully engaged in the new infrastructure planning regime at project level to ensure that environmental impacts are fully addressed and opportunities to secure enhancement of the natural
environment are secured, as an integral part of the provision of major infrastructure. A clear and robust National Policy Statement is fundamental to ensuring sustainable decisions on major infrastructure projects by the Infrastructure Planning Commission and the effective engagement of all stakeholders in the process.

Natural England’s comments on the draft National Policy Statement for ports can be summarised as follows:

— We appreciate that the NPS restates the Government’s existing market led ports policy but do not consider that, as currently drafted, the NPS provides a strong enough steer to the IPC and promoters that additional capacity should be provided in ways that meet sustainable development objectives.

— The Government’s environmental objectives should be more strongly reflected in the NPS. Whilst environmental objectives are set out in Part 1.10, this is not followed through into the needs case set out in parts 1.11 and 1.12 which focus solely on the economic objectives for new ports development, with environmental issues addressed only as impacts to be assessed at project level.

— Whilst we appreciate the NPS is not locationally specific, the NPS would benefit from a strategic spatial assessment of future ports developments and associated development, given that the location of existing ports developments are known and future opportunities are constrained by geography. A broad assessment of the opportunities to make better use of, or increase capacity at, existing ports should also be set out.

— There should be greater recognition in the NPS of the potential cumulative impacts of ports and other major infrastructure and associated development on particular coasts and estuaries, which in some cases, such as the Severn Estuary, may be considerable.

— The NPS should set out a greater level of ambition on climate change mitigation and adaptation. As major developments, Nationally Significant Infrastructure Projects should be exemplars of sustainable design, construction and operation and lead the way in terms of energy efficiency and use of renewable energy. They should also deliver appropriate enhancement of the natural environment.

— There needs to be better integration between the ports NSP and the energy NPS (especially the nuclear, fossil fuels NPS and renewables NPS). There also needs to be references to the relationship with the forthcoming Marine Policy Statement and National Networks NPS. Greater clarity on the relationship with Planning Policy Statements would also be helpful.

— The NPS should set out clearer guidance on the relationship with Regional Strategies and Local Development Frameworks. It should more clearly identify how it should be used by the Marine Management Organisation and regional and local decision makers to guide decisions on ports developments falling below the Nationally Significant Infrastructure Project thresholds and associated development, particularly road and rail connections.

— The NPS would benefit from clearer and more consistent guidance on the weight that the IPC should accord adverse impacts. The NPS sets out an economically based case for additional ports capacity but there is little to indicate what types or level of adverse environmental or social impacts might outweigh the need for new ports infrastructure.

— It is important the suite of NPS can be easily read as a package and implemented consistently. As currently drafted, there are inconsistencies in the wording of generic issues between the ports and the energy NPS. The NPS would benefit from improvements in the consistency and, wherever possible, use the same wording.

— There are inconsistencies between the treatment of environmental impacts in the NPS and the current suite of Planning Policy Statements. The impacts sections of the NPS, in particular landscape and biodiversity impacts, should be strengthened to fully comply with Government planning policy set out in Planning Policy Statements and other Government objectives.

Natural England’s comments on the Appraisal of Sustainability (AoS) can be summarised as follows:

— The NPS should set out how the AoS has informed its development. The AoS would be improved by a number of detailed drafting amendments.

Natural England’s comments on the Habitats Regulation Assessment (HRA) can be summarised as follows:

— The HRA should set out greater detail on the impacts on European sites. Clearer statements should be included in the HRA and the NPS that the conclusions of no alternative solutions and imperative reasons of overriding public interest apply only to the National Policy Statement and not to individual NSIPs.
DetaiLED Comments

1. Natural England is a non-departmental public body. We work to ensure that England’s unique natural environment, including its flora and fauna, landscapes, geology and soils, is conserved, enhanced and managed for the benefit of present and future generations. We are a statutory consultee on all National Policy Statements (NPS) and on all Nationally Significant Infrastructure Projects (NSIPs) likely to affect England.

2. Natural England welcomes the preparation of the draft National Policy Statement for ports as one of the suite of NPS being prepared by Government to set out the national need for infrastructure and guide decisions on nationally significant infrastructure projects. It is important that a clear statement of the national need for additional ports capacity is set out and necessary growth is provided for in ways that deliver sustainable development.

3. We have provided technical advice to the Department for Transport on the preparation of the ports NPS and its associated Appraisal of Sustainability (AoS) and Habitats Regulation Assessment (HRA) and are pleased that much of our earlier advice has been taken on board. We have the following points to make on the consultation documents:

GEneral Points

4. We welcome the preparation of the different NPS to a similar format but consider there could be greater consistency in wording between the draft energy and ports NPS to ensure a clear understanding by stakeholders of Government policy on major infrastructure and assist the IPC’s determination of NSIPs. This is particularly relevant to the generic impacts sections where similar issues are addressed in slightly different ways. We have highlighted particular examples in our detailed comments below.

5. We welcome references throughout the document of the need to consult Natural England on issues relevant to our statutory duties.

Part 1. Policy on Planning for Ports

The need for additional ports capacity

6. Natural England believes that additional ports capacity should be limited to the minimum necessary to meet current and robustly predicted future demand and should avoid damage to the natural environment. We appreciate that the NPS is a restatement of the Government’s existing market led ports policy and welcome the emphasis on sustainable development set out in paragraphs 1.22, 1.10.1-3 but are concerned that these statements are not adequately followed through in the remainder of the document. Consequently, the NPS does not provide a strong enough steer to the IPC and promoters that additional capacity should be provided in ways that deliver sustainable development objectives.

7. The Government’s environmental objectives should be more strongly reflected throughout the NPS. Whilst we welcome the environmental objectives set out in section 1.10, this is not followed through into the Government’s assessment of need in sections 1.11 and 1.12, which focus solely on the economic objectives for new ports development. Environmental issues are addressed only as impacts to be assessed at project level in part 2 of the document. There should be more explicit recognition of the environment, including climate change considerations, in part 1 of the NPS with greater emphasis on how the NPS will assist delivery of the Government’s sustainable development objectives. In particular, paragraphs 1.10.4, 1.11.7, 1.11.9 and 1.11.12 should be amended to reflect Government policy to promote sustainable economic growth within environmental limits, in line with the UK Sustainable Development Strategy.

8. Opportunities should be sought wherever possible to ensure that new ports development delivers enhancement of the natural environment. Paragraph 1.10.2, last bullet, should be amended to “provide high standards of protection for and, where possible, enhancement of the natural environment”. Each of the sections relating to mitigation of impacts in Part 2 should include appropriate references to securing opportunities to enhance the natural environment, wherever possible.

9. Whilst we appreciate the NPS is not locationally specific, the NPS would benefit from a broad, high-level, spatial assessment of future ports developments, given that the location of existing ports developments are known and future opportunities are constrained by geography. In addition to ports development, coasts and estuaries are, by their very nature, likely to be under pressure for a wide range of energy and other developments and a strategic spatial assessment would make assessment of the cumulative impacts of all developments proposed for particular stretches of coast and estuaries easier. A broad assessment of the opportunities to make better use of, or increase capacity at, existing ports should also be set out, as well as a high-level assessment of new capacity to serve existing and emerging markets.

10. We note that paragraph 1.11.3 sets out a forecast of demand for port capacity in the period up to 2030 and that this was updated in 2007, prior to the current economic downturn. We recommend that updated forecasts are commissioned and published and, if necessary, the NPS is revised to avoid undue weight being placed on outdated forecasts of demand. There may also be latent capacity at existing ports, which is not being used in the current economic climate.
11. We note that, as stated in paragraph 1.11.7, if all consented port development were to be built, aggregate container capacity would be broadly in line with forecast demand but that additional capacity is needed to provide for competition, innovation, flexibility and resilience. Whilst we accept that additional capacity may be needed for these reasons, the NPS should set out a broad assessment of the additional capacity required, in order that unnecessary damage to the natural environment is avoided from the possible over-provision of ports infrastructure.

12. Paragraph 1.11.8 should set out a more detailed assessment of the different types and scale of port development that might be needed to meet future demand. This should include the role that smaller ports might play as short sea shipping hubs in order to reduce the pressure of freight traffic on roads.

**Relationship with other National Policy Statements, Marine Policy Statement and Planning Policy Statements**

13. Paragraph 1.2.1, which sets out the role of the ports NPS in the planning system, should refer to the relationship with the forthcoming Marine Policy Statement. We recommend similar wording to that included in paragraph 4.1.3 of the overarching energy NPS, amended as follows:

“The Marine and Coastal Access Act provides for the preparation of a Marine Policy Statement (MPS) and a number of marine plans. The IPC must have regard to the MPS and applicable marine plans in taking any decision which relates to the exercise of any function capable of affecting the whole or any part of the UK marine area. In the event of a conflict between any of these marine planning documents and the NPS, the NPS prevails for the purposes of IPC decision making”.

14. Paragraph 1.2.1 would also benefit from greater detail on the role of the Marine Management Organisation and the weight it should give to the NPS. We recommend inclusion of the following wording, set out in paragraph 1.2.2 of the overarching energy NPS:

“The MMO will determine applications in accordance with the Marine Policy Statement (MPS) and any applicable marine plans, unless relevant considerations indicate otherwise. This NPS may be a relevant consideration for the MMO in determining such applications. This NPS may also be a relevant consideration in the preparation of marine plans”.

15. Guidance is also needed in paragraph 1.2.1 on the relationship with existing Planning Policy Statements and development plans. A similar statement to that included in paragraph 4.1.2 of the overarching energy NPS that there may be occasions when the IPC will need to refer to these other documents, but that in case of conflict the NPS prevails, would assist decision-making.

16. There should be recognition in the ports NPS of linkages with the suite of energy NPS. Integration with the nuclear and fossil fuels NPS is particularly important since these types of energy development require coastal or estuarine locations and the cumulative impacts of all proposed infrastructure developments on particular areas, such as the Severn Estuary, is likely to be substantial. Appropriate linkages should also be made with the wind energy sections of the renewable NPS since the development of increased offshore capacity will require the greater use of ports and there may be opportunities to secure renewable energy provision on the port estate.

17. Specific reference should be added to paragraph 1.2.1 on the forthcoming National Networks NPS, since appropriate road and rail links are fundamental to the future development of the ports network. There should be greater integration between the two policy statements to help deliver the Government’s sustainable transport policies and (as set out in paragraph 1.10.3) provide a basis for trans-modal shifts from road transport to shipping and rail. Appropriate references to other forthcoming NPS, such as hazardous waste, should also be added.

18. Paragraph 1.2.1 would benefit from further guidance on the types and scale of development considered to be ports associated development.

**Relationship between Appraisal of Sustainability (AoS), Habitats Regulation Assessment (HRA) and National Policy Statement**

19. Section 1.7 relating to the Appraisal of Sustainability should set out more detail on how the AoS has informed the development of the ports NPS. Our detailed comments on the AoS are set out in Annex 1.

20. A separate section should also be included on the Habitats Regulation Assessment. This should summarise the findings of the HRA and set out how it has informed the development of the NPS. A clear statement is needed in the NPS that the conclusion of no alternative solutions and Imperative Reasons of Overriding Public Interest (IROPI) apply only to the NPS and not to individual projects when these are brought forward. We are concerned that the needs case, as currently drafted, provides justification for almost any application for port development and, in the absence of any clear link to sustainable development objectives, risks guiding decision makers to a conclusion of IROPI that would prejudice consideration at project level, contrary to the Habitats Regulations. Our detailed comments on the HRA are set out in Annex 2. The application of the Habitats Regulations to NSIPs would benefit from more detailed guidance from the IPC.
PART 2 GUIDANCE ON ASSESSMENT

Key considerations

21. Paragraph 2.1.1 should refer to all five goals of the Government’s strategy to Deliver a Sustainable Transport System (DaSTs). It should specifically include the need to reduce emissions of carbon dioxide and other greenhouse gases and to promote a healthy natural environment.

22. This section should make specific reference to climate change mitigation and adaptation considerations, since this is a requirement of Section 10 of the Planning Act 2008.

23. The NPS should place greater emphasis on the need to secure good design, in line with the requirements of Section 10 of the Planning Act 2008. We recommend a separate section is included in Part 2. This should require promoters to submit, and the IPC to consider, design statements, to ensure that NSIPs are exemplars of the highest standards of design and sustainability.

Consideration of benefits and impacts

24. It is difficult to determine from paragraph 2.2.3 and the sections relating to specific impacts how the IPC is expected to weigh up the various impacts set out in Part 2 and reach a balanced decision. Clearer guidance should be set out in the NPS with more detailed guidance prepared by the IPC to set out how decisions will be reached.

25. Paragraph 2.2.5 on cumulative and in-combination/synergistic impacts should state that cumulative effects can result from construction as well as operation of port infrastructure.

26. Paragraph 2.2.9 relating to Habitats Regulation Assessment would benefit from a sub-heading as it currently reads as part of the text on cumulative impacts. We would also suggest the following additional wording:

Add after the first sentence “Significant effects can be caused by impacts outside the boundaries of European sites which affect their ecological structure or function”

Add to end of last sentence “… This should include information on any mitigation measures that are proposed to minimise likely significant effects and any residual effects that would remain after mitigation.”

27. For clarity, we would suggest the addition of the following text to paragraph 2.2.10:

“As outlined above, specific procedures apply to the consideration of sites protected under the Habitats Regulations. If an Appropriate Assessment concludes that adverse effects on the integrity of European sites exist and avoidance or mitigation measures cannot reduce these effects to an acceptable level then the scheme can only progress if there are no feasible alternatives, there are imperative reasons of over-riding public interest and adequate compensatory measures can be delivered”.

Alternatives

28. Section 2.3 on alternatives should include giving consideration to increasing capacity at existing ports facilities as an alternative to new provision.

29. We welcome reference to the Habitats and Water Framework Directives in paragraph 2.3.2 but consider this does not provide sufficient guidance to the IPC. Unless the alternatives (and other) requirements of the Habitats Directive are to be set out in separate guidance (which we would recommend), this paragraph should add the following wording: “With regard to the Habitats Directives, alternative solutions are ways of achieving the objectives of the project, which would have a lesser effect on the integrity of European site(s). Provided the alternative solution is realistic it cannot be rejected on the grounds that it is more expensive, less convenient or more difficult to implement”.

Economic Impacts: general overview

30. Paragraph 2.6.4. The first bullet incorrectly applies the Habitats Regulations and should state “In cases where a port development affects a protected habitat, and in the absence of alternative solutions, the decision maker will need to consider whether there are any imperative reasons of overriding public interest…”

Environmental Impact Assessment—general

31. Paragraph 2.10.1 should refer to the purpose of EIA, which is to reduce the likelihood of significant adverse environmental effects resulting from projects.

32. Paragraph 2.10.1 should clarify that the environmental impacts of each stage of the development—construction, operation and decommissioning—will need to be assessed.

33. A requirement for the applicant to carry out appropriate monitoring of the impacts of the project on the environment during the construction, operation and decommissioning stages should be added to this section.
Pollution control and other environmental consenting regimes

34. We welcome the reference in paragraph 2.11.3 to encouraging applicants to submit applications for development consent and other consents in parallel. This is pertinent to Natural England’s wildlife licences. Close working arrangements between Natural England and the IPC are essential to avoid a situation where we are unable to grant a protected species mitigation licence for a NSIP granted development consent.

35. A specific reference to Natural England’s wildlife licences could usefully be added to paragraph 2.11.5.

Biodiversity and geological conservation

36. Natural England recommends the use of the commonly used term “geodiversity” rather than “geological conservation” throughout the NPS.

37. For consistency with the landscape section, which refers to the statutory duty on public bodies to have regard to designated landscapes, paragraph 2.12.2 should refer to the duty on public bodies to have regard to the purpose of conserving biodiversity, under Section 40 of the Natural Environment and Rural Communities Act 2006.

38. Paragraph 2.12.3 should also include reference to the loss and disturbance of habitat, especially saltmarsh and mud-flats, sub-tidal habitats and sandbanks/reefs.

39. The sentence in paragraph 2.12.7 that the benefits of nationally significant infrastructure development may include benefits for biodiversity and geodiversity interests that outweighs harm to them should be deleted. There is no evidence to support this assertion.

40. A reference should be added to paragraph 2.12.8. that development should aim to secure opportunities to enhance biodiversity and geodiversity.

41. Paragraphs 2.12.12 and 2.12.15 are not fully consistent with Government policy on biodiversity as set out in Planning Policy Statement 9. We request the deletion of the “need for” in the sentence in paragraph 2.12.12: “an exception should only be made where the need for and benefits of the development . . .” and that footnotes 28, 29 and 30 and 31 are deleted to ensure consistency in the application of planning policy for biodiversity.

42. Paragraph 2.12.17 should include a footnote referring to the Circular 6/2005 (or its successor documents), which sets out the relevant provisions. The outcome of the judicial review in the case of Woolley v Cheshire East Borough Council and Millennium Estates Limited confirmed that with regard to species protected under the Habitats Regulations (European species) the decision maker is a competent authority under Regulation 3(4). We, consequently, recommend that the following wording is added to paragraph 2.12.17: “When dealing with a case where a European species could be affected, the decision maker should satisfy itself that the development meets the three requirements of Article 16 of the Habitats Directive—that there is no satisfactory alternative, that there are imperative reasons of over-riding public interest and that the favourable conservation status of the species will not be affected”.

43. Paragraphs 2.12.22-25 should include a stronger statement on beneficial use dredging and sediment recycling. Material should only be taken for disposal once all options for beneficial use of the materials have been discounted.

44. Paragraph 2.12.19 could more clearly set out the avoidance-mitigation-compensation hierarchy for dealing with impacts on biodiversity. We suggest the following additional wording: “In line with good practice, the decision maker should expect the applicant to demonstrate how they have avoided ecological impacts; where effects cannot be avoided, the applicant should identify how they have been mitigated. Where impacts cannot be avoided or mitigated, then the applicant should set out the compensatory measures proposed.” Paragraph 2.12.20 should add “. . . that appropriate mitigation or compensatory measures will be put in place . . .”

Climate change mitigation

45. In order to meet the Government’s objectives (as set out in section 1.10) to reduce greenhouse gas emissions from port related development and transport more generally, paragraph 2.13.6 should give greater weight to reducing emissions and improving the overall environmental performance of ports developments. Major ports developments should be exemplars in sustainable design, construction and operation. Paragraph 2.13.7 should refer to the need for energy efficiency in the construction as well as the operation of buildings and plant. Paragraph 2.13.8 should give stronger encouragement to securing opportunities to use renewable energy on the port estate. Reference should be made in paragraph 2.13.5 to the need to consider the cumulative impacts of emissions from ports and other developments located in close proximity.
Flooding

46. Paragraph 2.15.23 refers to multi-purpose open space for amenity, wildlife and habitat and flood storage uses. This should be more accurately referred to as green infrastructure.

Coastal change

47. Paragraph 2.16.2 and 2.16.3 should include reference to the landscape and seascape impacts of coastal change.

48. Paragraph 2.16.6 should include reference to other types of coastal strategies.

49. We recommend removal of the reference in paragraph 2.16.8 to coastal Special Protection Areas (SPAs) as potentially ports developments could impact on both offshore and terrestrial European sites. We suggest the following re-wording:

...Marine Conservation Zones, candidate Special Areas of Conservation (SACs), SACs, Special Protection Areas (SPAs) and potential SPAs, Ramsar sites, Sites of Community Importance (SCIs) and potential SCIs and Sites of Special Scientific Interest (terrestrial, coastal and marine).

50. Paragraph 2.16.4 should refer more generally to coastal access and recreation rather than coastal recreation sites and features and cross reference to section 2.25 on social impacts (not 2.23 on Landscape).

Transport

51. Section 2.17 should provide a stronger steer on trans-modal shift from road transport to shipping and rail, in line with the objectives in paragraph 1.10.3. Ports with rail heads have an important role as transport interchanges, which should be recognised, with greater use of rail between ports and the final destination of goods strongly encouraged. The role of smaller ports as part of a coastal ring road that makes best use of carbon efficient transport to help reduce the impact of freight movements on carbon emissions should also be recognised. Reference should be made to the National Networks NPS that should address these issues in more detail.

52. Paragraph 2.17.6 should state that travel plans should be prepared for all developments, as ports developments are significant travel generators.

53. Stronger emphasis should be placed on demand management measures. The last sentence of paragraph 2.17.16 is weak and should be removed.

Waste generation and resource use

54. Paragraph 2.18.6 should state a preference for appropriate use of recycled materials in the construction of port related infrastructure. A reference to the need for design measures to reduce the potential for waste products to impact on water and soil resources should also be added.

55. Paragraphs 2.18.6 should refer to the beneficial re-use of dredged material. Material should only be taken for disposal once all options for beneficial use have been discounted.

Water

56. Paragraph 2.19.2 should be amended to state “These effects could lead to adverse impacts on health or on species and habitats (see section on biodiversity at 2.12) ...” As currently worded, it excludes priority habitats and species.

57. Paragraph 2.19.12 could usefully refer to sustainable drainage schemes (SuDs).

Noise

58. Paragraph 2.22.3 should also refer to noise impacts on marine wildlife.

Landscape and Visual Amenity

59. Section 2.23 should be strengthened to give greater weight to landscape impacts and ensure that opportunities to reduce adverse impacts through the sensitive location and design of developments are secured. The sections on designated landscapes and mitigation, in particular, should be amended, as set out below.

60. Paragraph 2.23.3 should also specifically require the applicant to carry out a seascape visual assessment, since ports will impact on seascapes as well as landscapes.

61. Paragraph 2.23.6 should include the aim of enhancing the landscape to be fully in line with AoS objectives.

62. The NPS should set out a stronger statement on the need to avoid siting NSIPs within, or where they would significantly impact, upon nationally designated landscapes (National Parks, The Broads and AONBs). The wording of the major developments test set out in paragraph 2.23.7 is not fully consistent with either PPS7 (paragraph 22) or the wording in the overarching energy NPS (paragraph 4.24.7). PPS7 states that major developments should not take place except in exceptional circumstances and sets out a separate
public interest test. We recommend that both statements are included in the NPS. The NPS also includes a footnote relating to the regional economy, which is not included in PPS7 and should be deleted, since contribution of the infrastructure to the regional economy is not a relevant national consideration.

63. As set out in paragraph 23 above, all NSIPs should be exemplars in sustainable development. Any developments in designated areas should therefore be carried out to the highest environmental standards (paragraph 2.23.8).

64. For consistency with paragraph 4.24.9 of the overarching energy NPS, paragraph 2.23.10 should include the additional sentence “Its potential impact on that landscape should be taken into account by the IPC and the aim should be to avoid compromising the objectives of designation.”

65. Paragraph 2.23.11 should include reference to Heritage Coasts, in line with PPG20 Coastal Planning, as several such coasts are not covered by National Park/AONB designations.

66. The reference in paragraph 2.23.15 to applicants drawing attention to other examples should be deleted. Landscape impacts will vary according to the distinctive character of the area and each case should be determined on its merits.

67. Paragraph 2.23.16–17 should set out a more positive approach to securing opportunities to mitigate landscape impacts since adverse impacts can be significantly reduced by sensitive location and appropriate scale and design. Reference could usefully be made here (or in the separate section on design we suggest) to the role of ports master plans setting out a design strategy informed by landscape character assessments. This section should also state the need for the IPC to consider how the project has taken opportunities to enhance the landscape.

Historic environment

68. Section 2.24 should include reference to property of outstanding interest designated by HMRC as conditionally exempt from inheritance tax. Whilst such property could usefully also be mentioned in the landscape section, in the interests of avoiding duplication, we suggest the following wording is added to the historic environment section:

“HM Revenue and Customs has designated numerous properties as property conditionally exempt from inheritance tax to protect its outstanding interest for the nation. The protection of the special interest and character of this property should be taken into account by the decision maker”. The following footnote should then be added:

“For information about property of outstanding interest conditionally exempt from inheritance tax, see http://www.hmrc.gov.uk/heritage/index.htm”

Paragraph 2.24.4 should add “Property of outstanding interest designated by HMRC as conditionally exempt from inheritance tax”.

Paragraphs 2.24.6 and 2.24.10 should add reference to the “relevant management plan” since this will normally include an assessment of significance of the property. A footnote could helpfully state: “Management Plans such as Conservation Management Plans and Heritage Management Plans, usually include an assessment of significance”.

Open space, green infrastructure, sport and recreation

69. Section 2.25 underplays the importance of soils, which would be more appropriately located in a separate section with other environmental impacts, since consideration of effects on soils are a specific requirement of Environmental Impact Assessment. Further guidance on how the IPC should assess impacts on soils should be included. Reference should be made to the high ecological and carbon sequestration value of peats, the need to avoid soil sealing and degradation and the importance of conserving and reusing soils which would be lost to development.

70. Section 2.25 should give a clearer, more positive and consistent steer on the need for applicants to make alternative provision of equivalent or greater benefit for all areas of open space lost to major infrastructure development, not just playing fields, and consider areas of open space as a key part of the green infrastructure network. Paragraphs 2.25.2, 2.25.6, 2.25.16, 2.25.22 and 2.25.23 should be combined into a single positive statement. If independent assessments of surplus open space are used as the basis for IPC decisions (paragraph 2.25.6), the relevant local planning authority should be satisfied that the land is genuinely surplus to requirements and does not contribute to the wider green infrastructure network.

71. Paragraph 2.25.15 should now refer to the Marine and Coastal Access Act 2009. We would prefer the reference to maintaining coastal recreation sites and features to refer more generally to maintaining provision for and enhancement of coastal access and recreation. Paragraph 2.25.22 should include requirements to make appropriate contributions to new coastal access routes.

72. Paragraph 2.25.25 should be amended to refer to all types of access land as follows: “Rights of way, National Trails and areas of access land (such as registered commons, greens, country parks, open access land under the Countryside and Rights of Way Act 2000 and forthcoming coastal access land under the
Marine and Coastal Access Act 2009) are important recreational facilities for walker, cyclists and horseriders. The IPC should expect applicants to take appropriate mitigation measures to address adverse effects on these routes and areas and should, wherever possible; seek opportunities to enhance them”.

APPRAISAL OF SUSTAINABILITY


Habitats Regulation Assessment

74. Natural England’s response to the HRA is set out in Annex 2.

Consultation questions

75. Natural England’s response to the consultation questions are set out in Annex 3.

January 2010

Annex 1

NATURAL ENGLAND’S RESPONSE TO THE DRAFT APPRAISAL OF SUSTAINABILITY FOR THE PORTS NATIONAL POLICY STATEMENT

Introduction

1. The AoS provides the strategic environmental assessment of the ports NPS and Natural England welcomes the commitment to meet the requirements of the European Directive on SEA. Our specific comments are as follows:

2. The AoS does not adequately reference other NPS documents which are particularly relevant in terms of competing interests for land use, and the consideration of cumulative impacts on identified environmental objectives. This is particularly relevant in the case of the Marine and Coastal Access Act (2009). The AoS should take account of the implications for new port developments in terms of marine planning, conservation, coastal access and changes to the marine licensing regime. Particular reference should be made to the Marine Policy Statement, currently being drafted, as this will influence marine planning and use of marine resources, and the Ports NPS will need to be as fully integrated with this as possible.

3. The assessment of cumulative impacts at the strategic level (as stated in Annex 5 an assessment of cumulative impacts will be undertaken as part of the HRA and EIA at the project level), is deficient in not making reference to the impact of other NPS’s and other major development proposals. The judgement within the AoS, that the effects of its policies on cumulative impacts are given as being slightly to moderately positive in the medium-term, is difficult to support without adequate reference to other plans and programmes that are in development (including the NPS’ for Energy (EN1-5), Nuclear (EN6) and National Networks; the Marine Policy Statement and major infrastructure proposals such as High Speed 2 and the Severn Barrage). This is likely to lead to a greater level of impacts on particular coasts or estuaries, which should be recognised in the AoS and considered within the Ports NPS, for instance the cumulative impacts to the environment from various development proposals on the Severn Estuary.

4. The assessment of alternatives within the AoS sets out a very strategic “high level” consideration of alternatives, in terms of the development of the NPS. The NPS does not sufficiently consider project alternatives, for instance the alternative to developing a new port, may be expansion at a nearby port. This alternative is raised (in section 2.3), but is dismissed with the statement that “this cannot be relied on as a way of meeting forecast demand”, without explanation. Natural England would wish to see a more detailed level of assessment of alternatives that looks at individual project alternatives. This approach has been utilised in the Nuclear Energy NPS AoS (EN6) and provides a clearer justification as to why a particular approach is desirable.

5. The AoS does not adequately consider the following topics in its assessment (either as environmental objectives or through its consideration of cumulative impacts:

— Soils

While runoff contamination of soils is considered within AoS9a, there is no consideration given to the loss of Best and Most Versatile Land (BMV) or the geomorphological impacts on soils from changes to tidal patterns and erosion within the AoS. The loss of BMV land is covered within 2.25.8 of the NPS, which we welcome but the potential loss of this resource should be noted within the assessment of predictive cumulative effects (Table 4) of the AoS. We would welcome a dedicated objective for soils (and geology) within the AoS as prescribed within the SEA Best Practice Guide, in order that the impacts can be more fully explored.

— Human Health and Access

The recommendations within the AoS for the recognition of the importance of Human Health, Green Infrastructure and Open Space are welcomed (AoS24a, 24b, 25). We would, however, welcome greater clarification on the consideration given to existing rights of way, bridleways and coastal paths. In particular, reference should be made to the coastal access requirements of the
Marine and Coastal Access Act, both within the identification and collation of relevant sustainability baseline data (section 3.2) and within identification of key sustainability issues (section 3.3). Although human health and access are identified as social sustainability issues (which we do not disagree with), the impacts of these objectives will have environmental outcomes which should be considered as part of the overall assessment.

— Landscapes and Seascapes

The assessment within Table 4 of the AoS (predicted cumulative effects) states that “Together, these measures are likely to have a positive cumulative (additive) effect on protecting and enhancing the landscape and seascape”. The assessment is based upon the policies within sections 2.12, 2.15, 2.17, 2.19, 2.20, 2.23 and 2.25 of the NPS. It is not clear how the NPS will result in additive improvement for landscapes and seascapes contained within the European Landscape Convention and spatial planning policy in England (eg PPS7). While the NPS contains reference to possible mitigation and consideration of various factors, there are no policies in relation to landscape enhancement and the current wording of 2.23 falls short of the existing level of protection for landscape as set out in PPS7 (see paragraphs 59–67 of our response above). We therefore request that the assessment within the AoS is altered to slight potential negative effect.

Use of detailed baseline data

6. It would be helpful to have greater clarification about how other sources of data identified by the AoS scoping process will be used in assessing port development proposals. These datasets were originally described as “too detailed to obtain across both England and Wales” and it states in Appendix 7 of the current AoS Report that they will be identified/obtained when future proposals are put forward and are being assessed at the project level. However, it is not clear from this AoS Report, or the draft NPS, how and when these datasets will be used, and we would appreciate clarification on the matter so that we can be satisfied that all appropriate data will be taken into account when considering port development proposals. It would be useful to refer to the existence of these detailed datasets in the main body of the AoS Report as opposed to the Annexes, in order to draw the IPC/decision-maker and applicant’s attention to them and ensure that all relevant sources of baseline data are used in project assessment.

7. Monitoring the significant environmental effects of implementation of plans and programmes in order to identify at an early stage unforeseen adverse effects is one of the key requirements of the SEA Directive. The AoS states that a monitoring framework will be set “if appropriate”, but we consider a robust monitoring framework is a necessary statutory requirement in order to assess the effectiveness of the NPS in meeting environmental objectives. The suggested analysis of the implementation of consented development once operational should draw upon the baseline data and be closely linked to the ‘indicators’ identified during the AoS scoping process. This will ensure that impacts on key sustainability issues are captured. We would also suggest that in addition to an analysis of the IPC decision process, a record of the consents refused and reasons for refusal is also kept, as this would help provide information on the potential adverse impacts that implementation of the NPS avoided and inform the Secretary of State as to whether or not the NPS is leading to more sustainable development.

Annex 2

NATURAL ENGLAND’S RESPONSE TO THE HABITATS REGULATIONS ASSESSMENT OF THE PORTS NATIONAL POLICY STATEMENT

Introduction

1. Natural England recognises that the Ports National Policy Statement (NPS) provides the policy framework for decisions by the Infrastructure Planning Commission (IPC) and Marine Management Organisation (MMO) on proposals for ports development and is not locationally specific. We fully accept that the Habitats Regulations Assessment (HRA) for a strategic plan such as this will not contain the level of detail included in project level HRA. The approach should, however, be as rigorous as possible, both to comply with the requirements of the Habitats Regulations and to provide guidance for the IPC, the MMO and developers. We are concerned that, as currently drafted, the HRA does not set out sufficient detail. Our specific comments are as follows:

Terminology

2. The language used in the draft is inconsistent with generally accepted practice. Overall, the process of assessing impacts on sites covered by the Habitats Directive, Birds Directive and the Ramsar treaty (“European sites”) is referred to as Habitats Regulations Assessment with appropriate assessment being a specific stage within that process. We recommend that the final document is amended accordingly.
Screening

3. Candidate Special Areas of Conservation (cSACs) form part of the Natura 2000 network and are protected by law, not as a matter of government policy, as stated in paragraph 17. It should also be noted that following the European Court ruling in the Basses Corbieres case (Commission v French Republic Case C-374/98) the IPC or MMO should ensure that potential Special Protection Areas (pSPAs) are not subject to pollution or deterioration or disturbance to the birds for which the site has been proposed which could have a significant impact on the objectives of classification under Article 4 of the Birds Directive. The derogations contained in Regulation 49 of the Habitats Regulations (which allow a project to be granted permission despite a negative assessment, if there are no alternative solutions and imperative reasons of overriding public interest) do not apply until the site is formally classified as a SPA.

4. Natural England supports the conclusion in paragraph 19 that it is not possible to exclude likely significant effects on European sites as a result of future port development that is in line with the Ports NPS and appropriate assessment is therefore required. We would, however, advise that the paragraph be amended to read “...will be adversely affected a port development either alone or in combination with other plans or projects.”

Assessment

5. The appropriate assessment indicates some of the habitats within European sites that could be affected by port development. The Appendix to the report gives more detail on the Annex I habitats and Annex II species that are found within estuarine SACs in England and Wales. It is Natural England’s view that substantially more detail should be included (as set out in paragraph 7 below).

6. The alternatives section (paragraphs 26–34) highlights the fact that 84% of traffic goes through 10 major ports; expansion at all of these ports could have an impact on European sites. While it may not be possible to predict where all ports development will occur in the next 20 years it is likely that most of it will be associated with these major ports. The alternatives section seeks to demonstrate that new port development will not be possible without the risk of adverse impacts on European sites by identifying the European sites most closely associated with those major ports. If it is possible to identify these sites in order to justify the lack of alternative solutions to the NPS, it should be possible to consider them within the appropriate assessment.

7. Natural England would suggest the following approach to carrying out the appropriate assessment of the NPS:

(i) Generic impacts linked to port development should be identified, with distinctions made between the construction, operating and decommissioning phases. These should be linked to potential impacts on biodiversity and their potential effect on the habitats and species. Figure S2 of the main Habitats Regulations Assessment for the Nuclear NPS provides a useful example.

(ii) The potential impacts on European sites arising from port development should then be identified. Table S3 of the main Habitats Regulations Assessment of the Nuclear NPS provides a useful example. Since port development is likely to be associated with major estuaries it is possible to identify the majority of the European sites that could be affected by development and the features for which they have been designated or classified. The appendix to the HRA lists the Annex I and Annex II features for which estuarine (and a few terrestrial) SACs are designated but does not make any link to generic impacts that port development may have on them. It also does not include references to SPAs or Ramsar sites. We would suggest that the Ports NPS HRA should be revised to include tables similar to tables S3 and S4 in the main HRA of the Nuclear NPS. This would allow the identification of potential impacts on European sites and a summary of those European sites which are most likely to be affected. The Regulation 33 packages for marine sites also contain specific advice on those impacts to which individual European sites are vulnerable.

(iii) Once likely impacts have been identified, where possible, generic mitigation should also be proposed.

(iv) The Habitats Directive requires that potential adverse effects on integrity of European sites should be assessed alone or in combination with other plans or projects. Although the need to consider cumulative effects is referred to in the NPS itself, there is no consideration of possible in combination effects in the HRA. If the approach outlined in points I and II above is taken and generic effects are identified, then it is possible to identify which plans and projects could act in combination with the NPS (see Table S5 of the main report for the Nuclear NPS). Since it is possible to identify the estuaries which are likely to be affected by ports development it should be possible to identify specific plans that could interact with ports development. There is the potential
for considerable amounts of infrastructure development on or around coasts and estuaries in England and Wales in the short to medium term; care must be taken to ensure the combined effects of development do not lead to irreversible impacts on the biodiversity and geodiversity of coasts and estuaries.

8. Paragraph 20 refers to the provision of conservation objectives under Regulation 33. It should be noted that this does not apply for terrestrial European sites or for terrestrial portions of marine sites. Terrestrial European sites are designated as Sites of Special Scientific Interest and the requirements of the Habitats Directive that are met by Regulations 34–36 for marine sites, are met through the provisions of the Wildlife and Countryside Act 1981 as amended. Lists of operations likely to damage the interest features of the site are included in the SSSI notification package. Conservation objectives for individual SSSIs in England which include the European designated features are available from Natural England.

9. Paragraph 23 states that port developments are unlikely to affect any currently designated European priority habitats or species. It is difficult to see how this statement can be justified. If the NPS does not contain enough detail to allow the assessment of impacts on individual European sites how is it possible to be confident that no priority habitats will be affected?

10. Paragraph 24 lists mitigation measures that might be used to reduce damage to affected sites. EC guidance (Managing Natura 2000 sites: The provisions of Article 6 of the “Habitats” Directive 92/43/EEC) makes it clear that mitigation measures are intended to address the impacts of a plan or project. While early liaison with regulators and statutory nature conservation bodies is desirable it is not mitigation as described in the EC guidance.

ALTERNATIVES AND IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

11. Natural England is concerned that there appears to be some confusion about the consideration of alternative solutions. As the HRA relates only to the Ports NPS as a whole, and not to individual developments, so the consideration of alternative solutions relates only to the NPS and not to individual NSIPs. The wording of paragraph 34 should make it explicit that it is only feasible alternatives to the NPS that are being discussed. The clause “and that these factors severely limit the degree to which putative alternatives to any particular development could be considered relevant to the decision maker’s consideration of a development proposal” is confusing; it implies that the alternative solutions statement applies to individual projects as well as to the NPS as a whole. We recommend that this clause is deleted.

12. Natural England welcomes the statements in paragraph 35 that Habitats Regulations Assessments will be required for individual projects. We also welcome paragraphs 39 and 40, which make it clear that it will be for the IPC to apply in full the tests stipulated by the Directive and that the information contained in the NPS does not pre-judge those tests. We note that the IROPI statement in paragraph 35 relates to the plan level but would also like to see an explicit statement both in the final HRA and the NPS to the effect that the IROPI statement does not refer to individual developments.

COMPENSATORY MEASURES

13. Paragraph 37 needs to be revised to make clear what the function of compensatory measures is. Use of the phrase “like for like” or “equal value” may give competent authorities and applicants a misleading impression of what needs to be provided. Each individual European site is an element of the Natura 2000 network which is an EC wide network of community protection areas designed to ensure the long-term survival of Europe’s most threatened and valuable habitats and species. The aim of any compensatory measures is to ensure the ecological coherence of that network. EC guidance (Guidance document on Article 6(4) of the “Habitats Directive” 92/43/EEC, January 2007) makes it clear that compensatory measures must:

— address, in comparable proportions, the habitats and species negatively affected;

— provide functions comparable to those which justified the selection criteria of the original site, particularly regarding the adequate geographical distribution of sites and species;

— in extent be at least one to one with the site being lost or damaged. One to one ratios are really only acceptable where the compensatory measures are able to restore complete ecological structure and function;

— be in place before a site is irreversibly affected by a project. Where it is not possible to do this, for instance, because a particular habitat will take many years to reach ecological maturity, then competent authorities should consider providing extra compensation for the losses that would occur in the meantime; and

— be monitored to ensure their effectiveness.
NATURAL ENGLAND’S RESPONSE TO THE CONSULTATION QUESTIONS

DRAFT NATIONAL POLICY STATEMENT FOR PORTS

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

The NPS is a restatement of the Government’s existing market-led policy towards new ports infrastructure. Natural England considers greater emphasis should be placed on delivering sustainable development, as set out in paragraph 6 and 7 of our response. We would be concerned if additional capacity to provide for competition, innovation, flexibility and resilience in the market resulted in avoidable damage to the natural environment, as set out in paragraph 11 of our response.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

Natural England believes greater emphasis should be placed on trans-modal shift from road transport to rail and shipping. The ports NPS will need to be clearly integrated with the (forthcoming) National Networks NPS to ensure that the Government’s sustainable transport objectives are delivered, as set out in paragraphs 17 and 51 of our response.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

Natural England has concerns about the priority given to economic impacts over environmental and social impacts in the NPS, as set out in paragraphs 6 and 7 of our response. We are also concerned about reliance on an outdated, forecast of demand (paragraph 10 of our response).

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

The consideration of climate change mitigation and adaptation should be strengthened, as set out in paragraphs 7, 22 and 45 of our response.

Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

Greater consideration could be given to the different types of ports infrastructure needed to meet future demand and support a low carbon economy. This should include the role of smaller ports as part of a coastal ring road, as set out in paragraphs 9, 12 and 51 of our response.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

Natural England has no comments to offer.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Natural England has no comments to offer.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

Natural England has no comments to offer.

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

The NPS addresses a wide range of impacts on the natural environment and generally sets out clear mitigation requirements. We consider that the text relating to specific environmental impacts could be strengthened in places and have made various detailed comments in paragraphs 31–72 of our response. We also consider that the NPS could do more to deliver enhancement of the natural environment and ensure that NSIPs are exemplars of sustainable development (paragraphs 8 and 23 of our response).
Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

Generally, the NPS provides suitable guidance on the impacts on biodiversity. We have made a number of detailed comments in paragraphs 36–44 of our response.

The specific requirements of the Habitats Directive would benefit from being set out in more detailed guidance to assist decision-makers and promoters. Guidance would also be useful on the operation of Natural England’s wildlife consents process, which will run in parallel to the process of obtaining development consents. Natural England would be happy to assist with the preparation of such guidance.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

We have made specific comments in paragraph 68 of our response but generally consider the NPS provides suitable guidance in relation to our historic landscape interests and the wider historic environment.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

The NPS sets out a wide range of issues to be considered in decision-making. It is however, difficult to determine from the NPS how the IPC and MMO will be expected to weigh up the various impacts set out. Further guidance should be set out in the NPS with more detailed guidance prepared by the IPC, as set out in paragraph 24 of our response.

Q13: Do you think the draft ports NPS gives appropriate guidance to decision makers on how they should consider alternatives when it comes to particular projects?

Consideration should be given to increasing capacity at existing ports, as an alternative to existing provision (paragraph 28 of our response).

The Habitats Regulations also set out specific requirements which should be more clearly articulated in the NPS (paragraph 29 of our response).

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision makers?

The cumulative impacts of ports and other developments (resulting from other NPS and other plans and programmes) on particular coasts and estuaries, such as the Severn Estuary, is likely to be considerable. Cumulative impacts should, consequently, be given greater consideration in the NPS. Greater spatial expression in the NPS would aid the consideration of cumulative impacts, as suggested in paragraph 9 of our response.

Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision makers:

(a) the IPC for port applications over the NSIP threshold; and (b) the future Marine Management Organisation for port applications under the NSIP threshold.

Natural England considers that, with the amendments suggested in our response, the NPS would provide suitable guidance to decision makers, particularly the IPC. As set out in paragraph 14 of our response, we consider further guidance is needed to help the MMO make decisions on smaller ports developments as there is currently no differentiation in the NPS on the scale of ports developments.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

Natural England considers that all of the significant potential impacts of ports development have been addressed.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

Natural England considers the draft NPS fulfils this requirement.
Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

Natural England considers that the NPS would benefit from a separate section on design, as set out in paragraph 23 of our response.

Q19–33: Appraisal of Sustainability

Natural England’s comments on the AoS are set out in Annex 1.

Q34: Habitats Regulation Assessment

Natural England’s comments on the HRA are set out in Annex 2.

Q35–36: Impact Assessment

Natural England has no comments on these questions.

January 2010

Memorandum from S. Atkinson (NPS 14)

Comments on NPS from a Strategic Defence Perspective

Introduction

NPS article 2.4 as it stands does not sufficiently reflect Defence in the context of naval base (Army or Navy) requirements. Rather it draws a distinction between the differences between security and Defence and does not address Defence of the home-base versus projection of force. The needs of Defence must be addressed; recognising the contemporary shift from MoD controlled and dedicated [logistics] facilities towards shared facilities at ports and reflecting a wider move in the Defence sector towards private and public sector collaboration.

Key National Strategic Assets

It should also be recognised that the NPS does not reflect policies north of the border and notably as they affect Faslane, Rosyth and the (non rail-head connected) naval armament depots on the Forth. The only major container port owned and operated by the military is the Maritime Military Port at Marchwood (Southampton), which is run and managed by the Army—and used by the Navy (and RFA) for specialist amphibious shipping, such as the LPH (HMS Ocean) and the LPDs. For all major [Land-Expeditionary] strategic movements of equipment and munitions; Felixstowe and Southampton (with Marchwood) have been extensively used in the past. This includes the routine resupply of British Army forces stationed in Germany; served by the East Coast ports. Felixstowe has also traditionally been an expeditionary force-projection port used by the USAF, based at Mildenhall and deploying from there. More recently, significant military supplies have been provided to the Middle East and Afghanistan through these ports.

As a point of detail, the handling of dangerous goods and munitions is increasingly constrained by externalities through a lack of recognition of its significance to the economy and Defence related (often strategic) movements. Marchwood is similarly constrained due to local development and at Felixstowe, housing developments at HMS Ganges threatens to reduce current dangerous goods’ limits. Because, there are no ready alternatives (combining vessel handling, licences, railheads and container support facilities at capacity), it is essential that the NPS sets a clear precedence about the significance it attaches to the management and preservation of these key national strategic assets. In terms of strategic national capacity issues, these licences need to be factored into the NPS with due recognition and incentive being given to their preservation and management by planning authorities.

Force Projection

The NPS, whilst it recognises Defence issues, its significant theme is focused on Homeland Security rather than considering ports as a strategic, national, political/economic force and influence projection asset. This is a significant omission, in particular as to how the NPS relates to national defence and security issues (for example in Scotland) and to UK international obligations such as to the EU, NATO and the UN.

Strategic Adaptation

Finally, there is considerable pressure on the re-design of the surface Fleet with an emerging opinion that current vessel designs are no longer “fit-for-purpose”. Such a re-design might potentially see increased use of conventional merchant hulls and a commensurate uptake of “ships taken up from trade”; under different contractual and crewing arrangements. This is likely to have two impacts: first to increase the tonnage and quayside/support requirements of the surface Fleet; secondly, to change the nature and use of base port operations. The issue of submarine building, as it relates to port infrastructure, is now largely contained at Barrow (with the Clyde and Rosyth also being the base for the current carrier builds).
An emphasis of this nature, away from build to conversion of surface ships (arguably where the UK ship-engineering skills base now rests) may see an expansion of the need for ship design/conversion/refitting facilities operating alongside container shipping terminals. For example, in Hamburg there is an extensive ship repair/renovation/redesign industry operating alongside the container terminals. Historically, this activity was based in the North East (the Clyde and Belfast), and it would not be unreasonable to consider the re-emergence of a need for conversion facilities if the skill base remains in those regions. The current NPS does not consider any argument or justification for the activities of Base Port operations, which may vary from conventional commercial activities and require variation or modification (adaptation) of existing consents; providing incentive for doing so within existing planning frameworks.

Conclusion

It is important that the NPS recognises the fundamental changes taking place within the Land, Maritime (and Air) Defence forces and it is written to enable change (adaptation) in related port and maritime industries and facilities. This may require dual use or alternative use of the same facilities—as a means also of preserving capacity and strengthening/growing the maritime and Defence industrial base. Capacity in this case, being defined as “supporting the ship-engineering base and preserving the UK’s strategic port infrastructure for 21st Century military needs”.

These notes are provided cognisant of ongoing work regarding the Defence Review and the Green Paper and the need to preserve and maintain strategic national assets so that they remain aligned and connected with national Defence (and security) requirements and aspirations. They reflect the author’s views and not those of the MoD or the Single Services.

January 2010

Memorandum from Hutchison Ports (UK) Limited (NPS 15)

1. Hutchison Ports (UK) Limited (“HPUK”) is part of the Hutchison Port Holdings (“HPH”) group based in Hong Kong. HPH is the world’s leading port investor, developer and operator with interests in 50 ports across 24 countries throughout Asia, Africa, Europe and the Americas.

2. In the UK, HPUK operates the Port of Felixstowe, London Thamesport and Harwich International Port. The Port of Felixstowe is the UK’s largest container port, London Thamesport is also one of the UK’s leading container ports and, like Felixstowe, one of the very few to be able to handle the large container ships that make up an increasing proportion of the global container fleet. Felixstowe and Harwich International both handle significant quantities of roll-on/roll-off freight and Harwich, in addition, handles both cruise and ferry passengers as well as dry and liquid bulk cargoes, and wind farm components.

3. Across its three ports HPUK employs 3,500 people directly and, indirectly, provides employment for thousands more.

4. In addition to current operations, HPUK has extant consents to develop new container facilities at Bathside Bay in Harwich and at the Port of Felixstowe. Together, these schemes will provide in excess of 3.5 million TEU additional capacity per annum. Phase 1 of the Felixstowe South scheme is currently under construction and the quay will be completed in 2010.

5. HPUK welcomes the opportunity to comment on the draft National Policy Statement for Ports (NPS).

General Comments

6. The acknowledgement in the NPS that ports are vital to the national economy and that judgements about development are best made on the basis of commercial factors by ports operating within a free market environment is welcomed.

7. The majority of investments in UK ports are made by the private sector, and, where involving the public sector, are generally made upon commercial grounds. It is important that UK policy on ports encourages future investment. To do this, the policy must be clear and, above all, consistent. This has not been the case for a number of years. The Impact Assessment confirms that one of the policy objectives of the NPS is to give developers greater certainty regarding Government policy on port development. However, whilst recognising that a certain amount of flexibility is necessary, HPUK believes that the guidance provided in the NPS is not prescriptive enough with regards to:
   — the matters to be considered;
   — the approach to be taken in considering different matters; and
   — the respective weights to be attached to the various matters under consideration,

   to achieve this policy objective.
8. A port or harbour development gains consent for its construction and/or reconfiguration (and its powers to operate) under a complex planning and legal framework, reflecting differences in the legislative systems relating to land and sea. Whilst the range of consent requirements may vary between developments (and would be a matter of the drafting of any Development Consent Order), the scrutiny that every development undergoes must be consistent to ensure a level playing field amongst competitor schemes. This has been a failing of the system in the past and the NPS provides an opportunity to address this.

9. The application of the NPS must result in a consistent and transparent approach to all port developments and the scoping exercise they are required to undergo. The resulting impact assessment requirements, both environmental and for specific transport related impacts, must also be consistent. In addition developments must be subject to equal treatment in respect of mitigation and compensation requirements, where impact assessments conclude that such requirements exist. It is, therefore, fundamental that in providing a framework for future decisions on proposals for port development that the NPS provides clear guidance for both decision makers and developers, and that rules are applied consistently.

10. It would be useful for annexes to be provided to the NPS detailing a checklist of appraisal guidance to be considered and appraisal summary tables detailing the appropriate measures of weighting to be applied by the decision maker to various impacts to provide a tool to ensure a consistent application across schemes.

11. The principle of market-led private investment in UK ports is well established and has served the country well. Such a policy has the benefit of ensuring that projects are brought forward in a timely manner to meet demand, and in locations favoured by transport users. This is essential if the UK is to be served by an economically optimal network of ports.

12. However, as congestion on the UK’s national networks has increased, the need for ports to be served by appropriate inland infrastructure has gained greater prominence. It is important that the NPS for Ports is considered in parallel with the National Networks NPS, and it is regrettable that the publication of the National Networks NPS has been delayed. In considering the appropriate location for port developments, the decision makers should also be instructed to take into account the development and cohesion of the Trans European Transport Networks (TENs).

13. There may be a tension between a NPS for Ports that is geographically non-specific, and a National Networks NPS that, presumably, will refer to specific routes or corridors. HPUK believes that the benefits that accrue from a market-led approach to port development outweigh any shortcomings from the difficulty in integrating the two respective documents, and would object to any suggestions, arising from this consultation, that the NPS for Ports should seek to promote port development in any specific regions/locations.

14. Delivering a Sustainable Transport System (DaSTS) identifies a number of ports that act as major international gateways and the Strategic National Corridors that connect those gateways with the key urban conurbations. It is assumed that the National Networks NPS will build upon the DaSTS report and recognise the need to connect major ports to the strategic national network. Similarly, the Ports NPS should expressly recognise this element of DaSTS. It should also take into account the benefits of agglomeration identified in the Eddington Report.

15. Port operations require a significant level of electrical supply to power the equipment needed to load and unload ships. The availability, or otherwise, of sufficient electrical power is often an important consideration, and potential constraint, in new port development. In the Ports Policy Review Interim Report published in July 2007, the Government stated that it “would like to see ports work harder to reduce emissions from ships while alongside by the provision, where feasible, of shore-side fixed electrical power supplies to replace ships’ generators while in port”. Reductions in the carbon emissions from ports may, to some extent, rely upon switching certain processes that are currently diesel powered to alternative energy sources such as electricity. The failure of the NPS to recognise the importance of power supplies to ports, and to provide a structure through which the provision of supply is to be incorporated into the strategic planning regime, is a significant omission.

16. The Interim Report on the Ports Policy Review of 2007 encouraged ports to produce Master Plans, and the DfT subsequently produced guidance for ports on how they should do this. The Master Plans are designed, inter alia, to assist local and regional planning bodies. The Master Planning process involves a similar public consultation process to the application process for a port development. The NPS should recognise the development of Port Master Plans and clarify their status, and the benefits they provide, in the consents process for port developments.

17. One of the major advantages of the new consenting regime for business is replacing a multiplicity of existing licensing and approval requirements with a single consenting regime. At several points (for example paragraphs 2.11.3 and 2.11.10) the draft NPS appears to assume that there will be no change to existing licensing processes or that multiple licensing regimes will remain. We suggest that the final version of the NPS should bring out clearly that the Government expects a single consenting regime to be put in place and for other licensing bodies to co-operate with the IPC in this regard. This clarity will assist developers and objectors alike.
18. Further clarification is required on the statement regarding commercial impacts at paragraph 2.7.1. It is not clear what other commercial operators are to be considered. In a competitive market it is inevitable that a development will have an impact on other commercial operators serving the same market. It is unclear what judgements a decision maker is required to make, and how these should affect the decision.

19. Under section 1.8 the NPS should explicitly recognise the importance to the UK economy of the role that ports have in the handling of dangerous goods.

20. The sections providing guidance to the decision maker must reflect existing policy not aspirations, this does not seem to always be the case. Reference is made at 2.13.9 to the creation of inter-tidal habitats as compensation for carbon emissions, and also the discretionary approach to non-designated ‘historical monuments’ at paragraph 2.24.5.

Consultation Questions

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

21. HPUK welcomes the recognition in the NPS of the importance of ports and the contribution they make to the UK economy. In particular, we agree that the normal functioning of the market—and the benefits to the developer of being first-to-market with a new development—ensures that the sufficient spare capacity referred to in the document will be available to port users. HPUK would be very concerned if the need to provide spare capacity was cited as justification for any form of Government intervention to support particular developments.

22. HPUK also agrees with the assertion that the effect of the recession will be to delay by a number of years, but not ultimately reduce, the level of future demand. The proposal to update forecasts every five years is accepted, although it is also recognised that a case can be made for interim updates in response to unexpected, but significant, economic events.

23. When considering future need, the market for transhipment traffic needs to be considered. This will apply particularly to developments designed to serve the deep-sea container market. The transhipment market is less closely tied to domestic economic performance than import/export traffic. Developments sited near the main arterial shipping lanes into northern Europe may well attract transhipment traffic. Transhipments make a positive contribution to UK balance of payments.

24. As a result of the current economic slowdown it may be necessary to amend/extend time limits on existing consents, including those for nationally significant infrastructure. The NPS should provide guidance to decision makers and applicants on how this should be achieved.

25. With respect to port location, the NPS recognises that most container and ro-ro terminals are in the South East. For clarity, it would be helpful to point out that this is the “greater” South East, covering the area from Felixstowe round to Southampton, and not the South East government region.

26. The statement, at paragraph 1.11.8 that the west coast has been best placed to meet the needs of transatlantic traffic is questionable and is not supported by any corroborating evidence. The majority, if not all, container ships on the transatlantic also call at container ports in North West Europe. On the basis that they are also calling at ports in the Hamburg—Le Havre range, we would contend that ports in the greater South East are equally well placed to serve this traffic.

27. The planning policies referred to at paragraph 1.12.1 calls on the decision-maker to take full account of the contribution port developments might make to regional and local economies. The NPS should recognise that many port developments, such as deep-sea container ports, serve a national market and are developed in response to national demand. It should be assumed that any application considered by the IPC will, by definition, be nationally significant. All developments proposed to serve the same need will have similar local and regional benefits. Whilst it is important to understand the local economic effect of development, this should not be afforded undue weight in the decision making process: the location of nationally significant port developments should not be driven by relative local economic impacts.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

28. The guidance states that an objective Transport Assessment should be provided for all port applications that have a “significant” effect on inland transport. “Significant” is not defined, nor is any guidance provided on how significance should be assessed. All port applications should be accompanied by a Transport Assessment appropriate to the likely effect on inland transport.

29. With respect to modal shares, the guidance highlights most of the relevant issues but provides only limited direction on how they should inform the final decision. For example, it only states that W10 gauge clearance for containers on rail routes should be “considered”. With the increasing proportion of the global container fleet now being made up of high-cube containers (currently 40%\(^{21}\) at the Port of Felixstowe), and 40% of all containers were 40 foot high-cubes (HC) containers, or 64% of all 40 foot were HC containers, Port of Felixstowe 2009.
the importance of reducing carbon emissions, access to a high cube network, and the ability of the network to accommodate the agreed level of traffic to satisfy the modal share requirements (see paragraph 31 below), should be a key element in granting consent and afforded substantial weight.

30. The NPS states that the Government wishes to see port development providing a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable (paragraph 1.10.3). The consultation document also recognises that large container developments offer advantages in increasing the volume of traffic moving by such modes. It is also a fact that future funds for the development of the strategic freight network will be limited. It follows that the “in combination” effect of multiple small developments will be a reduction in the use of rail and/or coastal shipping. In these circumstances the NPS should explicitly recognise the benefit of large container developments in reducing greenhouse gas emissions.

31. The statement (at paragraph 2.17.22) that “target modal shares for rail or coastal shipping may sometimes be appropriate but are not mandatory” is not satisfactory. No further guidance is given as to the circumstances where such targets would, or would not, be appropriate. The imposition of targets for one development, but not another, could impact significantly on the costs of delivering the two developments, and the potential greenhouse gas emissions resulting from the developments. The guidance must ensure that all schemes are treated equally, and should require developments that seek to serve the same market (irrespective of their size) to achieve similar minimum modal share by rail and/or coastal shipping.

32. Where port developers are contributing to the cost of upgrading inland rail links in order to ensure modal share targets are achievable, track access options need to be provided by the Office of Rail Regulation to give those contributing some comfort that they will be able to have reasonable use of the infrastructure in question. However, a track access option is not available when the upgrades are the result of a Section 106 agreement (unless the whole investment would not go ahead without the option). This is unnecessarily restrictive, and to assist the developers and remove barriers to investment in both port and rail infrastructure, track access options should be available to any developer making significant investment in rail infrastructure.

33. Paragraph 2.17.23 is incomprehensible and must be clarified before further views are sought.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

34. The references to the Eddington Report establish the national economic importance of ports. However, ports do not, in themselves, generate demand for goods; they merely seek to provide sufficient capacity to efficiently handle the level of goods dictated by prevailing economic conditions. Although there are a number of regional markets for ro-ro traffic, the principle market for the other sector in which Government forecasts predict significant future growth, containers, is a national one.

35. Whilst the national economic benefits of port development must be given substantial weight, greater clarification is required for giving local/regional impacts the same importance as suggested in the consultation document, as they are likely to be similar for all developments serving the same market.

36. The ports NPS should seek to address matters of port development. Other Government policies should address issues of local/regional economic regeneration or social deprivation. All port developments generate economic activity but the levels of local/regional deprivation should not be the deciding factor in whether port development takes place in one location or another.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

37. Please see comments above on modal shares and use of sustainable modes (paragraph 31).

38. Paragraph 2.13.6 states that it “may” be appropriate to agree requirements or obligations to minimise greenhouse gas emissions. Again, no further guidance is provided as to the circumstances in which this may be appropriate, but it has the potential to distort development if applied inconsistently. The circumstances in which such obligations are required must be clearly stated, and they should apply to all qualifying developments.

39. At paragraph 2.13.9, the NPS suggests that the creation of inter-tidal habitat could be one way of offsetting emissions. This appears to be a new requirement, is imprecise, and lacks any justification or guidance on how it should be applied. It should be deleted until, at least, such time as it has been fully considered, including consultation with interested parties.

40. Government policy on Cold Ironing is unclear. It is acknowledged that the impact of ship emissions in port on overall emissions is likely to be small. The NPS—and the Interim Report on ports policy—imply qualified support for cold ironing but neither contains a clear policy statement. A clearer statement should be included in the NPS. It should also recognise that the provision of sufficient power in the national grid to facilitate cold ironing could present problems without a greater degree of strategic power infrastructure planning than currently exists.
Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

41. Further work is required to provide decision makers with a better understanding of the viability of coastal shipping in different circumstances. It is hoped that the work being undertaken by the Department for Transport on Freight Modal Choice will satisfy this requirement. The consideration of coastal and inland shipping should be an integral part of the Transport Assessment (see also paragraphs 28–31).

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

42. As far as we can see there is no specific guidance given on safety and this needs further clarification.

43. Security is adequately covered in section 2.4 of the NPS.

44. Reference should be made to appropriate Health Impact Assessment guidance to ensure a consistent approach across developments.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

45. The NPS provides some guidance on the need to promote equal access to jobs, but is not clear on what is meant by social networks and this requires further clarification.

46. The intrinsic definition of ports as being of “national significance” implies a status that must be recognised and reflected in conventional planning frameworks. Accordingly, the NPS should be a precedent document, presenting an appropriate level of justification and argument in support of ports that is relevant to and must be taken into account in these frameworks. Within a Local Development Framework (LDF), the recognition of foreseeable port development must be a primary economic stimulus in respect of employment land allocation, housing and related social and other policy issues. Equal access to jobs and services can only be achieved, and therefore be measured by decision makers, if LDF policies similarly support port and related infrastructure development.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

47. Yes, in respect of the EIA requirements generally and also as part of any Health Impact Assessment requirement (see paragraph 44 above).

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

48. Yes.

Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

49. Although there is reference to compensation measures with regards to biodiversity conservation, there is no clear guidance on the mechanism to consider necessary, related consent needs, for example to provide managed retreat as compensation for reclaimed foreshore, or to merely improve habitat. The NPS should confirm that the related consents for compensatory habitats can be included within the Development Consent Order for the primary project.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

50. We believe that the application of 2.24.5 and 2.24.13 bullet point 3 is unduly onerous, and only bullet point 1 should apply. Again, existing guidance should apply. If 2.24.5 is retained it should be made clear that the responsibility for assessing the significance of non-designated monuments lies with English Heritage or similar body. In the absence of a compelling case to the contrary, there should be a clear guidance that non-designated “monuments” should not weigh upon the decision to grant consent.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

51. The cost of port development has risen in recent years as port developers are required to mitigate and/ or compensate for an ever greater range of impacts, actual and potential, arising as a consequence of port development. If private sector investment in ports is to be encouraged, it is essential that all port applications are treated in a consistent manner. The NPS identifies the key considerations to be taken into account by decision-makers but is too imprecise in a number of areas to ensure that this is done in a consistent manner.
Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

52. There should be clarification of the circumstances in which consideration should be given to alternatives open to the developer, and when alternative projects being promoted by other parties should be taken into account.

53. The NPS provides no guidance, and it is unclear whether the decision-makers will in any case have the competence to decide, whether the project could be on a better scale, or designed, or laid out, constructed or operated in a better way, as suggested at paragraph 2.3.2. This requires further consideration.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?

54. No, there should be guidance on the definition of cumulative/in-combination effects, i.e., does it only include schemes within the study area that have planning permission, or should it also include speculative schemes that are reasonably foreseeable within the study area under the control of the developer, and/or schemes promoted by other developers?

Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers.

(a) The IPC for port applications over the NSIP threshold; and

(b) The future Marine Management Organisation for port applications under the NSIP threshold.

55. Please note other comments elsewhere in this response on specific points on areas where greater precision is required.

56. The NPS is clear that the IPC must decide an application in accordance with the NPS. The position for projects that fall below the threshold for IPC consideration is much less clear. It is stated that it “may” be a relevant consideration for the Marine Management Organisation (MMO). This introduces the possibility that the MMO may decide in certain circumstances not to take it into account, or to apply a different set of considerations or weightings to its decision. As it is acknowledged that there is no definitive method of calculating port capacity, and therefore of which proposals could be considered by the MMO/IPC, this opens the possibility of developers manipulating capacity estimates to benefit from a perceived advantage under one regime or the other. The NPS needs to be clear that the MMO is required to make decisions in accordance with the NPS or, at the very least, there should be a strong presumption that it will do so and, should it deviate from the NPS, it should be required to explain its reasons.

57. The NPS is silent on the question of appropriate consent periods. Guidance on this matter should be provided to ensure greater certainty for developers and to ensure consistency of approach between competing port developments, and between decisions made by the IPC and MMO.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

58. We believe all significant impacts are considered.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

59. No comment.

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

60. Yes.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

61. No comment.

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

62. No comment.

Q21: Has the AoS considered all the relevant plans, policies and programmes?

63. No comment.
Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?
   64. No comment.

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?
   65. No comment.

Q24: Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?
   66. No comment.

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?
   67. No comment.

Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?
   68. No comment.

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?
   69. No comment.

Q28: Do you agree with the results of the assessment of alternatives?
   70. No comment

Q29: To what extent do you think the approach used to identify and assess effects is appropriate?
   71. No comment.

Q30: To what extent do you think the assessment correctly identifies the sustainability effects of the draft NPS?
   72. No comment.

Q31: Do you agree with the recommendations proposed in the assessment?
   73. No comment.

Q32: Have any key findings from the AoS report not been taken account of properly in the NPS?
   74. No comment.

Q33: To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?
   75. No comment.

Q34: To what extent do you think the Appropriate Assessment is a suitable high-level assessment of the impact of port development on protected sites and species?
   76. No comment.

Q35: Do you agree with the analysis of costs and benefits set out in the Impact Assessment?
   77. The key non-monetised benefits of the NPS, and the new planning system more broadly, remain uncertain. HPUK supports the objectives of a simpler and faster process but is not sure that this will be achieved. Although it is acknowledged that the period from application to decision should be quicker, when the requirement to undertake greater consultation pre-application is taken into account it is not clear that the overall process will be shortened.
   78. As explained at paragraph 7 above, we do not believe that the NPS, as currently drafted, will achieve the benefits to the industry of increased certainty as ascribed in the Impact Assessment.

Q36: Are there any impacts of producing a National Policy Statement that have not been considered?
   79. It is unclear how matters arising in respect of existing consented developments should be treated, and what the procedure will be to adapt or modify such consents within the parameters of the NPS. Furthermore, whilst the NPS is non locationally specific, there are clearly ports consented, but yet to be developed, that are locationally determined, and it is unclear how these should be taken into account in any new project or
alteration to an existing facility. Similarly, other non IPC decision makers (for example a Local Planning Authority) should be guided by the NPS as to the status of existing consented port schemes to provide clarity and avoid potential conflicts in the interpretation and application of these new planning arrangements.

This submission has been made at this time in response to the Department for Transport's request for early responses, and to assist the Transport Select Committee in its deliberations. HPUK reserves the right to add to, or otherwise amend, this submission before the deadline set out in the consultation paper.

January 2010

Supplementary memorandum from Hutchinson Ports (UK) Limited (NPS 15a)

As you will be aware, Hutchison Ports has submitted evidence to, and appeared before, your Committee in respect of the current inquiry into the proposed National Policy Statement on Ports.

Since we gave evidence a matter has arisen on which we think it may be helpful to the Committee to provide further detail. Reference has been made on a number of occasions to the ‘fact’ that 60% of the freight which comes in to ports in the South-East of England ends up north of Birmingham.

We are not clear on the origin of this statistic, but believe that it is incorrect and potentially misleading. The majority of bulk traffics do not travel too far, if at all, between regions. We presume, therefore, that the statement refers principally, or exclusively, to unitised traffic and, in the context of most of the debate at the Committee, probably to container traffic.

The MDS Transmodal report “Update of Port Demand Forecasts to 2030 & Economic Value of Transhipment Study”, published in July 2007 estimated the inland distribution of containers between UK regions as follows:

<table>
<thead>
<tr>
<th>Region</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scotland</td>
<td>3.71%</td>
</tr>
<tr>
<td>East Midlands</td>
<td>16.55%</td>
</tr>
<tr>
<td>West Midlands</td>
<td>13.09%</td>
</tr>
<tr>
<td>North West</td>
<td>15.64%</td>
</tr>
<tr>
<td>Northern</td>
<td>2.13%</td>
</tr>
<tr>
<td>Yorkshire</td>
<td>12.42%</td>
</tr>
<tr>
<td>East of England</td>
<td>8.91%</td>
</tr>
<tr>
<td>London</td>
<td>8.99%</td>
</tr>
<tr>
<td>South East</td>
<td>9.85%</td>
</tr>
<tr>
<td>South West</td>
<td>5.20%</td>
</tr>
<tr>
<td>Wales</td>
<td>3.52%</td>
</tr>
</tbody>
</table>

Excluding the Midlands regions, which can be served by ports to the north or south, the three northern English regions account for 30% of UK container traffic. According to the latest Maritime Statistics published by the Department for Transport, the ports in these regions account for 16% of containers handled on the UK mainland. Based on the same Maritime Statistics, this would imply a deficit of nearly 1.2 million TEU per annum, which would equate to less than 18% of the containers passing through ports in the greater South East.

While it is undoubtedly true that ports in the South-East do handle freight destined for locations north of Birmingham, to suggest that it is anything like 60% of the traffic passing through these ports is clearly incorrect.

It is unfortunate that definitive statistics do not exist on the UK origin and destination of freight, but we hope you find this further contribution helpful.

February 2010

Memorandum from the British Ports Association (BPA) (NPS 16)

OVERVIEW

— The BPA represents a broad cross section of ports located throughout England and Wales. We support the concept of a National Policy Statement (NPS) for ports and see it as a welcome development. There are two main reasons for this: firstly, we look to the NPS to deliver more certainty into a planning process that is currently largely characterized by uncertainty; secondly, we believe that the proposals could be used as a springboard to bring more cohesion into transport planning as NPSs are developed for each mode.

— Some BPA members are more likely than others to be directly affected by the requirement for the largest projects to be referred to the Infrastructure Planning Commission (IPC). Even so, we believe that the NPS will have a significant influence far beyond those projects above the threshold, in that the planning principles will be similarly applied to a range of below the threshold projects to be handled by the Marine Management Organization (MMO)(Para 5). This response, therefore, reflects the potential impact of the proposals both in relation to the IPC and beyond.
— Parts of the draft NPS underplay some of the features which make the UK ports sector unique within the EU. It is fundamentally important that the IPC begins with a clear appreciation of the structure and dynamics of the sector. The number of port projects to be submitted to the IPC is likely to be very modest in the short term. The IPC’s experience of dealing with port developments could be sporadic, reducing the chances of it being able to build up quickly a body of knowledge and experience of the sector.

**DRAFT NPS**

The draft NPS falls into two main areas, namely a description of the UK ports industry and then detailed guidance to promoters and decision makers on the format and content of planning applications. In broad terms, the planning application section is coherent and practical, although we have identified some specific issues in paras 6–10 below. As important to us is the description of the UK ports industry which we have covered in paras 1–4 below. It is here that we believe the government has underplayed some of the industry’s key characteristics. We believe it is important that the IPC receives clear messages about the industry and we have therefore made various suggestions for improvements to this opening section.

**Characterisation of Ports**

1. Although we have no problem in supporting the sections on ports policy as far as they go, particularly those relating to the economic contribution of ports, they nevertheless fall short of fully highlighting how ports policy has developed as distinct from policy for other transport sectors. UK ports, of all the transport sectors that will be subject to an NPS and scrutiny by the IPC, are subject to the minimum of strategic involvement by government. They have no national masterplan and no regulator like the CAA, although like airports they are privately funded and not subject to systematic subsidy. Expansion is therefore dependent on developers coming forward with proposals based on their evaluation of market prospects. The context for port developments is therefore unique within the transport sectors subject to an NPS. It is of course a matter for the IPC to judge how this might or might not affect their handling of port applications, but we believe that it is important that the IPC is aware of this background and indeed regularly updates itself on changes and developments within the industry.

2. On a related point, we take issue with the DfT’s statement that (para 1.9.1) “The private sector operates 15 of the largest 20 ports”. This suggests that the remainder are operated by the public sector, even though the previous sentence acknowledges that all ports “operate on commercial principles, independently of government and without public subsidy” which to us sounds like a perfect description of private enterprise. It is more accurate, therefore, to say that the UK ports industry is private sector, some of which is privatized. Again, it is vital that the NPS provides clear and accurate background information to the IPC.

3. In a similar way the draft NPS is light on the international context within which UK ports operate. The UK has a particular dependence on the efficiency and capacity of its ports not entirely shared by other member states. The draft NPS rightly points out that the UK is the largest ports sector within the EU, but does not highlight the fact that Continental ports are supported financially (and in other ways) by local government and their regions. This fact feeds into competition, not only for the largest container developments but also, for example, into bidding for contracts for offshore renewable projects. Again, we believe that the IPC should be aware of international competitiveness, that this will be a driver for development and that investment in UK ports can have significant implications for investment in other related industries.

4. Para 1.10.1 outlining government policy for ports is fully supported by us. It clearly endorses the market led approach, a policy supported by both the industry and successive governments. Similarly, we fully support paras 1.10.2 and 1.10.3 and the need for port development to be in sympathy with environmental protection, at the same time acknowledging the need for transmodal shifts from road to shipping and rail which, as the draft NPS acknowledges, are “generally more sustainable”.

**Demand Forecasts**

5. The demand forecasts in paras 1.11.2 and 1.11.3 represent the core of the NPS and the vitally important framework within which the IPC (and similarly the MMO) will operate. We believe that the forecast percentage increases in containers, ro-ro traffic and bulk traffic of 182%, 101% and 4% respectively by 2030 represent realistic projections for the future. Previous experience has shown underestimation of actual expansion. We appreciate that the forecasts were developed before the recession but we believe that the adjustment made in the draft NPS whereby the long term effect will only be to delay completion of the full 25 years forecast is a reasonable precaution. The identified long term trends remain sound.

“Alternatives”

6. Section 2.3 deals with alternatives. We believe that the messages in para 2.3.2 are potentially confusing. Where a development is located within a Natura 2000 site, there is a legal requirement to consider alternatives. Although the draft recognizes that there is no such requirement under the Planning Act, nevertheless the draft states that the IPC is likely “to conclude that it needs to give some consideration to the question of whether the project could be on a better scale, or designed, laid out, constructed or operated
in a better way, or located on a better site or route”. The draft states that these questions are both “important and relevant to its decision”. It seems to suggest that the IPC could have a stronger role in deciding where developments should be than is currently the case. We will be seeking clarification from the Department for Transport on this point. There is an important distinction between assessing a project on its individual merits and speculating on how a project might be developed in a different way. We would be particularly concerned if the IPC developed its own strategic framework for ports based on its own assessment of the market and best locations.

**Impact of the Marine Management Organisation**

7. There are few references to the effect of the Marine and Coastal Access Act which sets up the MMO, the organisation responsible for the majority of port licences and consents. There is a brief reference in para 2.16.14 which covers the influence of the UK Marine Policy statement and the development of marine plans. Our view is that more weight should be given to these important changes. For example, marine plans will generate entirely new data on activities around the coast and will provide important information to promoters and the IPC about the compatibility of their developments with existing use. The IPC will have to take marine plans into serious consideration, along with the UK Marine Policy statement which will set out national objectives for the coast, both providing frameworks within which the IPC will need to work. Similarly, there is little reference to the way in which the IPC might work with the MMO bearing in mind that the MMO will have in-house expertise on technical marine issues which the IPC will have to draw on.

8. The NPS is based on dealing with the normally greater impacts of the largest projects. As we have seen, its advice to promoters and regulators will also be used for below the threshold projects. We will want to discuss with the Department for Transport whether, in the interests of proportionality, the NPS advice needs to be adapted for the purposes of the MMO and the wide range of projects with which they are likely to have to deal.

**Regional Transport Strategies**

9. There is the issue of the relationship between regional and local transport plans, including port masterplans, and the NPS. Section 1.1.1 of the “Appraisal of Sustainability” attached to the NPS states that the NPS “has primacy over regional and local documents for planning purposes”. Regional transport strategies have been subject to lengthy consultations and ports have been encouraged to produce their own masterplans which then feed into these and local government strategies. The NPS should at least recognize the significance of port masterplans. The NPS therefore represents a new planning layer not in existence when current plans were drawn up. Although the NPS could have the effect of giving more impetus to plans for port development, there may be examples where different priorities emerge which conflict with an agreed regional strategy.

**Funding of connecting Infrastructure**

10. Para 2.17.29 is concerned with the funding of connecting infrastructure. Long negotiations over the apportionment of costs of road and rail links have created significant hurdles in reaching decisions on previous applications. In 2009 the government, following discussion with the industry, produced new guidance on developer contributions which is a methodology to determine funding shares. Although the policy is therefore set, the IPC needs to be aware that it is a policy followed by no other EU member state in dealing with port development applications. The requirement to fund infrastructure is therefore an additional cost to UK developers and will have an effect on the competitiveness of the UK’s position.

**Transport Planning in the future**

11. As we mentioned in our overview, the NPS could be used as a springboard to bring more cohesion into transport planning as NPSs are developed for each sector using a common framework. Ports have a perennial problem in that they are private sector, they can be marginalized when public spending decisions on road and rail funding are taken. There is currently no forum, coordinated by the DfT, which brings together the main transport sectors with the opportunity to exchange information on government policy for transport as a whole. We believe that the production of new NPSs could be an opportunity to set up such a forum which, at the very least, could represent a point of contact for a better understanding of transport planning and government and industry priorities. This could also help address problems identified in para 9 above and the links between local, regional and national transport strategies.

12. In summary, we believe that the existence of an NPS underpinned by port forecasts represents a real opportunity to improve a planning system whose efficiency is fundamentally important to the ports industry. The points raised in this response will be developed further in our submission to the Department for Transport.

*January 2010*
Memorandum from Freight on Rail (NPS 17)

Freight on Rail Definition

Freight on Rail is a partnership between transport trades unions, freight operating companies, the Rail Freight Group and Campaign for Better Transport. It works to promote the economic, social and environmental benefits of rail freight both nationally and locally. It advocates policy changes that support the shift to rail and provides information and help on freight related issues to central, regional and local government.

Executive Summary

The Planning System sets the spatial planning and transport framework upon which transport decisions are made. It is therefore crucial that the economic, social and environmental benefits of rail freight are fully reflected in the Ports NPS. Freight on Rail has long campaigned for national spatial planning to set the policy framework and to give guidance to regional and local transport and spatial planning.

Therefore we are supportive of National Policy Statements (NPSs) in principle; however we believe that the Ports NPS should give a stronger steer towards rail and water modes. The DfT has issued its long-term vision for rail freight in the Strategic Freight Network (SFN) of 2009 and we believe that port development should be structured around the SFN with ports contributing to it, where appropriate.

The Case for Stronger Support for Rail Freight in the Ports NPS

Transport is one of the largest sources of greenhouse gas emissions, accounting for at least 21% of UK CO₂ emissions and freight contributes almost 30% of that which comes almost entirely from road freight. Rail freight has an important role in reducing freight’s emissions and has the potential to deliver a 70% reduction in CO₂ emissions compared to equivalent road journeys.¹

Most of the country’s major ports now have a strategy for transport which involves modal shift from road to rail with the greater rail market share being a key component of the sector’s drive towards sustainability. In support of these plans there is considerable investment in rail being proposed or under way:

- Within the ports—investment in rail terminal capacity.
- On the rail network—public investment in the “Strategic Freight Network” involving capacity and gauge enhancement specifically to serve the intermodal market—supported by contributions from ports and Development Agencies.
- At inland terminals—approaching 40 proposals nationally, at various stages of development, to create expanded private inland rail interchange facilities to capitalise on modal shift.

Rail Freight Volumes and Potential

Rail freight, which has 11.5% of the surface transport market (rail and road), was estimated to have removed 6.7 million long distance lorry journeys from UK roads equating to 1.4 billion lorry kilometres in 2007–08.

Rail Freight Group/Freight Transport Association forecasts of June 2008, indicate that by 2030 rail freight volumes will have more than doubled. The majority of this growth will be in the intermodal (container) sector, much of it to and from ports—from 6 billion tonnes.km today to over 30 billion.km in 2030.

Intermodal Traffic Gained Market Share in Recession

Despite the fact that major ports traffic over the quay is down between 10–20% rail volumes increased by 1.1% in quarter 2 2009–10 (ie July, August, September 2009) compared to the previous Q2 results for 2008–09. This shows that rail has increased its market share over the period and continues to win new business showing that the growth in intermodal traffic is being sustained, even in difficult trading conditions.

These factors are backed up by a report published by the Institution of Mechanical Engineers in early 2009, which states that: “as an option for the reduction of carbon emissions, the rail freight sector is leagues ahead of all the other options available. The target should therefore be to deliver far greater levels of growth in the rail freight sector than are currently projected.”
RESPONSES TO TRANSPORT SELECT COMMITTEE QUESTIONS

1. Detailed response to the Department’s consultation on the Ports NPS

Section 2.17

Paragraph 22

Coast shipping and the use of inland waterways and rail connections can have advantages over road transport since they generally act to de-congest the road network with associated travel-time and safety improvements and may have environmental benefits relating to noise and pollution levels.

The DfT Logistics Perspective document of December 2008 shows that rail freight produces 70% less CO2 than the equivalent road journey. Therefore we believe that the wording may is inappropriate in the context of environmental benefits.

Paragraph 23

The definition of most cost-effective modes needs to take into account whether the different modes pay for all the external costs imposed on society, otherwise sustainable modes such as rail and water are penalised.

Climate change mitigation

2.13.1 This paragraph recognises the environmental benefits of modal shift to rail and water; however, this support for modal shift to sustainable modes is not carried forward in the NPS in particular in the transport policy, climate change adaptation and the guidance for decision makers.

Paragraph 2.13.6 Page 33

The decision-maker should have to give full not limited weight to the estimated likely net carbon emissions performance of port developments for the reasons spelt out in the answer to TSC question 2.

Mitigation Page 33

2.13.7 Good design for rail freight facilities can minimise emissions and other local pollutions such as noise.

Climate change adaption

P34 2.14.2

The fact that previous global greenhouse gas emissions will result in continued climate change for the next 30 years, makes the case for rail even stronger to ameliorate these effects.

Transport 2.17

2.17.1

Given that rail and water reduce the adverse environmental, social and economic impacts of goods entering and leaving ports the Ports NPS should state a preference for rail and water.

2.17.2

The wording—There are also environmental impacts or road transport compared with rail and water transport in terms of emissions does not adequately acknowledge the known emissions benefits of rail and water.

2.17.3

Neither is rail’s ability to reduce road congestion and delays nor its role in reducing the need for container storage adequately recognised here.

2.17.5

We believe that the applicant should have a strong duty to demonstrate why rail cannot be used.

Modal share P47

2.17.17

Stronger support for rail should be given in this paragraph.

2.17.19

Gauge is not a problem for on unitised goods and in the case of hi cube containers lowered wagons can be used if routes do not have W9/10 gauge. There is particularly important for smaller ports where increasing the gauge may not be practical. There are also wagons which cater for short sea containers.
2.17.21

We accept that conditions should be structured flexibly but think that the current wording could enable developers to avoid investing in rail.

2.17.22

We believe that target modal shares are a good mechanism for encouraging rail freight. Another mechanism is incentivising developers to sponsor rail freight services.

2. Do the general planning principles set out in the proposal for a National Policy Statement on Ports form a coherent, appropriate, proportionate and practical framework within which the Infrastructure Planning Commission (IPC) can assess future port planning applications?

The Ports NPS lack of support for sustainable transport sets a poor precedent for the National Networks NPS and the energy NPSs. It treats carbon dioxide as one of the problems among many and does not prioritize the need to reduce emissions and does not recognise the potential rail has to reduce emissions, road congestion and road accidents by increasing its market share out of and into ports.

DfT has confirmed that local and regional authorities will have to take material consideration of NPSs in their planning and transport decisions and therefore this point should be made in all the NPSs.

3. Are the sustainability and environmental criteria outlined in the draft Ports NPS appropriate, proportionate and practical?

Given that the need to reduce carbon dioxide emissions has been recognised by the Government in its Climate Change Act, which commits in statute to an 80% reduction in CO₂ emissions by 2050, and in the DfT’s vision for Developing a Sustainable Transport System (DaSTS) the Ports NPS should have stronger policy support for rail freight, where there should be a presumption in favour of rail and water where possible.

Rail freight can contribute to all five of the DaSTS goals, i.e.:

- supporting economic competitiveness and growth;
- reducing transport’s emissions;
- contributing to better safety security and health;
- improve quality of life and promote healthy natural environment; and
- promote equality of opportunity.

Freight on Rail recognises that rail and road complement each other; however, rail can transport long distance freight more sustainably and more safely while reducing road congestion and resulting delays.

Rail freight is an important part of the transport solutions at ports with approximately 50% of rail freight volumes either emanating from or going to UK ports, therefore the Ports NPS is important in this context. Given both the volumes of freight handled by rail from and to ports and the need to reduce carbon dioxide emissions, set out in the Climate Change Act of 2009, we believe that the Ports NPS needs to give a much stronger support for rail freight.

Rail’s customers want more capacity and capability at UK ports

Customers have stated their preference for using rail out of ports

“As an industry we need all the rail freight we can get.”

MD Maersk Sealand

“Having a rail alternative is more economic, cuts delivery times and is more reliable.

Arthur Koutstall ECS European containers

THE CASE FOR RAIL FREIGHT

Rail freight has a crucial role in helping the Government to achieve the low carbon economy and green jobs we all need.

- Carbon reduction—As your Department’s Logistics Perspective of December 2008 shows rail freight produces 70% less carbon dioxide emissions than the equivalent road journey.
- Road congestion relief—An average freight train can remove 50 long distance HGVs from our roads with the largest freight trains each now removing up to 160 long distance HGVs
- This means that moving more freight to rail can also have an economical impact; considering that the DfT estimate the cost of congestion being £1 per lorry miles on the most congested roads.
- Safety—Rail freight is safer than long-distance road freight using motorway and A roads, as HGVs are over three times more likely to be involved in fatal accidents than cars due to a combination of size, lack of proper enforcement of drivers hours, vehicle overloading and differing foreign operating standards.
4. Have issues or principles which should have been included in the draft Ports NPS been left out?

There is a danger that the scrutiny of the Ports NPS could be rushed as it seems odd that the TSC oral submissions and evidence are being conducted before the end of the formal DfT consultation. It is therefore crucial that the written consultations to the TSC and the DfT consultation are given full weight.

REFERENCES:

i Source: DFT Logistics Perspective December 2008 p 8 section 10. Rail produces around 0.05 kg of CO per tonne km compared to around 0.17 kg of CO₂ per tonne km for road transport.

ii Page 8 section 10.

iii Source: Road Statistics 2008, Tables 3.2 and 3.6, Road Freight Statistics 2008 Section 5, both UK Department for Transport.

January 2010

Memorandum from South Ayrshire Council Transportation Section (NPS 18)

The document has a list of 36 questions most of which are not relevant to the Transportation Section. It does seem however to be targeted at England and Wales (consultation events only being held in London Leeds and Cardiff) although the Scottish Government are amongst the consultees.

Ports (Boards) are being consulted individually, but it may be something that the North Channel Partnership may wish to comment on.

Our interest will be on how future development will affect the surrounding transport infrastructure.

Any developments will, I presume, be subject to a formal planning application and as such we will be consulted and have the opportunity to comment and make recommendations.

A Traffic Impact Assessment will be required and also the options for transfer to rail should be considered. Any community benefit considerations should be looked at and proposed improvements to the local road network to mitigate the general impact of traffic, noise, fumes, as well as operational hours etc.

January 2010

Memorandum from the RYA (Royal Yachting Association) (NPS 19)

Consultation on “DEVELOPING A PORTS NATIONAL POLICY STATEMENT”

We refer to the Consultation Document dated November 2009 in relation to the above.

The RYA is the national body for all forms of recreational and competitive boating. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain was the top sailing nation at the 2000, 2004 and 2008 Olympic Games.

The RYA is recognised by all government offices as being the negotiating body for the activities it represents. The RYA currently has over 100,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 500,000 boat owners nationally who are members of over 1,500 RYA affiliated clubs and class associations.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,200 RYA Recognised Training Centres in 20 countries. On average, approximately 160,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

The RYA welcomes this opportunity to contribute towards this Consultation and makes the following comments.

1. We acknowledge that the draft National Policy Statement is intended primarily to provide the framework for future decisions on proposals for new port development to be taken by the Infrastructure Planning Commission. However, the Statement itself acknowledges (in Paragraph 1.2.1) that “it may also be a relevant consideration for the Marine Management Organisation . . . which will in future decide other port development proposals” and in the DfT’s Ports Policy Review Interim Report (July 2007) it is stated that “The MMO will similarly take full account of relevant NPSs (National Policy Statements)” (our emphasis). The DfT’s Review of Trust Ports (1997), Ports Policy Review (2006) and Municipal Ports Review (2006) identified a range of issues faced by ports of all sizes but these do not appear to have been considered or addressed in the draft National Policy Statement. In our view, the National Policy Statement is weakened
as a national strategic plan that offers a vision of how Government should approach the future of the ports sector by not giving due consideration to port development plans that fall below the threshold for reference to the IPC.

2. The draft National Policy Statement does not discuss in any depth how it will interface with the Marine Policy Statement to be produced under the Marine and Coastal Access Act 2009.

3. We acknowledge that the draft National Policy Statement includes a reference to recreational vessels (yachts and dinghies) in the section covering Tourism & Leisure (Paragraph 1.8.6) but this section does not consider either the role that commercial and fishing ports play in the recreational boating sector or the role that the recreational boating sector plays in the development of commercial and ports. A significant proportion of recreational boating activity takes place within the jurisdiction of port authorities (e.g., Harwich Haven, Port of London, Dover, ABP Southampton, Poole Harbour, Falmouth Harbour, the Clyde). In addition, it is estimated by the British Marine Federation that, within the UK as a whole, recreational boating generates a direct turnover of £3.1 billion and supports 35,200 full time equivalent jobs and a significant proportion of this economic activity takes place in or around ports. The sector also generates considerable (although less quantifiable) indirect revenues to local communities.

4. We note that the draft National Policy Statement refers to the potential positive impacts that commercial and fishing port development may have on tourism (Section 2.9) but this discussion seems to identify passenger or cruise ships as the key provider of tourist activity. There is, however, little or no recognition of the capacity of recreational boating to offer benefits to public health, coastal prosperity and tourism or to the Small and Medium Sized Enterprises that support recreational boating and no encouragement for decision-makers to take these factors into account when considering proposed port developments. In addition, while we welcome the acknowledgment (in Paragraph 2.9.2) of the potential adverse impact that port development may have on windsurfing, unsympathetic port development may have a detrimental impact on a wide range of recreational boating activities and facilities.

5. In light of the above, we welcome the detailed proposals to ensure due consideration of the social impacts of port development and the particular focus on recreational facilities (Section 2.25). We accordingly support the provisions in the draft National Policy Statement requiring applicants for port development to consult the local community regarding their proposals (Paragraph 2.25.6). In many ports, however, the recreational boating community that has an interest in a port has a much wider geographical spread than the immediate surrounding residential area since recreational boaters may live some distance away from the locality in which they keep their craft or enjoy their boating. We therefore take the view that Section 2.25 of the draft National Policy Statement should include a specific reference to recreational boating facilities and we also consider that, in addition to consulting the local community, applicants for port development should be required to consult national organisations such as the RYA that represent stakeholders in the recreational boating sector.

6. The retention and regeneration of sports and recreation facilities is a particularly important issue in the context of the developing EU Maritime Policy, where a key theme is maximising welfare in the coastal regions. By definition, port activity is a major economic driver in coastal regions and, with so many pressures on coastal land, there should be national policies in place protecting the infrastructure of ports to enable future recreational development to take place.

Please do not hesitate to contact me if you have any questions or queries arising from this response. On behalf of the RYA, I would be pleased to be involved in any future consultations or discussions.

January 2010

Memorandum from Lancaster Port Health Authority (NPS 20)

The following responses have been made to specific paragraphs within the consultation document.

1.10.1

I feel the last paragraph should not be restricted to European Directives or National Regulations but also include by-laws pertinent to the local area and environment.

2.5—Health

The core competencies of the World Health Organisation, International Health Regulations specify core competencies to be achieved for ports with international travellers and vessels. It is very important these competencies be achieved especially if the new port is to be a designated port. The competencies cover aspects of human health to protect the borders against disease and insect ingress.

2.5.1

I feel this paragraph should recognise the difference between that of the human and animal traffic within the ports and the differing requirements of each.
2.5.2
The paragraph should recognise the waste classifications from the relevant MARPOL documents and the distinguishing factors of EU and non EU waste and the differences in which these products are dealt with and the environmental and social impact of this.

2.5.3
The addition of ports to already congested areas should be a key factor in determination if the permission should be given or restricted to tonnage of vessels using the port, especially if there is a high reality that the introduction of a port to an area will have a detrimental social, economic and environmental impact not to mention the impact on existing food sources such as more pollution affecting mussel and cockle beds near the shoreline.

2.5.5
The consideration of quarantine areas should also be realised for products and animals that may adversely affect the nations feed and stock levels. Consideration should also be given to the type and amount of imported food and feed products that need special attention and checks.

2.6.4
The last bullet point should also take into account the local traffic and travel infrastructure and the impact made thereof.

2.9
To achieve tourism the infrastructure must be achievable to get people and goods to and from the ports in an environmentally friendly and sustainable manner.

2.12.23
Local marine fisheries should also be considered especially if underlying silt layers contain pollution by chemical or radioactivity that could affect local food producing beds that are exported across Europe as spat or seed mussel.

2.18.1–2.18.3
It was felt these paragraph’s should be steered towards the animal bi-product directives 2009 removing the need for other options for certain categories of waste.

2.20.13
In the meaning of “cold-ironing” would it be possible to have a port rule that ships using high sulphur content fuels switch to lower sulphur content fuels whilst in port.

2.21.3
This paragraph was thought to be vague and needs making more transparent.

2.21.8
What if the proposal minimises the impact of insect infestation and other grounds for complaints but is still really bad?
Does the term reasonable step have a cost element? If so this should be indicated within the paragraph.

Andre Hunt
Lead Port Health Officer
January 2010

Memorandum from British International Freight Association (NPS 21)

Whilst this document must be welcomed because it allows debate on the subject and certainly the first part is supportive of the port industry, there are issues that must be highlighted. It is BIFA’s contention that certain elements of the NPS disadvantage the United Kingdom (UK) and may contribute to trade to moving abroad.

The Draft National Policy Statement
The fundamental concern is that the NPS is not as balanced and does not articulate policy as clearly as it should. The document is in two parts:
— the first and smaller part, which has been favourably received refers to the importance of ports to both the local and wider economy enabling this country to trade and create wealth; and
— the second part (the much longer part) covers factors that must be taken into account when making a planning application and when it is considered by “decision maker”. There is much emphasis on ensuring that alternative developments have been considered along with other factors including environmental, national security, historic buildings.
Two thirds of the document relates to factors that may count against a port development. In many ways the document discusses the points that an applicant and the person deciding on the application must consider. The NPS does not define the strategy to ensure that the UK has the correct port capacity in the right location.

Whilst reference is made to national policy, it is not as clearly defined as it should be in terms of either its objective or how this is to be achieved. The NPS praises private enterprise for ensuring that the United Kingdom handles the greatest port tonnage in the European Union. It is anticipated that particularly seafreight container traffic will continue to expand. The latest figures anticipate growth of 182% from currently seven million 20 Foot Equivalent Units (TEU) to 20 million TEU by 2030. Government Policy is that port expansions to meet this growth will be funded by private investment. The NPS articulates the belief that this will ensure that there is sufficient port capacity in the correct location to meet UK demand. In a turbulent world economy, which is facing great change driven by emissions control and security there must be some doubt if this is a completely viable approach. At the very least we would expect to see a mechanism in place to monitor the situation and highlight potential shortcomings.

It is surprising in the light of the Governments environmental commitments to reduce greenhouse gases that there is no attempt to suggest that port development should occur as close as possible to the final delivery point for these additional anticipated 13 million containers.

Excluding the already planned expansion of Bristol to handle an additional 1.5 million TEU and Liverpool an 0.6 million TEU the major container seafreight container ports are located in the South and East, hundreds of miles away from the predominately Northern and Midlands based companies who store and distribute such products. PD ports the new owners of Teesport have already stated that in the current market conditions they do not intend to expand the port to handle the additional 1.5 million teu’s that planning permission had been granted for.

The document fails to address certain specific requirements; particularly those connected with the power industry. It is a well known fact that North Sea Oil production is declining, meaning that the country needs to expand certain specific types of capacity such as the capability to import increasing volumes of Compressed Natural Gas. Whilst the need to expand such facilities is acknowledged, no reference is made about how the Government intends to ensure that ports are expanded to cater for such specific needs.

**Structural Changes in Seafreight Movements**

The draft NPS fails to take into account the structural changes in seafreight patterns that have occurred in the previous two years. There is a trend amongst the shipping lines to maximize the usage of large vessels on the main trade routes, as this is the most cost effective (and incidentally environmentally friendly) method to move large quantities of cargo over a long distance. Coupled with “slow steaming” which it is accepted will remain the normal speed for the foreseeable future these vessels will make fewer calls, and freight will be offloaded and distributed by feeder vessel.

What is imperative is that these vessels call and offload in the United Kingdom, if they do not the danger is that freight will be discharged on the continent. Regardless of how the goods are finally delivered to the UK, the extra handling would increase costs and cause delays, and may adversely affect emissions.

For export consignments, there would also be cost and service issues if freight had to be moved to Continental ports for export because fewer vessels were calling at UK ports.

**Infrastructure Matters**

Within the EU, infrastructure projects connected with a port are funded by the state. The NPS states that the UK Government expects that any improvements in infrastructure related to port expansion will be funded in part by the port operator, increasing their overheads and thus costs.

This places the UK at a clear disadvantage compared to the rest of the EU, where the state funds such infrastructure improvements. This point has already been publicly made by the CBI. The danger must be that within a highly competitive Western European port industry that operators will choose to expand these continental ports.

As the UK is largely dependent on seaborne imports and exports, more vessels calling to be loaded/unloaded at continental ports would have a significant detrimental impact on our trade. Consideration must be given to ensuring that UK policy mirrors that generally found in other EU Member states.

**MISCONCEPTIONS**

In paragraph 1.10.3, reference is made to “provide a trans-modal shift from road transport to shipping and rail, which are generally more sustainable”. Elsewhere in the document there are references to using water and rail and a general belief that these should be encouraged at the expense of road. Paragraph 2.17.17 states “Broadly speaking, rail, and coastal or inland shipping should be encouraged over road transport”. However, freight would still have to be delivered to a railhead and there would be double handling of the containers increasing costs and timescales.
These are worthy aspirations that it may be possible to realize in the medium to long term, but do not address the reality of the current situation. Road is the speediest and most flexible method of delivering freight to a port, and will probably remain so for the foreseeable future.

The draft NPS makes contradictory statements regarding the impact of seafreight on pollution, paragraph 2.13.4 states that “Emissions from ships in ports are unlikely to be significant contributors to climate change.” However, paragraph 2.20.1 states “Ports can contribute to local air pollution since they bring together several sources of pollutants.” It is also stated “emissions (sulphur dioxide) from entering the port . . . can also be significant.”

The draft NPS also fails to take into account the impact of the so-called EU Sulphur Directive that becomes effective on 1st January 2010 requiring vessels to burn fuel with a low sulphur content of 0.1% whilst at anchor or berth, which will reduce pollution whilst vessels are in port.

CONCLUSION

In conclusion the NPS is not clear as it should be about what its policy objectives are or how they should be realized or judged. It is BIFA’s contention that too much of the document relates to matters that have to be considered when making and considering an application to develop a port.

We believe that there should be more focus on what port capacity is required, where it should be located and how to achieve this. A mechanism needs to be in place to ensure that progress is monitored against the capacity target and any economic changes that may have affected it. Problems could then be addressed to ensure that the UK has sufficient port capacity in the correct location to meet its needs.

Also the draft NPS has not fully taken into account recent fundamental changes in vessel usage and imminent measures to control pollution. We hope that our views are accepted as constructive observation, whilst BIFA has some reservations the Association generally agrees with the positive ambitions contained within the NPS.

January 2010

Memorandum from DB Schenker Rail (UK) Ltd (NPS 22)

This is the response of DB Schenker Rail (UK) Ltd (DBS), previously English Welsh and Scottish Railway (EWS) to the DfT’s consultation on the Ports National Policy Statement. No part of this response is confidential. This response firstly makes a number of general comments regarding rail freight and its relationship with ports; secondly it makes specific comments on the Consultation and finally answers the relevant questions that are posed in the consultation.

GENERAL COMMENTS ON RAIL FREIGHT AND PORTS

DBS is the largest UK rail freight operator. DBS moves around 100 million tonnes of freight a year and employ 3,500 staff in Great Britain. Besides transporting coal for electricity generation and petroleum we move steel, stone, deep-sea containers and operate international freight services through the Channel Tunnel in connection with its open access freight business in France and Spain. DBS is wholly owned by Deutsche Bahn AG, the second largest logistics provider in the world.

Rail freight produces between three and four times less CO2 per tonne moved than road haulage and up to 10 times less polluting emissions. Whilst rail must continue to reduce its own carbon footprint its primary contribution to Climate Change is to attract traffic from more polluting modes.

Rail freight in Britain has grown by over 60% in the last fourteen years and has increased its surface market share from 8% to 11.5%. Although rail freight volumes have reduced during the recession the industry continues to invest in the firm expectation that absolute growth as well as increased market share are achievable.

Rail freight industry forecasts, endorsed by the Department for Transport and Network Rail, suggest a doubling of rail freight activity by 2030. The rail industry’s recently published ‘Planning Ahead’ document anticipates an increase in rail freight’s market share from 11.5% to 20%.

This is not the only growth that will take place on the rail network and as Britain’s railway gets busier and busier the realisation of rail freight’s potential for growth is dependent on the creation of a rail freight network that provides the necessary capacity and capability.

The fortunes of rail freight and ports are closely linked and it is no coincidence that a number of ports were originally built and operated by railway companies.

Rail is the transport mode of choice in the movement of certain bulk products from ports such as coal and iron ore whilst having a significant role in moving bulk products such as petroleum and steel. Ensuring that these products, especially those related to energy production, can be moved effectively and efficiently
from ports to destination requires a rail network that is fit for purpose. Although rail is playing an increasing role in moving deep-sea containers, and investment in the rail network reflects this fact, the need to ensure the security of supply of bulk materials should not be underestimated.

Increasing rail’s market share in port traffic (whether bulk or containerised) is perfectly feasible and the development of a Strategic Freight Network will help in this regard. The rail freight industry, working with a wide range of stakeholders, has developed a vision for such a Strategic Freight Network. This vision has been published by the Department for Transport and can be found on the DfT website at http://www.dft.gov.uk/pgr/rail/strategyfinance/strategy/freightnetwork/

We are surprised that the draft NPS does not make specific reference to this document as part of the guidance for decision makers on port developments.

Whilst rail is playing an increasingly important role in moving unitised or containerised traffic from ports the potential for transferring traffic originating in mainland Europe from road to rail through increasing the use of the Channel Tunnel should not be underestimated. We feel that the draft NPS is rather dismissive of this potential.

For rail to play its full role in serving port developments there are a number of requirements:

— the provision of capacity and capability on the rail network. This may be funded centrally through schemes such as the Transport Innovation Fund or the High Level Output Specification. Alternatively they can be funded as part of port developments. A recent example is Hutchison Ports’ commitment to fund gauge enhancement on the rail network and also to fund the doubling of the railway line between Ipswich and Felixstowe as part of the development of the Port of Felixstowe, although work has not commenced on these rail projects yet;

— ensuring that there is sufficient rail handling capacity at the port. That capacity should be available to all rail freight operators and the allocation of capacity should be undertaken in a fair and transparent manner overseen by the independent Office of Rail Regulation; and

— ensuring that inland transport modes are treated equitably:
  — in the provision of port infrastructure for rail and road operators, and
  — in the setting of port handling charges so that road and rail operators are treated the same.

The final National Policy Statement should explicitly require the Applicant’s assessment and the Guidance to the decision maker to provide assurances on all three of these issues and ensure that when a commitment to enhance infrastructure is made that the work is carried out.

**Specific Comments on the Consultation Document**

**Paragraph 1.8.4**

In order to promote the importance of sea ports the policy statement appears to regard the Channel Tunnel as a different entity than ports and dismisses its capability. It would be more helpful if the Channel Tunnel was regarded as another port that can bring freight into the UK by two methods: rail borne throughout from origin to destination or Ro-Ro on lorry shuttles.

**Paragraph 1.8.5**

Ports are essential to the movement of energy supplies and rail is critical in moving coal for electricity generation from the ports of Immingham, Liverpool, Hull, Bristol and Tees.

**Paragraph 1.10.3**

We are pleased that the NPS is advocating that port development should provide a basis for trans-modal shifts from road to rail.

**Paragraph 1.11.3**

We note that Ro-Ro volumes are significantly larger than containers and that the differential is likely to increase. This reinforces the need to encourage modal shift from road to rail in Ro-Ro markets, which can be achieved by increasing the volume of rail freight through the Channel Tunnel.

**Paragraph 1.11.8**

There is considerable expansion at a number of ports and rail is well-placed to serve that expansion at all the ports listed. In some cases, such as at Felixstowe, port developers have committed to enhance rail infrastructure to service the port.

**Paragraphs 1.11.10 and 2.8.1**

The importance of competition is emphasised. The ports themselves should also facilitate competition between transport providers through the fair operation of transparent capacity allocation criteria and standardised handling charges.
Section 2.13 Climate change mitigation

The benefit of modal shift to rail is recognised in the section on climate change mitigation and the requirement to assess the CO2 impact of inland transport is sensible but we don’t understand why the decision maker should attach only limited weight to net carbon emissions estimates (paragraph 2.13.6).

Section 2.17 Transport

This section recognises the environmental impact of roads and road haulage compared with rail and other modes. We support the specific requirement in 2.17.5 for a justification of road-only access. We believe that the NPS should express more strongly a presumption that road-only access is not acceptable.

Paragraphs 2.17.11 to 13

These paragraphs deal with commitments to mitigation measures. The NPS should require the decision maker to obtain a greater level of commitment than currently exists so that planning obligations may not be avoided or abandoned.

Paragraphs 2.17.17 to 2.17.22

We support the policy statements and initiatives to encourage modal transfer to rail.

Paragraph 2.17.18

We suggest that “is likely to be viable” should be replaced with “will be viable”.

Paragraph 2.17.22

We support the use of target modal shares and believe they should be mandatory to ensure that rail access is not merely used as a lever to secure planning permission. Mandatory targets will assist in meeting Government objectives to reduce CO2 emissions.

Paragraph 2.17.23

It is not clear why rail has been singled out for this extremely unhelpful caveat, which appears to be rooted in historic DfT and Treasury thinking about road tax revenues lost as a result of the use of rail being counted against rail investments. DfT should explain why it has not embraced current thinking on appraisal that tackles this issue in a different manner.

Paragraphs 2.17.29 to 2.17.34

The proposals should be designed to ensure that commitments to fund infrastructure development are fulfilled.

Responses to Relevant Questions

Q1. Do you think the draft ports NPS provides suitable guidance to decision makers on the question of what need there is for new port infrastructure?

The draft ports NPS does provide this guidance but should recognise that in assessing the need for ports the capacity for the Channel Tunnel to accommodate rail freight growth and Ro-Ro traffic should not be underestimated.

Q2. Do you think that the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

The draft ports NPS recognises the benefits of transfer from road to rail. DB Schenker Rail (UK) Limited has a number of general and detailed comments on how this is expressed, which are contained in the rest of this response to the draft ports NPS. In particular we are concerned that the draft ports NPS offers minimal guidance to applicants and decision makers about the capacity and capability of the rail network to accommodate modal shift. There is no mention of the DfT’s Strategic Rail Freight Network: The Longer Term Vision. This vision has been published by the Department for Transport and can be found on the DfT website at http://www.dft.gov.uk/pgr/rail/strategyfinance/strategy/freightnetwork/

The draft ports NPS also fails to emphasise three critical points relating to the increased use of rail for port traffic:

— the need for commitments to improvements in rail infrastructure to be implemented;
— the need for port capacity for rail operators to be allocated in a fair and transparent manner; and
— the need for equitable treatment between rail and road operators in the provision of infrastructure and setting of port handling charges.
Q6. Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure.

The consultation document makes specific reference to the opportunity provided by a port to check on the safety of Heavy Goods Vehicles before they enter the road network. With 435 people killed by HGVs in 2007 on the UK’s roads this opportunity is very necessary and emphasises the importance of achieving modal shift.

Q8. Do you think that the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

The draft ports NPS, whilst covering inland transport issues, does not dwell on the effect of polluting emissions (as opposed to Greenhouse Gas Emissions) on the local population. The performance of different modes in generating emissions such as nitrous oxide, PM10 and other dangerous pollutants should be taken into account by decision makers.

CONCLUSION

The draft ports NPS is a useful document and will be an aid to applicants and decision makers. Whilst the opportunity for modal shift is highlighted there are a number of omissions and unhelpful caveats that need to be resolved before publication of the final document.

January 2010

Memorandum from ICHL International Container Hubs Ltd and the North European Off-shore Container Transhipment Hub Program in Scapa Flow Orkney—the DeepwaterHub™ Project. (NPS 23)

Thank you for the invitation to contribute. This is very much appreciated, as would be your forwarding of this note to the Parliamentary Transport Select Committee for their consideration. Your format has been followed for ease of reference.

Under the current constitutional arrangements, developments in Scapa Flow are matters for the Orkney Islands Council and the Scottish Executive. However, the North European Offshore Container Transhipment Hub in Scapa Flow, Orkney is an essential element in both Britain’s ability to survive and thrive in the twilight of the oil age and the achievement of the UK and Scottish Governments’ Climate Change objectives.

While it is inappropriate for an Orkney enterprise to advise on tactical Planning South of the Border, strategically, as in the present banking crisis, Britain sinks or swims as a single economic unit. For this reason, with due respect, this reply is made to you in the Department, for the House of Commons Select Committee and copied, for information, to colleagues in the North, as the success of local Ports Policy is powerfully influenced by international, strategic reality.

Hub Team reply, using Consultation format.

Section Subject

1.4 Territorial extent.
   1. While this consultation is limited to Policy in England & Wales, the North Europe Off-shore Container Transhipment Hub program in Scapa Flow, Orkney Hub is of vital interest for the whole UK, as well as for North Europe and the economical, efficient and eco-friendly development of world trade.
   2. It is therefore appropriate to respond to your invitation.
   3. The Orkney and Scots Governments have been, are and will be kept informed of the progress of this, the DeepwaterHub™ project.

1.8 The essential role of ports in the UK economy.
   1. The UK’s rapidly increasing population in a small island group that lacks self-sufficiency in food and energy, means that, like Singapore, to survive and not starve, we in the UK depend on world trade and on maintaining a profit in all areas of UK economic activity.
   2. Making a profit on which to survive means maximizing international income while minimizing costs, waste, duplication and inefficiency.
   3. This has to be achieved in the twilight of the oil age, when the UK again lacks energy security and UK government has pledged a major decrease in CO2 emissions.
   4. In this strategic situation, the Scapa Flow Hub in Orkney and its short sea fast feeder (SSFF) network will provide a vital and essential element to enable the UK to both survive and thrive in the years ahead.
   5. While the UK Government is subject to major public capital expenditure constraints, the Hub’s SSFF network can solve current congestion without further landside investment.
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<th>Section</th>
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<tr>
<td>1.8.3</td>
<td>Freight and bulk movements. Containerization greatly improves freight and much bulk transportation, strategic storage, collection and distribution.</td>
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<tr>
<td>1.8.4</td>
<td>Island geography. 1. There is a local port accessible to the Orkney Hub’s SSFF fleet within 50 miles of every point in the UK. 2. 50 miles is the practicable operating radius of electric-powered road vehicles (EPRV). 3. This means that all landside freight transportation, as well as export/import traffic, can be provided by EPRVs, backed by the Hub’s SSFF network—providing a quantum reduction in UK oil consumption and energy dependency. 4. It provides the means to regenerate all UK local ports and their local economies as well as, 5. Overcoming current congestion without further investment in road and rail.</td>
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<tr>
<td>1.8.5</td>
<td>Energy supplies 1. The multiple challenges of the UK Government response to Climate Change, energy dependency and energy security are best met by the development of the All-Electric Britain™ proposed by ICHL to HM Government, the Ministry, Parliament and the Scottish Government since 2002. 2. The essential elements of ICHL’s All-Electric Britain™ proposals are: (a) The North Europe Off-shore Container Transhipment Hub in Scapa Flow (“the Hub”), (b) The Hub’s SSFF short sea fast feeder network, (c) The utilization and regeneration of the UK’s local ports and their economies by the Hub’s SSFF trade and traffic, (d) Collection from and distribution to UK communities and industry from their local ports by EPRVs, electric-powered road vehicles. (e) Employment of the UK’s long-distance driving community on that part of their business where they earn most and are indispensible—local collection and distribution, for and from local ports. (f) Use of ICHL’s SSMS™ Simplified Suspended Monorail System to support distribution, storage and delivery in congested city centres from local ports (like Felixstowe, London Gateway, Thamesport, Bristol, Liverpool, Hunterston, Grangemouth, Teesport and the Humber ports). (g) Redevelop city centre multi-storey car parks as the next generation supermarkets, backed by the SSMS™ and EPRV local delivery to local corner shops and for e-shopping. 3. At the same time the Hub’s SSFF network will provide maximum support at minimum cost to all off-shore activities, based on each activities most convenient port base (such as that on Lyness in Scapa Flow, Orkney. This is key to the development of Scotland’s (as opposed to English, Orkney and Shetland) oilfields under the Rockall Bank.</td>
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<tr>
<td>1.8.7</td>
<td>Wider Economic Benefits Over and above 1. The regeneration of the UK’s local ports and their local economies, 2. The Orkney Hub will enable an order of magnitude reduction in the UK’s fossil fuel consumption, foreign currency costs, energy dependency and CO2 emissions, 3. The Hub and its SSFF network will reduce motorway and rail congestion, at a stroke, without the need for further motorway and rail construction: 4. Thereby freeing up capital and labour for more constructive and profitable projects while, 5. Reducing Government infrastructure expenditure and the tax burden during a period in which the UK has to live within its means, support and repay the public debt incurred over the last two years.</td>
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<td>1.9</td>
<td>The UK port sector UK Government Policy is “no public subsidy for the Port and Maritime industries.” While accepting and supporting this, ICHL respectfully points out that: 1. In the rest of the EU, these industries depend on public subsidy for their very existence and survival. 2. North Europe’s mediaeval system of expensive, inefficient, ecologically-flawed shallow, congested, city centre river ports has been fossilized by massive public subsidy by local, regional, national and EU taxpayers. Often contrary to their individual best interest. 3. The European taxpayer (including those in the UK) is currently required to pay to for the strangulation of the continent’s intercontinental trade by the “Big-5” ports (Hamburg, Bremerhaven, Rotterdam, Antwerp, Le Havre—soon to be the “Big-6” with Wilhelmshaven). This adds further public expense for no European public benefit.</td>
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4. At the same time, by paying for this choking of North European intercontinental trade, the European taxpayer at every level has been taxed to destroy North Europe’s (and the UK’s) local ports and their economies, undermining North Europe’s economy and global competitiveness, while enforcing congestion, maximizing energy wastage, pollution and CO₂ production.
5. The same policy ignores the UK and North Europe’s advantage of myriad local ports and under-uses much, if not most of North Europe’s long-established railway infrastructure.
6. This distortion of EU transportation is now made worse by the steady eastward drift of Europe’s economic heart away from the Big-6 ports.
7. The UK and Europe, like Russia’s economic heartland now needs local Baltic port access and off-shore container transshipment to intercontinental megaships to restore and maintain the UK and Europe’s global economic competitiveness.

1.10 Government Policy for Ports
1.10.1 1. The Scapa Flow deep water off-shore container transshipment hub satisfies the requirement to provide the most economical, efficient, flexible and competitive means for the UK and North Europe to restore, maintain and improve their global economic competitiveness, while enabling the UK to survive and thrive in an age of dwindling fossil fuel resources, energy insecurity, climate change and ecological concern.
2. Given both a free market and the challenges and discrimination inherent in continental port subsidization and the undermining of EU port policy by economic drift within its borders, the new economic reality is that the EU has to develop its Motorways of the Sea and Northern Maritime Corridor programs to provide maximum efficiency and economy to a Europe becoming dominated by the Eastern European (within the EU) and Russian commercial renaissance.
3. This renaissance requires Baltic access, off-shore container transshipment and the regeneration of local ports and their economies, leaving the Big-6 ports play to their strengths without the unnecessary expenditure of subsidizing their weaknesses to the disadvantage of the rest of the EU’s communities and its economy.
4. To succeed, both the NMC, Northern Maritime Corridor and Motorways of the Seas projects need strategic storage and speedy container transshipment to maximally-efficient and economical intercontinental megaships in Scapa Flow.
5. The Scapa Flow DeepwaterHub™ satisfies all local, Scots’, UK & EU, commercial, social, legal, ecological and environmental requirements.

1.10.2 In meeting the requirements of the Government’s policies on sustainable development, the ICHL Hub in Scapa Flow, Orkney:
1. Preserves, protects and makes possible improvements in marine and terrestrial biodiversity.
2. By providing a market for locally produced renewable energy, the Hub will minimise emissions of greenhouse gases from port related developments.
3. The Hub’s design optimises functionality to achieve the best aesthetic, economic and environmental balance.
4. The Hub, its site, location, design and operation enable the impacts of climate change to be turned to advantage.
5. The Hub’s efficient design minimizes the use of green field land.
6. The Hub provides an economic future for Orkney while enabling the regeneration and development of local ports, their economies and employment both throughout the UK and North Europe.
7. Optimising intercontinental megaship operation and extending the economy of maritime and waterborne transport throughout the UK and North Europe, the Hub will enhance local competitiveness while maximizing supply and transportation security.
8. Aesthetic considerations and energy efficiency also ensure that the Hub provides a high standard of protection for the natural environment.
9. The Hub poses no hazard to access to or the condition of any heritage assets. Hub construction is being exploited to establish whether previously unknown heritage assets exist and if they do, to allow proper examination and appropriate preservation.
10. Man is the most endangered species in Orkney at this time. The Hub will provide all in the Orkney human community with the means to survive and flourish, together with the ability to cherish, appreciate and preserve the rest of Orkney’s unique environment.

1.10.3 The Government wishes to see port development:
(i) Supporting sustainable transport by offering more efficient transport links with lower environmental hazards is a principle benefit of the Hub.
(ii) Providing a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable is exactly what the Hub and its SSFF network will provide.
(iii) Supporting sustainable development by providing additional capacity for the development of renewable energy is a direct consequence of the Hub providing wind, wave and tidal generation with a large local market, unburdened by transmission line costs.
(iv) Supporting economic and social cohesion is a prime purpose of the Hub project—to enable the young to stay in Orkney, re-linking the generations and ensuring a sound economic foundation for the Orkney community and all those communities that once again will flourish through local port regeneration throughout the UK and North Europe by the prosperity created by the Hub and its SSFF trade.

1.10.4 The Hub is primarily an international facility, earning foreign currency for the UK, but it will also:
1. Re-generate UK local port economies, with the social, economic and environmental advantages that that can bring.
2. As an international facility on UK soil it will bring advantage to the Exchequer and local government funds, without burden to either.
3. By promoting the development of the UK maritime activity, reducing fossil fuel consumption and dependency while enhancing UK fuel security, the Hub and its SSFF network will make a major contribution to the Government's ability to meet its ambitious energy security, environmental and climate change targets.

1.10.5 The Hub makes an All-Electric Britain™ both feasible and achievable. ICHL will be happy to render account of the ways and means by which this can be achieved as, where and when the DfT and Select Committee should so wish.

1.10.6 Having delivered two recent major port projects overseas, members of the Hub Team are well practiced in providing optimum functionality, efficiency, economy and profitability—and thereby sustainability—while mitigating or excluding adverse features and achieving an overall aesthetically welcome result.

1.11 The Government's assessment of the need for port infrastructure

1.11.1 1. The hub is a new port development reflecting the changing nature and orientation of intercontinental trade.
2. A major global economic downturn within the next seven years was anticipated by the Hub’s 2001 development plan. That this has now occurred does not detract from the need for intercontinental trade to continue to expand, if the peoples of the world are to improve their lot.
3. In Britain we have to pay our way, regenerate our economy and pay off the greatest public debt ever accrued. This can only be achieved by an economic renaissance in Britain built from the ground up on sure foundations. Those foundations include an ability to transport trade efficiently by sea to within 50 miles of everywhere in the UK.
4. The Hub is therefore one of the essential developments which give international finance confidence in the UK’s future ability to earn our keep and repay their loans.
5. In terms of intercontinental trade, Britain, the rest of the EU and Russia (where the future of democracy depends on a flourishing market economy) are all in the same boat: all need maximum extension of maritime transportation, by the SSFF network, closest to production and markets, allied with maximally efficient off-shore transshipment to megaships at the best located deepwater, all-weather access, 24-hour hub port—Scapa Flow.
6. With major change afoot in the World economy and global trade the Scapa Flow DeepwaterHub™ provides the maximum flexibility, reserve capacity, efficiency, economy, security and profitability, that are essential requirements for market development, sustainability and the ability to maximize the benefits of global trade and competition throughout the UK, North Europe and European Russia, together with the Eastern Seaboard of the United States and Canada.

1.11.2 Demand forecasts
1. With a 1929-style economic crisis built into ICHL’s market forecasts since 2002, the reality of global development means that, just as Britain has to live by international trade, or starve, so do China, India and the Eastern economies need western markets to continue their development.
2. After the crash that is now with us, the European taxpayer (including those in the UK) will no longer be able to afford and is likely to be less willing to subsidise the current fossilized, mediaeval orthodox port organization and maritime marketing strategies that hobbles North Europe's global competitiveness and no longer fits the European economy.
3. Further expansion of the Big-6 Ports, dependent on massive public and occult subsidy, becomes even less acceptable as the heart of the European economy moves ever further from them.
4. Ruthless global competition will force North Europe and the UK to adopt the most efficient, economical, flexible, profitable and therefore sustainable intercontinental marketing and transportation practice, if we are to prosper.
5. This requires fewer, larger, more efficient, eco-friendly intercontinental megaships, transhipping to a SSFF network that extends maritime container transportation closest to production and market.

6. Megaships cannot afford to spend more than a day in North Europe, if East-west services are to be profitable. That means 18,000teu off and 18,000teu back on to these ships in < 24-hours.

7. Only the ScapaSystem®, based in Scapa Flow provides this performance.

1.11.3 We beg to differ with MDS’ forecasts.
1. Containerization will increase in both numbers and proportion of trade. But Ro-ro will be hit by ever increasing fuel costs and taxation on road transportation.
2. Fuel efficiency, economy, competition and rising costs will force a change from current long-range/cross-channel diesel-burning articulated vehicles to container-carrying EPRVs, electric-powered road vehicles, collecting from and delivering to local ports for onward transportation by SSFF to Europe or for off-shore transshipment to intercontinental megaships at the Hub.
3. In what eventually will have to be an All-Electric Britain™, > 50 mile landside container delivery to congested urban retail, storage and distribution malls will be by SSMS® a simplified suspended monorail system.
4. These walk-to malls, e-shopping and corner shops supplied by EPRVs, will replace current car-dependent supermarkets.

1.11.4–7 MDS’ forecasts are for an orthodox, fossilised and already out-dated port strategy, with ports as no more than transmodal interfaces between maritime services and landside transportation to an inland hinterland.
1. A transhipment hub is different.
2. There is little or no local hinterland. The real hinterland is the region served by the Hub’s SSFF short sea fast feeder network, delivering to and distributing from the Hub.
3. The Scapa Flow DeepwaterHub™’s hinterland is Europe west of the Urals and north of the Loire, Alps and Carpathians, with extension down the Volga as far as the Caspian & Baku and over the Urals into Western Siberia.
4. Within the UK, rather than take trade from existing British ports the Hub will deliver to them much as they now get 2nd hand from the continent, but with a much greater volume of megaship trade transhipping at Scapa for delivery direct to UK local ports.
5. Costs will be in £sterling, reducing UK trade imbalance and UK firms’ exposure to currency fluctuation.

1.11.8 Port Location. Capacity must be in the right place if it is to effectively and efficiently serve the needs of import and export markets.
Correct, but not if the port concerned is operating in transmodal fashion between ships and rail/road transport, with a hinterland stretching inland 50 miles into territory better served by another port. Containers carried by lorry between Scotland and Southampton, often empty one-way is an example of current inefficiency.

1.11.9 Prediction difficulty.
Correct. But trade reflects economic strategic reality.
Strategically the North European Container Transhipment Hub could be in either the English Channel or the Pentland Firth. Le Havre/Antifer is the obvious Channel site, but is shallow, cramped, requires continuous maintenance dredging and is unacceptable to the authorities. Scapa Flow provides deep water alongside shallow land with no dredging requirement and all-weather access.

1.11.10 Competition
1. The Hub will not compete with British ports, to whom it will bring extra trade.
2. Rather the chief effect within Britain will be the renaissance and regeneration of Britain’s local ports and their local economies together with reduced congestion, reduced fossil fuel consumption and reduced UK energy dependency.
3. The Hub’s competition are the tax-subsidized traditional Big-6 North European ports—the mediaeval arrangement and practice of which is kept alive by subsidy—much by the taxation of those who derive no benefit but suffer from subsidised discrimination in favour of the Big-6.
4. The regeneration of local industry, the rise of Russian intercontinental trade and the eastward shift of European industry within the EU, all require and favour off-shore transhipment in Orkney.
Section Subject
5. Megaship operators need the 24-hour turnround, single stop in Scapa that the DeepwaterHub™ will provide to achieve profitability on each megaship and save an entire megaship on each Asia-North Europe service.

1.11.11 Resilience
To the DeepwaterHub™’s funders, Resilience has many components, that ensure sustainability:
(1) To turn a profit even during economic downturns and in the face of subsidized competition.
(2) To be able to expand capacity smoothly and on demand, to allow for changing, delayed or disordered schedules.
(3) To have the performance to handle and completely turn round fully unload/reload 18,000teu malaccamax boxships in 24 hours.
(4) Flexibility to develop the market, to provide for and keep ahead of the customers’, lines’ and shippers’ constantly changing needs and demands, while continually providing new commercial opportunities for them.
(5) Strategic storage to enable clients to optimize their marketing at short notice.
(6) All-weather access, handling and 24-hour/day, 366-day/year continuous operation.
(7) Reliability despite changing circumstance.
(8) Security, in which Scapa Flow already has a 100 years track record.
(9) Separation of liquids and solids—oil and container operations completely separated.
(10) Environmental compatibility.
(11) A variety of renewable energy sources, rather than dependency on a monopoly supplier.
(12) Design and capacity to develop the market, satisfying its demands and exploiting its opportunities; to contribute to the Government’s delivery of its climate change agenda and to turn unavoidable climate change to advantage.

1.11.12 Conclusion
The Government believes that there is a compelling need for substantial additional port capacity. Agree. In addition, ICHL’s Orkney DeepwaterHub™ development in Scapa Flow will afford the opportunity to:
(i) Regenerate the UK’s local ports and their communities as well as providing a major economic boost for Orkney and for Scotland.
(ii) Cut congestion without the cost of further rail and motorway construction.
(iii) Dramatically reduce the UK’s fossil fuel consumption, improve UK energy security and achieve the UK Greenhouse Gas targets.
(iv) Improve the UK, North Europe and Russia’s global commercial competitiveness.
(v) Provide the basis for an All-Electric Britain which can survive and thrive in the Post-Oil Era.

1.12 Assessing the need for additional capacity
1.12.1 When determining an application for an order granting development consent in relation to ports, the decision-maker should accept the need for future capacity to:
1. Cater for long-term forecast growth. The Government expects that ultimate the demand forecast in the 2006 ports policy review is likely to arise, though in the light of the 2008–09 recession, not necessarily by 2030. The Hub is designed for North European off-shore transhipment to/from intercontinental megaships. This need is here and now. Slow steaming enhances the need for a single stop, fast, total turn round in North Europe for these large ships. Single stop Scapa transhipment saves an entire ship per Europe-Asia service.
2. Support the development of offshore sources of renewable energy. The OIC, Orkney Islands Council already has this in hand at Lyness, the former Royal Navy base in Scapa Flow. The Lyness marine renewables engineering support development complements the Hub in Scapa Flow, from which it will gain additional business and provide confidence for SSFF operators that they have engineering support available in Scapa Flow. Megaship servicing during 24-hour turn round means even more business for Lyness and Orkney-based engineering, electrical, electronic and general services.
3. Offer a sufficiently wide range of facilities at a variety of locations to match existing and expected trade, ship call and inland distribution patterns; What the Hub and it’s SSFF network provides.
4. Ensure effective competition between ports and provide resilience in the national infrastructure; Exactly what the Hub and it’s SSFF network provides.
### Section Subject

#### 5. Take full account of both the potential contribution port developments might make to regional and local economies.

The Orkney DeepwaterHub™ in Scapa Flow will provide an economic future for Orkney, opportunity for individuals and businesses there, in the North and throughout Scotland and by the regeneration of Britain’s local ports and their economies, throughout the UK.

Internationally it will improve the global competitiveness of the UK, North Europe and Russia—on the market economy of which the democratic development of the last depends.

January 2010

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**Memorandum from the New Forest National Park Authority (NPS 24)**

The National Park Authority welcomes the opportunity to respond to the draft National Policy Statement for Ports and has the following points to make.

1. **Background to the National Policy Statement**

   1.1 The Authority understands that the National Policy Statements are intended to establish Government policy on the need for nationally significant infrastructure projects, in doing so eliminating the need to debate this at public inquiries. However, unlike some other National Policy Statements (Nuclear Power for example), the draft Statement on Ports is not locationally specific, but instead continues the existing policy of allowing the economic market to determine where port development is focused. By relying on a market-led approach, the opportunity to establish a national spatial ports plan is missed. The Authority is of the view that the consultation document fails to provide a robust basis for the Infrastructure Planning Commission to properly determine proposals for nationally significant port proposals.

   1.2 The Authority is also concerned that as drafted, the consultation document fails to provide planning authorities with the certainty required in developing their Local Development Frameworks. Clearly port development needs to be “joined-up” with road and rail infrastructure, the provision of housing and other infrastructure to support growth. It is essential for local authorities to fully understand and appropriately plan for the region’s infrastructure priorities and investment needs, but the draft Statement does not provide this certainty.

   1.3 The National Policy Statement should be amended to make clear decisions about appropriate locations for port development, having regard to national and international landscape and habitats designations, infrastructure capacity (eg surface transport) and other relevant considerations. As currently drafted, the Statement delegates these considerations down to individual proposals to be considered against a set of subjective criterion.

2. **Economic Impacts (Section 2.6, Page 21)**

   2.1 The Authority acknowledges the important role ports play in terms of employment opportunities and economic benefits. It is noted that paragraph 2.6.4 point 3 of the draft Statement notes that,

   “Where port development is likely to lead to a substantial net increase in employment (of 5000 or more) which would require inward migration to the area, the effect on demand for local public services (such as affordable housing, education and healthcare) should be assessed.

   2.2 In addition to assessing the effect on demand for local public services, the assessment should also consider the wider impacts on local communities and other interests. In developing the Regional Spatial Strategy for the South East for example, the National Park Authority and New Forest District Council made the case that the New Forest is not an appropriate location for accommodating significant additional development. Additional inward migration to the New Forest would, for example, result in additional pressure on local housing and increase recreational pressures on the protected habitats of the National Park. Port capacity should be sought in appropriate locations where damage to national and internationally designated landscapes and habitats and impacts on local communities are minimised.

3. **Biodiversity and Geological Conservation (Section 2.12, Page 27)**

   3.1 As you will be aware, in 2004 proposals for a major container port at Dibden Bay on the edge of the New Forest National Park were rejected by the Secretary of State, principally due to the significant adverse impacts the proposals would have on international nature conservation designations in the area. The Authority therefore welcomes the statement in paragraph 2.12.9 that,

   “In taking decisions, the decision-maker should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.”
3.2 This was a major consideration in the Secretary of State’s rejection of the proposals for port development at Dibden Bay in 2004. The Secretary of State concluded there were credible alternatives for port development to provide the additional capacity in South East England, and that alternatives to Dibden Bay should not be confined to alternative local sites. In accordance with Article 6(4) of the Habitats Directive, the consideration of alternatives for projects that would have a significant impact on a protected site must range widely and could include locations in different regions or countries. The Authority is aware of the strong objections of New Forest District Council to the apparent redefinition of relevant alternatives for consideration under European legislation and would urge the Government to amend the Policy Statement to ensure its conformity with European legislation.

4. LANDSCAPE AND VISUAL AMENITY (SECTION 2.23, PAGE 61)

4.1 The Authority welcomes the acknowledgement in paragraph 2.23.2 that port development can have a negative impact on landscape character and that this can be a particular problem where an area is a tourist destination and/or important for recreation, stating that, “The impact can be the result of the physical character of the port development as well as its introduction of light pollution and noise to areas that may otherwise have been tranquil.”

4.2 These issues are particularly pertinent for the New Forest National Park, which receives over 13 million visitors per annum and is a highly valued recreational resource. The Authority however, considers that this paragraph should be expanded to confirm that as well as port development itself, surface transport links associated with port development could also have a significant landscape and visual amenity impact in addition to the intrusion caused to otherwise tranquil areas. Any landscape and visual assessment carried out by the applicant (paragraphs 2.23.3–2.23.5) should also assess the impacts of traffic associated with port development and not simply the port development itself during construction and whilst operational.

5. DEVELOPMENT PROPOSED WITHIN AND OUTSIDE NATIONALLY DESIGNATED AREAS (PARAGRAPHS 2.23.7–2.23.10, PAGE 63)

5.1 The Authority supports the inclusion of paragraph 2.23.7 which states that National Parks have been confirmed by Government as having the highest status of protection in relation to landscape and scenic beauty. The paragraph reflects the requirements of Section 62(2) of the Environment Act 1995 which places a statutory duty on decision-makers to have regard to the two National Park purposes in its decisions. The footnote reference to the DEFRA guide on the duties on relevant authorities to have regard to the statutory Park purposes (2005) is strongly welcomed. Linked to this, the Authority also welcomes the inclusion of paragraphs 2.23.8 and 2.23.9 which reflect national planning policy found in Planning Policy Statement 7, paragraphs 22–23.

5.2 Paragraph 2.23.10 helpfully reiterates that the duty on decision makers to have regard to the statutory National Park purposes applies when considering proposals outside the boundaries of National Park that may impact on them. This reflects the DEFRA guidance “Duties on relevant authorities to have regard to the purposes of National Parks, AONBs and the Norfolk and Suffolk Broads”, 2005 which states in paragraph 8,

“...the purposes for which these areas have been designated are recognised as an essential consideration in reaching decisions or undertaking activities that impact on those areas...” (my emphasis).

5.3 The Authority however, echoes the concerns raised by New Forest District Council in their consultation response to the draft Statement. Although paragraph 2.23.10 acknowledges that proposals located outside National Parks should have regard to their purposes where it might have an impact within them, the paragraph goes onto state that “...such projects should be designed sensitively given the various siting, operational, and other relevant constraints.” This strongly implies that impacts on a National Park would need to be mitigated, but that they would not rule out a project in principle. The Authority objects to this, as it is contrary to the requirement for the consideration of impacts on a National Park (from development within or outside a Park) to be an “essential consideration” in reaching decisions.

5.4 As already cited, the Inspector considering proposals for port development at Dibden Bay in 2004 concluded that there would be a significant adverse impact from development on the New Forest Heritage Area (as was). Since then the National Park has been formally designated and the recently adopted Regional Spatial Strategy for the South East (May 2009) recognises that the New Forest, as the smallest National Park, with the highest proportion of areas of international nature conservation designations of any National Park (over 50%), is under “intense pressure”. In recognising the particular sensitivity of the New Forest National Park, policy C1 confirms that, “Planning decisions should also have regard to the setting of the Park.”

5.5 The Authority would expect to see paragraph 2.23.10 of the Statement amended to recognise that the impacts on a National Park, arising from development within or outside the National Park, are an essential consideration and could rule out a project in principle.
6. **Main Conclusions**

— The National Policy Statement on Ports should be based on a thorough consideration of the alternatives for providing additional port capacity. The proposed approach of “market led” development fails to take the opportunity for providing a national spatial ports policy.

— Port capacity should be sought in appropriate locations where damage to national and internationally designated landscapes and habitats, and impacts on local communities are minimised. Development should be focused on areas where inward migration can be accommodated.

— The Authority would urge the Government to amend the Policy Statement to ensure its conformity with European legislation regarding the consideration of alternative sites for port development where adverse impacts on protected habitats are identified.

— The landscape and visual assessments required for proposals should also fully consider the impacts of surface transport routes associated with port development, and not simply the port development itself.

— DEFRA has confirmed that the statutory National Park purposes are an essential consideration in reaching decisions that could affect National Parks. This relates to development within or outside a National Park that would affect them. As currently drafted, the Statement fails to properly acknowledge this and paragraph 2.23.10 should be amended accordingly.

I trust the above is of assistance in highlighting the Authority’s views on the consultation Statement and the approach that we would expect to see adopted in the final version. Should you wish to discuss any of the above, please do not hesitate to contact me.

*January 2010*

**Memorandum from Southampton City Council (NPS 25)**

**Part I**

1. The importance of the ports cannot be exaggerated. The vast proportion of the trade of the nation has passed, does pass, and will pass through our ports. Trade is the basis of the economy, and the ports are the lifeline.

2. Modern ports will require deep water in order to accommodate the huge ships of today and tomorrow. Huge ships are required for the large containers, seemingly inexorably increasing in size and weight and numbers, for the import and export vehicle trade, for aggregates and indeed for trade generally. Furthermore the prosperous cruise industry also requires modern deep water berths. Deep water berths require all the modern cranes and similar equipment; and the cruise industry requires large passenger handling terminals.

3. Modern working ports require a very large amount of space behind the quayside, for stacking containers waiting trans-shipment, for vehicles, for aggregates and for general cargo. Ports attract and often indeed require supporting or supplementary business, eg repair facilities, sorting, packing, bottling, added value working, any number of such activities, all of which usually require storage facilities.

4. HM Customs and Revenue and the Border Agency require working space.

5. Parking space is needed for customers, cruise passengers, and those who work in the port.

6. A ferry often has a place in a port, requiring a marshalling area and handling facilities.

7. Park and ride may form part of the local transportation strategy, and the port may be a very suitable location.

8. Access to and egress from the port is absolutely essential, by railway and road, especially motorway or motorway type highway. Access through built up urban fabric is always to be avoided or discouraged or deterred wherever possible.

9. Ports provide enormous employment opportunities, if not so much direct labour as all the hundred and one supporting or ancillary activities generated.

10. Competition in the commercial setting always provides motivation to efficiency and productivity and attractiveness to the customer, and is to be welcomed. However, the function of government is not to encourage or discourage competition but to ensure that the industry has sufficient capacity to meet demand and the economic climate in which the industry can thrive.

11. State aid should not be provided, certainly not on any discriminatory basis.

12. European money should be obtained wherever possible, but used in a manner fairly for the benefit of the industry as a whole.

13. The marine industry, in its widest sense, requires a steady flow of appropriately trained workers, and government and local government and the training for employment world must bear the special needs of the industry in mind.
14. The planning procedure is usually perceived, and with justification, to be an obstacle rather than a facilitation for the industry, even given the internal operational freedom of the ports. The planning process must be speeded up. Nationally significant decisions must be taken at national level. There must be the opportunity for consultation and for the democratic voice to be heard, but the endless lobbying by special interest groups and the endless public inquiries must be curbed.

15. Ports are often situated in or near built-up urban areas and there can be serious neighbour problems, nuisance such as noise and odour and light pollution and overlooking and security. Developments inside and outside a port must be alive to this potential tension, and always seek to minimise any adverse effects that fall or might fall on either.

16. On a small and crowded island the challenge may often in contemporary times is to promote economic development whilst at the same time providing appropriate environmental protection.

17. Ports can be “interesting” places and whilst recognising the needs of security and safety nonetheless controlled public access, eg to watch the big liners come and go, can be a huge public attraction, and potentially commercially profitable, and accordingly should be encouraged.

PART II

Dibden Bay

1. ABP and the City Council, and hopefully the business community, continue to support the concept of the development of the docks in Dibden Bay. Apart from the recession blip, which we will hope will soon pass, the trade has been and will be again increasing enormously, the containers, the aggregates, the cars, the cruise ships, 7% of the trade of the nation passes through Southampton. Trade is the lifeblood of the nation. The Victorians built the Eastern docks on reclaimed land; in the 1920s far sighted men built the Western docks on reclaimed land. They are both full to capacity.

2. Dibden Bay could provide six new deep water berths capable of taking the biggest ships. There would be space for handling and storing. A big proportion of the goods would come and go by rail. An improved road to and from the M27 would include a bridge over the railway at Totton. There would be park and ride and improved ferry facilities. The opportunities for employment and business would be enormous. The entire site would be shielded by trees and sensitively landscaped. Dibden Bay was acquired by ABP many years ago as part of a far sighted development policy. As the name implies, it is land reclaimed from the River Test, and created by spoil from the construction of the Western docks. It has never been part of the New Forest, a precious amenity that we all want to protect. Already along the riverside there is the recycling centre, Marchwood Military Port, Hythe Marine and Fawley Esso oil refinery. The A326 is the natural eastern boundary of the New Forest.

3. The challenge the nation faces today is economic development, but economic development paying due regard to environmental protection, in a balanced manner.

January 2010

Memorandum from South Downs Joint Committee (NPS 26)

1. INTRODUCTION TO THE SOUTH downs and the Joint Committee

1.1 The South Downs extend from Winchester to Eastbourne and, together with part of the Western Weald, are designated as the East Hampshire AONB and the Sussex Downs AONB, a combined area of 1,374 sq km. As such, the two AONBs represent one of the largest areas of protected landscape in England.

1.2 The South Downs Joint Committee came into being on 1 June 2005 as a result of an Agreement between the Countryside Agency and the 15 local authorities across the South Downs. The Joint Committee represents, for the first time, a single management organisation promoting and facilitating the conservation and enhancement of the South Downs.

1.3 In addition to renowned landscape attractions such as Beachy Head, Ditchling Beacon, Devil’s Dyke, Blackdown, Butser Hill and England’s first Heritage Coast, the South Downs include (inter)nationally important habitats, particularly chalk grassland, heathlands and ancient woodland. With over 3,200 km of public rights of way including the South Downs Way National Trail and 15 regional walking routes, the two AONBs attracted over 39 million leisure trips in 2003. In turn, these visits generated some £333 million for the local economy.

1.4 On 18 December 2002 the Countryside Agency signed an Order to create the South Downs National Park, subject to Ministerial confirmation. Following a Public Inquiry, on 31 March 2009 the Minister announced his decision to confirm the South Downs National Park, and the Park was confirmed on 12 November 2009. The designated Park area includes the great majority of the two AONBs and additional areas, resulting in an area of over 1,600 sq km.
1.5 The population of the South Downs National Park (subject to final Ministerial confirmation) is estimated to be some 120,000, with 1.8 million people within just 10 km of the boundary, and 10 million people within an hour’s journey time. In 2006–07 it was estimated that over 4,000 planning applications were received within the National Park area. This is almost four times the number received in the Lake District, the next highest. 85% or so of those applications are approved each year.

1.6 The Joint Committee has four objectives:

— to protect, conserve and enhance the natural beauty and amenity of the Sussex Downs Area of Outstanding Natural Beauty and the East Hampshire Area of Outstanding Natural Beauty, including their physical, ecological and cultural landscape;

— to promote the quiet informal enjoyment of the Sussex Downs Area of Outstanding Natural Beauty and the East Hampshire Area of Outstanding Natural Beauty by the general public but only so far as is consistent with the first objective;

— generally to promote sustainable forms of economic and social development especially working with farmers and landowners to encourage land management which supports the two objectives above; and

— to foster the social and economic wellbeing of communities within the Sussex Downs Area of Outstanding Natural Beauty and the East Hampshire Area of Outstanding Natural Beauty.

THE COMMENTS OF THE SOUTH downs JOINT COMMITTEE

The Joint Committee very much welcomes and supports the section in the draft NPS on landscape and visual impacts, in particular:

— the retention and clarification of the important protection provided by PPS 7 for nationally designated landscapes;

— the reiteration of the criteria for assessing major development in protected landscapes in PPS 7 as it clarifies that the NPSs will not override PPS 7 for such developments;

— the recognition that development outside the boundary of a protected landscape may affect the designated area; and

— the reference to the duties on the IPC to have regard to the purposes of designation of AONBs and National Parks.

The Joint Committee welcomes the recognition of the potential adverse effects of noise on quiet or tranquil places and areas that are particularly valued for their landscape quality. However, lighting and air pollution can also have adverse effects on otherwise “tranquil” areas and the Joint Committee recommends that this is also recognised in the NPS.

January 2010

Memorandum from the Environment Agency (NPS 27)

SUMMARY

The Environment Agency welcomes the opportunity to submit evidence to the Transport Select Committee’s inquiry into the proposal for a National Policy Statement (NPS) on Ports.

— We welcome the draft NPS for Ports together with its Appraisal of Sustainability (AoS) and Appropriate Assessment. We believe that the NPS is an essential part of the new planning system for nationally significant infrastructure projects (NSIPs).

— We believe that the NPS documents should provide the Infrastructure Planning Commission (IPC) with appropriate guidance on environmental issues when it examines applications and makes decisions on development consent. We believe that some improvements are necessary in order for the NPS to do this.

— Given the importance of the UK’s ports sector and its likely expansion in the future, we welcome the commitment in the NPS to sustainable port development. New port infrastructure should help meet the requirements of the Government’s sustainable development policies.

— Our comments in this submission are primarily focused on the aspects of the NPS that are concerned with climate change, environmental impacts, associated development, environmental regulation and the Appraisals of Sustainability (AoS).
1. INTRODUCTION

1.1 The Environment Agency is a statutory consultee in the planning process in relation to many types of planning application and will be a statutory consultee on all applications for Development Consent Orders.

1.2 We are also an environmental regulator and issue certain permits and consents associated with port developments.

1.3 We are the competent authority for the implementation of the Water Framework Directive. The Directive aims to protect and enhance the water environment.

1.4 We are a competent authority under the Habitats Regulations. We have a legal duty to ensure that none of the activities or permissions we are responsible for result in an adverse effect, directly or indirectly, on the integrity of a classified Special Protection Area (SPA) or candidate or designated Special Area of Conservation (SAC).

1.5 There are further European Directives that we are a competent authority for, such as those for waste management. The requirements and regulation of many of these will directly affect the development and operation of ports.

2. CLIMATE CHANGE

2.1 Limiting future climate change

2.1.2 Transport of goods by sea may be an important part of keeping carbon emissions from international trade to acceptable levels. This assumes large, modern and efficient ships are used and the NPS enables port developments that are able to accommodate them.

2.1.3 We would welcome the NPS playing a role in ensuring that port facilities, their associated buildings and related transport infrastructure are designed to be energy and water efficient.

2.2 Adapting to unavoidable climate change

2.2.1 Port infrastructure and its associated development and transport networks must be resilient to unavoidable climate change impacts, particularly rising sea levels, coastal flooding and severe storms.

2.2.2 In turn, adaptation measures for port development could make nearby communities more vulnerable to climate change impacts and these should be carefully assessed. This would be a particular risk where port development affected the rate and type of coastal change.

2.2.3 We believe that the NPS for Ports covers the relevant potential environmental impacts that stem from climate change and requires applicants to include the necessary environmental assessments as part of their applications to the IPC.

2.2.4 The NPS states that applicants should use information on climate change research from UKCP09 projections as well as other documents including the Environment Agency’s Flood Maps. Flood Maps do not however include information on climate change impacts. Other sources of information such as Strategic Flood Risk Assessments would be more appropriate.

2.2.5 We understand that the Government will be revising a number of pieces of guidance for example Planning Policy Statement 25 (PPS25) and Technical Advice Note 15 (TAN15) to ensure the UKCP09 projections are reflected in this guidance. In paragraph 2.14.11 of the NPS we do not think that the IPC should need to look beyond the UKCP09 projections because these already contain a high risk scenario.

3. ENVIRONMENTAL IMPACT ASSESSMENTS

3.1 As the NPS notes major ports are often located in areas of importance to biodiversity, particularly to bird and fish life. Ports are a significant pressure on these environments and the size of modern ships means that port development could be damaging to the natural environment.

3.2 The NPS should emphasise that promoters will be expected to use Environmental Impact Assessments (EIA) as an essential pre-application stage engagement with environmental bodies. We agree with the NPS that the Environmental Statement should describe any relevant contribution of the air emissions to critical levels and loads for the protection of vegetation and ecosystems.

3.3 Where EIA is not mandatory, we support the NPS specification that an applicant should still be required to provide information proportionate to the project on the likely significant environmental, social and economic effects. Our experience is that applicants will need guidance if wasteful discussion on individual cases is to be avoided.

3.4 The consideration of alternative sites for ports will be important so that developers select the best environmental option. For ports we would expect some of the new development to be the expansion of existing facilities. This makes the consideration of alternative sites more difficult. The NPS needs to set out a clear framework for the IPC to consider these issues alongside the use of Imperative Reasons of Over-Riding Public Interest (IROPI) in order to make a final decision about granting planning permission.
3.5 The NPS is clear that environmental quality on varying scales from national through to local habitat designations should be protected. The EIA will be important here in ensuring these various habitats are considered. As well as acknowledging the spatial variation in habitat, we believe the NPS should also acknowledge temporal variations in habitats, for example there are certain times of the year when wildlife can be particularly vulnerable such as during migrations.

3.6 We would welcome the NPS providing more evidence to support the claim in paragraph 2.12.7 that Nationally Significant Infrastructure Projects (NSIPs) will benefit biodiversity.

3.7 We support the recognition of future Marine Conservation Zones in the NPS.

3.8 We support the advice to the IPC that it may attach requirements to Development Control Orders (DCO) to ensure applicants provide mitigation measures for specified potential impacts of the scheme.

4. Flooding, Coastal Change and Water

4.1 Some further changes are needed to the text on flooding so that risks are properly assessed. They include:

Flood Risk Assessments should take climate change impacts into account over the lifetime of the development; and consider safety and operational capability in a worst case flood event. On the guidance for the decision maker it should be stated that any residual risk of flooding that is caused by the project should be able to be managed both on and off site; Sustainable Drainage Systems (SuDS) should be used as appropriate and other approaches may be possible. Safety is the key to assessing flood risk outside the port area. It may involve compensation for those affected to allow for relocation away from the risk of flooding or offsite works to compensate for unacceptable risks from changing floodplains.

4.2 The section on coastal change should take into account the emerging new guidance that is examining coastal change in terms of appraising risk, avoiding risk, managing risk and reducing risk to coastal communities. Consideration needs to be given to the risk to existing coastal communities from changes to coastal processes caused by port works, including dredging.

4.3 Applicants should take Shoreline Management Plans into account rather than propose changes to them.

4.4 In addition, the physical modification of water bodies that is likely to occur during the construction of a port is relevant to assessment under Article 4.7 of the Water Framework Directive (WFD) which relates to provisions on physical modification. Paragraphs 2.12.23 and 2.12.24 should be clear that there may be additional physical modifications other than dredging that may need to be assessed under the WFD.

4.5 Applicants’ assessments should be required to be more specific and include potential impacts of the proposed development on existing water resources, including existing water abstractions.

4.6 We note that WFD requirements will be addressed in the Environmental Statement and recommend that this reference be expanded so that applicants are aware they should cover Article 4.7 of the WFD on physical modifications and the introduction of alien species.

5. Associated Development

5.1 We believe that the NPS should clarify the type of associated development that the IPC may be minded to approve as part of an application for a Development Consent Order for a port.

5.2 The draft NPS briefly introduces associated development in paragraph 1.2.1, going on to say that non-port related development should be dealt with on a case by case basis. It is important that the NPS does not lead to people and development being placed at inappropriate risk from flooding.

5.3 In paragraph 2.15.3, the statement that port infrastructure is water compatible needs to be qualified in the context of current planning policy guidance such as Planning Policy Statement 25 (PPS25) that says docks, wharves and dockside fish processing developments are water compatible and may be permitted in floodplains along with essential transport infrastructure. Some other potential associated development for ports such as warehousing and storage may be placed in Flood Zone 3a (FZ3a), subject to sequential testing.

5.4 We recommend the NPS should include a specific paragraph on the types of land uses that the IPC may accept as associated development so that statutory consultees, applicants and the IPC do not become mired in predictable and time consuming case by case discussions.

6. Environmental Regulation

6.1 We welcome the recognition in the NPS that we will deal separately with applications for environmental permits and other consents such as abstraction licences and discharge consents.

6.2 We support the guidance to decision makers in this area. For example the reference made in paragraph 2.11.4 that they should assume pollution control regimes will be properly applied.

6.3 The NPS should advise the IPC that applications for environmental permits and consents are subject to environmental Directives, for example the Habitats Directive and Water Framework Directive. It should advise that significant work may be required from applicants beyond what is contained in the DCO.
application for us to have enough information to be able to give a meaningful view to the IPC on whether there is any likely obstacle to our issuing the necessary related permits and consents. The NPS should stress that any advice we give cannot prejudice the permit determination process.

6.4 We strongly support paragraph 2.11.3 that encourages applicants to follow best practice of “parallel tracking” applications for development consent and environmental permits and consents.

6.5 Some environmental consents, for example for water abstraction are time limited and will need to be reviewed within the operational life of port infrastructure.

7. APPRAISAL OF SUSTAINABILITY

7.1 We welcome the Appraisal of Sustainability (AoS) which provides a valuable starting point by considering the potential effects of creating new ports.

7.2 We agree the AoS has addressed the appropriate sustainability issues and welcome the evidence it presents that its environmental component meets the requirements of the Strategic Environmental Assessment (SEA) Directive (Directive 2001/42/EC) on the assessment of the effects of certain plans and programmes on the environment.

7.3 We believe there are some ways that the AoS could be improved further.

7.4 The AoS should present evidence clearly and transparently on how conclusions were reached. We believe more should be said on how the significance of effects was decided as well as on how the AoS has informed the development of the NPS.

7.5 We recommend that the evidence on how appraisal conclusions were reached, cumulative effects assessed, and how the AoS informed the development of the NPS are clearly presented.

8. OTHER

8.1 The draft NPS will be applicable to England and Wales. The text needs a significant number of changes to include references to technical standards and practice specific to Wales.

January 2010

Memorandum from Campaign for National Parks (NPS 28)

SUMMARY

Need

The draft National Policy Statement should not promote the expectation that infinite growth is achievable or desirable. The “predict and provide” formula deployed for the purpose of assessing need is outdated. It must be recognised that infrastructure is permanent and irreversible, and that it will not be possible to undo the environmental damage associated with port development and operation.

Alternatives

The adverse effects of port development have the potential to be felt across whole regions (and beyond) and these must be considered when determining the need to look at alternative options. Guidance within the NPS on the preparation and presentation of alternatives must be strengthened.

Landscape and visual amenity—proposals within or likely to affect National Parks

The guidance for assessing projects in National Parks must be altered so that it reflects properly the rigorous examination necessary for such projects and the test that must be satisfied before such projects can be considered to be acceptable (exceptional circumstances and public interest must be demonstrated).

All impacts on National Parks—not just on landscape and natural beauty, but wildlife, cultural heritage and National Park special qualities—must be taken into account. The draft NPS should expand on the meaning of natural beauty and National Park purposes so that the link to wider considerations associated with special qualities is explicit. Where a Park is likely to be affected by a port development, the NPS must allow for the possibility that, having had regard to the purposes of designation, a proposed development might be so incompatible that the decision-maker considers that it should not proceed.

Transport

Demand management—Decisions about the case for demand management or new transport infrastructure should not be left solely to the preferences of the applicant and the network provider. The views of consultees should carry significant weight in determining whether and what type of demand management should take place.
Modal share—Where a National Park or other Nationally Designated Area (NDA) is likely to be affected, applicants should be required to provide for transport connections and traffic management that is the least damaging to that area, not just the most cost-effective to their operations. If the least damaging scenario is not affordable to the applicant or would still constitute significant harm to the area in question, it is right that the proposal should not proceed and the guidance should reflect this.

HGVs—This section should include explicit reference to the environmental impacts of significant new HGV traffic, and state that in certain circumstances, such as in relation to National Parks and other NDAs, such considerations will weigh heavily against the case for development.

**Climate change**

We agree with the Environmental Audit Committee (EAC) recommendation that the Government should adjust carbon budgets downwards for the rest of the UK economy to compensate for the UK’s share of international shipping emissions. Notwithstanding its response to the EAC report we urge the Government to consider how it could do more to tackle shipping emissions through the NPS.

**INTRODUCTION**

1. The Campaign for National Parks (CNP) is the national charity that campaigns to protect and promote National Parks for the benefit and quiet enjoyment of all.

2. As port development has the potential to have a major adverse impact on National Parks, whether part of or close to a proposed development site, we have a close interest in the draft National Policy Statement for Ports (draft NPS).

3. Although almost every aspect of the environmental impacts of port development discussed in the draft NPS is relevant to National Parks, our evidence focuses on the policy that should apply where National Parks are directly implicated or affected, and on transport impacts, given their inherent wider reach. We also wish to comment on some of the broader underlying premises for the draft NPS and its interplay with the urgent need to address climate change.

4. With regard to the Appraisal of Sustainability, we fully endorse the joint response of Wildlife and Countryside Link (15 January 2010), to which we are a signatory.

1.11 **Assessment of the need for port infrastructure**

5. CNP has serious reservations about the Government’s assessment of the need for new port infrastructure. The assessment starts from an assumption of major economic growth, principally in trade but also tourism, over the next 20 years and consequent increase in demand for port facilities. It asserts that the only impact that the current recession will have on forecast growth is a slow-down in rate, but not an overall reduction in scale. We believe this approach is fundamentally flawed.

6. The current global financial and climate crises should demonstrate to society that based on patterns of consumption in the developed world over the last 50–100 years, we are not living sustainably. This is fundamental to any prediction of future capacity needs. In order for the UK and other developed countries to live within finite environmental means and to reduce carbon emissions, we must live differently and consume less. This is well documented in the Sustainable Development Commission’s seminal report: Prosperity without growth? (March 2009),22 which we commend to all advisers to the Government in preparing NPSs across the policy spectrum, including transport. In this context, the Government’s interpretation of and claim to be committed to the “shared UK principles of sustainable development” is highly dubious.

7. Para 1.11.12 of the draft NPS states:

Excluding the possibility of providing additional capacity for the movement of goods and commodities through new port development would be to accept limits on economic growth . . . such an outcome would be strongly against the public interest.

We would suggest that it is strongly against that public interest to foster and promote the expectation that infinite growth is achievable or desirable, as the effects of the global financial crisis continue to be felt. We believe that the outdated “predict and provide” formula deployed for the purpose of the draft NPS is wrong and we would urge a re-think on the assessment of the need for new port infrastructure.

8. In addition to “predict and provide”, the draft NPS states that extra capacity (beyond growth forecasts) is required in order for the ports market to be resilient, adaptable and competitive. However, it also outlines that port development consents already granted are likely to meet predicted “need” over the next 20 years. The rationale offered for allowing yet more development to be proposed over this period is that the realisation of consents in the system is subject to commercial judgment, creating uncertainty as to the extent and speed at which development will come online and the possibility for alternatives sites to be...

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proposed. In other words it will be commercial viability that dictates which consents proceed and any additional applications that might be made. However, as set out at paragraphs 1.10.2–1.10.4 of the draft NPS, commercial interests are not the only consideration.

9. There are a number of other important factors spanning environmental, social and economic interests that must be taken into account. Yet starting with commercial viability effectively catapults the financial interests of developers ahead of all else. While a given project may be commercially viable, we believe that it is not necessarily environmentally viable to have excess port capacity distributed around the country "just in case". It must be recognised that infrastructure is permanent and irreversible, and that should perceived commercial desirability change over time (likely, given future global uncertainties), it will not be possible to undo the environmental damage associated with port development and operation. The number and range of port consents already granted adds weight to our concern about the Government's emphasis, in its approach to assessing need, on unsustainable economic growth and the commercial interests of developers over wider environmental considerations.

2.3 Alternatives

10. The draft NPS explains in section 2 (Guidance on Assessment) that there is no requirement under the Planning Act 2008 for the decision-maker to establish whether the proposed project represents the "best" option among the various possible alternatives, and the draft NPS does not impose any general policy requirement for it to do so. It recognises, however, that in many (although not all) cases, the decision-maker is likely to conclude that it needs to give some consideration to the question of whether the project could be on a better scale, or designed, laid out, constructed or operated in a better way, or located on a better site or route, because this question will be both important and relevant to its decision. In some instances, such as under the Habitats and Water Framework Directives, there may also be specific legal requirements for the decision-maker to consider alternatives.

11. In relation to proposals within National Parks there is clear policy guidance that applies to all major developments, including port proposals, within Park boundaries.\(^{23}\) We comment on the test as expressed in the draft NPS below (see para 16). For immediate purposes our comments relate to port proposals that are not in but are likely to affect a National Park (see also comments below at paras 18–23). The draft NPS states that, subject to any legal requirements, the decision-maker should ask whether the proposal has any significant local adverse impacts—with the implication that if it does, alternatives should be considered. We have two concerns.

12. First, the text must make clear what "local" means in this context. The adverse affects of port development have the potential to be felt across whole regions and beyond and these must be considered when determining the need to look at alternatives. It would be helpful for the text to clarify that "local" is not to be read narrowly or (better) to use wording less suggestive of immediate physical proximity, such as "region".

13. Second, where details for alternative sites are required alongside an application, the draft NPS states (at para 2.3.4) that it would be reasonable for the IPC to conclude that any alternative that is not in accordance with the NPS cannot be relevant or important to its decision. A number of scenarios are listed in which the decision-maker may reasonably exclude or discount an alternative from consideration. These cover situations where, for example, there is thought to be no realistic prospect of the alternative delivering the necessary infrastructure in line with the "urgency" of the need; or where the alternative is "vague or inchoate".

14. We are concerned that this paragraph leaves wide open the possibility for developers to do a less-than-thorough job of researching and presenting alternative options in order that their primary, favoured proposal should come across as "best". It should be incumbent on the decision-maker to ensure that full and thorough research into alternative options is conducted and that attention equal to the leading proposal is given to their presentation. It must not be open to an applicant to skew or manipulate the consideration of alternatives in favour of their original proposal. We believe that guidance within the draft NPS on the preparation and presentation of alternatives must be strengthened. In particular, it should be incumbent on the decision-maker to ensure that an applicant presents full and thorough information on alternative options. It should be made clear that if it is not satisfied with the information presented by the applicant, the decision-maker has the power to require more work to be carried out.

2.23 Landscape and visual amenity—development proposed within or likely to affect National Parks

15. We welcome the section within the draft NPS on development proposed within Nationally Designated Areas (paras 2.23.7–2.23.9) and the inclusion of a specific policy on port development proposed either in or likely to affect Nationally Designated Areas (NDAs), which include National Parks, and the special considerations that apply in these cases.

16. However, we are concerned that the guidance within para 2.23.8 is at odds with current Government policy for assessing major development proposals within National Parks, as set out in para 22 of PPS7. The draft NPS attempts to define exceptional circumstances as those where development can be demonstrated

\(^{23}\) Planning Policy Statement 7, Sustainable Development in Rural Areas (ODPM), para 22.
to be in the public interest. This is in contrast to existing Government policy which is that both exceptional circumstances and public interest must be demonstrated (the two are not always necessarily equivalent) in order for a major development proposal to be considered acceptable. Footnote 59 also changes existing Government policy as it attempts to redefine national considerations as including the contribution of the infrastructure to the regional economy. Nor is there any reference to the requirement for such proposals to be subject to the most rigorous examination. When taken together, the changes constitute a significant perversion of a key Government policy, the principles of which have remained unsullied throughout several governments. We therefore suggest the following rewording:

Nationally significant infrastructure projects should not take place in these nationally designated areas, except in exceptional circumstances. Because of the serious impact that nationally significant infrastructure projects may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for all such developments should be subject to the most rigorous examination. Nationally significant infrastructure projects should be demonstrated to be in the public interest before being allowed to proceed.

17. The reference to the regional economy in footnote 59 should be deleted. National Parks are designated for the nation’s benefit and because of their national significance—the suggestion that a contribution to a regional economy is a national consideration is not only prima facie wrong; it must also be regarded as an attempt to undermine the national significance of NDAs.

18. In addition, we consider that the draft NPS is misleading in its assumption that the special considerations that apply when considering proposals that affect NDAs relate solely to the landscape and visual impacts of proposed port development. Where a proposal is likely to affect a National Park the decision-maker must have regard to National Park purposes. The purposes go beyond landscape or natural beauty in a narrow sense and encapsulate wildlife and cultural heritage, and the promotion of opportunities for enjoyment and understanding of National Park special qualities (as defined by each National Park Authority) by the public. While special qualities differ in part between the Parks, common to all are themes on the peace, tranquillity, fresh air and opportunity for escape from the stress and pace of life that they offer. Therefore, all direct and indirect impacts of port development not only on landscape and natural beauty, but wildlife, cultural heritage and special qualities in the round must be taken into account.

19. While we appreciate that other sections of the draft NPS seek to address environmental factors that may relate to special qualities in a general sense (paras 2.10–2.24), they do not reflect the specific consideration that must be given to National Parks due to their highest status of protection in Government policy, as recognised in para 2.23.7 of the draft NPS. For example, para 2.22 of the draft NPS covers the noise impacts of proposed port developments. While requiring the applicant (under para 2.22.7) to identify “noise sensitive areas” that may be affected, the guidance to the decision-maker suggests only that it satisfy itself as to the health and quality of life impacts from noise, rather than adverse impacts on areas where the intrinsic value of tranquillity is of itself protected. Relative sparsity of population, and therefore perceived limit to adverse impacts on “health” or “quality of life”, must not detract from the high value accorded to the intrinsic quality of tranquillity in National Parks or other NDAs.

20. In order to make the full range of considerations clearer, rather than make reference to National Parks and other NDAs under each relevant subsection of “Environmental Impacts”, we suggest adding text (either under 2.23.7 and 2.23.10, or as an over-arching comment) to expand on the meaning of natural beauty in its widest sense and National Park purposes, so that the link to wider considerations associated with special qualities is explicit. It is right that all adverse impacts on National Parks should be brought to the attention of the decision-maker, as well as any applicant working to the NPS, when considering the desirability of a proposal.

21. With regard to developments proposed for outside NDAs but which might affect them, para 2.23.10 refers to the duty to have regard to the purposes of designated areas and states that projects in this category “should be designed sensitively given the various siting, operational, and other relevant constraints.” This sentence suggests a presumption that such projects are as likely as any other to proceed as long as they are “designed sensitively”, notwithstanding the duty to have regard to NDA purposes. While the duty does not of itself create an absolute barrier to development that will affect a National Park or other NDA, in order to be meaningful it must be understood to require more than mere thoughtful design—a requirement that should apply to all port development anyway. The duty must require more than general good practice.

22. We believe that this section should be more open and allow for the possibility that, having had regard to the purposes of designation, a proposed development might be so incompatible with those purposes that the decision-maker considers that it should not proceed.  

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24 Planning Policy Statement 7, Sustainable Development in Rural Areas (ODPM), para 21.

25 In the case of the inquiry into the proposed Dibden Bay Container Terminal (2004), the Inspector attached some significance to the damage that would be done to the character of the New Forest Heritage Area (as it then was, it was designated a National Park in 2005). Although he recognised the applicant’s attempts to minimise potential harm to the landscape, he considered that the project would have an urbanising effect and that its impact would be apparent across a wide area [para 36.653]. While not determinative of the outcome on its own, we believe this consideration demonstrates that weight should be given to landscape and wider NDA considerations and that it is conceivable that such considerations influence strongly the ultimate decision.
23. After the first sentence we suggest the following amendment (or wording to the same effect):

Having had regard to those purposes it would be reasonable for the decision-maker to conclude that development is incompatible at the proposed site and should not proceed. If, however, having had regard to the purposes and given careful consideration to all likely adverse impacts of development, the decision-maker is nonetheless satisfied that a project should proceed, it should be carried out to high environmental standards and the applicant should take all reasonable steps, in addition to those referred to elsewhere in this guidance, to reduce harm to the NDA.

2.17 Transport—mitigation

Demand management

24. Where a port development is likely to have an effect on a National Park, adverse impacts from increased traffic are likely to be one of the most significant. Yet not all measures that might be considered to mitigate this impact necessarily have the desired effect—for example, the draft NPS refers to lorry-booking systems aimed at spreading peak traffic within a working day. This has the potential simply to spread disruption and pollution associated with port traffic across a full day rather than have it rise and fall at particular times, with no apparent impact on overall traffic level, prolonging rather than reducing the impact.

25. However, if we accept that other steps intended to mitigate transport impacts might be more effective, we urge that a much stronger approach be taken to demand management than that set out in the draft NPS. In particular, the draft NPS states that the decision-maker should have regard to the cost-effectiveness of demand management measures compared to new transport infrastructure, as well as the aim to secure more sustainable patterns of transport development, when considering development measures. It is intended that demand management should be required where preferable to new infrastructure from the point of view of the applicant and the network provider.

26. We do not agree that a decision relating to the case for either demand management or new transport infrastructure should be left solely to the ‘preferences’ of the applicant and the network provider. We seek clarification on the face of the NPS that wider considerations, such as the views of consultees, will carry significant weight in determining whether and what type of demand management should take place. This could be achieved by explicit explanation in the text or by cross-reference to the key considerations at 2.1.1. At present, drawing out the applicant and network provider’s preferences for special attention suggests that these will be decisive.

Modal share

27. The draft NPS and consultation document make clear that although coastal shipping and the use of rail connections can have advantages over road transport, a ‘one size fits all’ approach would not be appropriate. Together the documents suggest that cost-effectiveness should be the overriding consideration. The draft NPS guides the decision-maker to “carefully consider”, on the basis of an objective transport assessment, modal share of goods entering and leaving port, but “it is clear that the most appropriate balance of modes depends on the particulars of the case” (para 23 consultation paper; 2.17.1723 draft NPS).

28. We are concerned that, once again, despite the multiple considerations that it is acknowledged elsewhere in the draft NPS must be taken into account in port applications, the financial interests of applicants are being elevated above all else.

29. While we have considerable concerns about the impact of port-generated traffic generally—whether by road, rail or otherwise—on sensitive areas such as National Parks, we believe that the draft NPS should be much more directive in terms of modal share to and from proposed development. As a first step it should link to the section on climate change and provide clearer context by setting out basic information on the relative carbon emissions of different freight modes. It should set out, for example, that freight transport contributes roughly 30% of the UK’s domestic transport carbon emissions, most of which comes from road freight. Rail produces around 0.05 kg of carbon per tonne-km compared to around 0.17 kg of carbon per tonne-km for road transport526 in other words, nearly three and a half times less carbon per tonne-km than road transport. It also has the potential, provided new use is based on modal switch and not just new journeys, to reduce road congestion and HGVs and other freight-related vehicles on the road—both of which matter where a National Park is affected (see below separate comment on HGVs).

30. In summary, we object to such a lenient approach being taken as to an applicant’s obligations to seek to reduce transport-related carbon emissions, other pollutants and negative transport impacts generally emanating from its proposed site. Where a National Park or other NDA is likely to be affected by transport to and from a proposed port development, applicants should be required to provide for transport connections and traffic management that is the least damaging to that area, not just the most cost-effective to their operations. If the least damaging scenario is not affordable to the applicant or would still constitute significant harm to the area in question, it is right that the proposal should not proceed and we believe the NPS should reflect this.

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26 Delivering a Sustainable Transport System: the Logistics Perspective (DfT, 2008).
HGVs
31. The major development test and duty to have regard to the purposes of designation will necessitate careful consideration of all transport-related impacts of a port development proposal, including a potentially greater number of HGVs on the roads, either around or passing through a Park. Both situations are likely to involve major adverse impacts, such as noise (volume and duration), air pollution, vibration and spoiled views (as well as carbon impacts, addressed above). Provided our comments regarding impacts on National Parks in the round, demand management and modal share are reflected in the NPS, there may already be sufficient means of taking account of HGVs in the cumulative potential impacts on the Parks.

32. However, given the scale of their negative environmental impact we are disappointed that the draft NPS states only that adequate HGV parking provision and contingency planning for “abnormal disruptions” to the road network are required. This section should include explicit reference to the environmental impacts of significant new HGV traffic, and that in certain circumstances, such as in relation to National Parks and other NDAs, such considerations should weigh heavily against the case for an application. HGV traffic is likely to be a significant part of the consequential adverse impacts of port development on National Parks and this should be reflected in the NPS.

National transport goals
33. Paragraph 2.1.1 lists among key considerations “Government’s objectives for transport”—but fails to reflect all five goals as set out in Delivering a Sustainable Transport System (2008). In particular, it omits the goal to improve quality of life for transport users and non-transport users, and to promote a healthy natural environment.27 Although the draft NPS attempts to address environmental impacts of port development proposals elsewhere, it is significant that quality of life and a healthy natural environment form a distinct objective within the national transport strategy, and this should be included alongside the other four DaSTS goals.

2.13–14 Climate change
34. With regard to climate change mitigation and shipping, we wish to record our disappointment at the Government’s continued failure to take the lead in tackling carbon and other greenhouse gas emissions from this sector, and to express our general support for the report and recommendations of the Environmental Audit Committee, Reducing CO2 and other emissions from shipping (June 2009).28

35. The Government’s assessment of need for port infrastructure must be made in the context of a commitment to reduce emissions associated with both port infrastructure and on-site operations and shipping, notwithstanding any ongoing negotiations to reach agreement on the latter at an international level. In the absence of a specific domestic target to reduce carbon emissions from shipping we agree with the EAC’s recommendation that the Government should adjust carbon budgets downwards for the rest of the UK economy to compensate for the UK’s share of international shipping emissions. Notwithstanding its response to the EAC report we would urge the Government to consider how it could do more to tackle shipping emissions through the NPS.

36. For example, rather than state that the decision-maker need not consider the impact of new port development on greenhouse gas emissions from ships transiting to and from the port, it could at the very least set out the global contribution of shipping to climate change29 and signal that, in the spirit of the United Kingdom’s legally-binding commitment to reduce carbon emissions, this will be a relevant consideration in the decision-maker’s overall judgment as to need for a particular facility. There may be other ways that the Government can take a stronger line on shipping and carbon emissions through the NPS. We do not seek to provide all options in this response, but to call on the Government to re-think its laissez-faire approach to shipping and climate change.

37. We note that part of the justification for assuming major growth in the ports sector is that ports have a role in the installation and maintenance of offshore energy installations. CNP’s detailed comments on offshore energy are contained in our response to the suite of draft NPS for energy.

January 2010

27 http://www.dft.gov.uk/about/strategy/transportstrategy/dasts/dastsreport.pdf
29 As set out in the EAC report: A recent study for the International Maritime Organization estimated that international shipping was responsible around 3% of total man-made carbon emissions. To put this in perspective, “international shipping” would come just after Germany and just before the UK in a league table of emissions sources. Shipping emissions are reported to have doubled since 1990 and by 2050, in the absence of regulations to limit them, they are projected to grow by a factor of 2.4 to 3. http://www.parliament.the-stationery-office.co.uk/pa/cm200809/cmselect/cmenvaud/528/52804.htm#A1
Memorandum from English Regional Development Agencies (NPS 29)

EXECUTIVE SUMMARY

1. As international gateways to the UK, our ports make substantial contributions to international, national, regional and local economies. Their sustainable growth and continued success will secure wide economic benefits throughout the UK.

2. The RDAs welcome the publication of the National Policy Statement for Ports (NPS). We support its purpose and much of its content. However, we believe that some key amendments that should be made; namely the NPS should:
   — recognise, and reference, long term infrastructure planning processes and investment programmes;
   — align with, and reference where appropriate, other national strategy and policy;
   — provide a clear and robust framework for the development of future Regional and sub regional strategies;
   — ensure that the IPC considers the current and future Regional Strategies, as well as sub regional strategies in their decision making process; and
   — reference the use of current transport appraisal processes as providing a minimum level of information, to be supplemented by the use of regionally and sub regionally collated evidence on wider economic impacts.

3. In addition, the RDAs recommend that:
   — NATA/WebTAG should be revised as soon as possible to ensure assessment of the wider economic impacts of port development and the Project Appraisal Framework for Ports is integrated with NATA/WebTAG; and
   — good practice guidance, on assessing wider economic impacts, is published for port owners/operators and scheme promoters.

INTRODUCTION

1.1 This statement is submitted by Advantage West Midlands on behalf of the nine English Regional Development Agencies (RDAs).

1.2 The statement provides the shared view of RDAs on the NPS as a policy framework for ports, as part of a wider national framework for transport policy and delivery, on continuing reform of the planning process and its alignment with regional and local strategies. It also provides the RDAs views on NPS advice to decision makers, specifically in relation to wider economic impacts of port development.

1.3 UK Ports, as international gateways, are critical to the functioning of the national transport system and to the economic success of the nation, as acknowledged by Eddington. Ports are vital nodes in the supply chains of British industry and support the international competitiveness of the English regions. Ports make significant contributions to national, regional and local economies, through their own activities and via activities they support indirectly. Ports continue to evolve to meet market needs, for example in relation to renewable energy.

1.4 Consequently the RDAs continue to promote the role and economic potential of ports, the unconstrained but sustainable expansion of port capacity and increasing the ability of ports to help deliver sustainable local, regional and national economic outcomes. RDAs have, over the last few years, worked closely and productively with DfT and other partners on transport and port related policy development. This has included input to a Select Committee Inquiry into the UK Ports Industry and, specifically, the development of national policy for ports. RDAs are well placed to comment on ways in which ports can deliver those outcomes.

2. THE NPS AS A POLICY FRAMEWORK

2.1 RDAs have supported the need for a national policy on ports that sets a framework for a competitive and growing ports sector which maximises the contributions, at national, regional and local levels, that ports can make to a successful, sustainable UK economy. The RDAs have also supported the need for identification of national transport corridors, linking international gateways, cities and regions; for funding mechanisms to be identified to deliver world class surface access to ports; for greater clarity, certainty and speed in the planning process. The NPS will help achieve many of these requirements.

2.2 In this context, RDAs welcome publication of the NPS for Ports. RDAs particularly welcome its:
   — Support for increased capacity and capability at a wide range of port locations, reflecting the need for flexibility and resilience in the ports sector, enabling it to adapt quickly to changing market conditions, for example from the renewable energy industry.
   — Broad recognition of the wider economic impacts of ports, which, in many instances extend nationally, regionally and sub-regionally.

Alignment of the NPS with national transport policy:

2.3 The RDAs believe that the NPS must align with, and provide the appropriate linkages to other national economic, environmental, transport and land use strategy and policy, including investment programmes and funding mechanisms.

2.4 Efficient and effective transport access to ports, whether by rail, road, inland water or sea, is essential to the promotion of a globally/nationally competitive ports sector, to securing the wider economic benefits that port expansion can provide and to ensure flexible, resilient port capacity in the UK. There is a good case for surface access from port gate to destination markets to be the subject of continued, focused and timely investment to ensure sufficient capacity in the transport network. Failure to achieve this may mean ports do not perform to their full potential, are not as competitive as they could be on European and global scales, and are less likely to receive timely investment in additional capacity. This issue was recognised in the Ports Policy Review Interim Report and is recognised in DfT guidance on funding transport infrastructure for strategically significant developments (April 2009).

2.5 The RDAs have long maintained the need to identify a national strategic road and rail network which recognises the links between international gateways and city regions. RDAs have welcomed publication of DaSTS, within which Strategic National Corridors are defined and show the links between ports and key destination markets. The “Access to Key Ports” and “Freight Mode Share” studies currently being progressed by the DfT will seek to identify initiatives for improving access to ports and modal share. In addition, the RDAs note there are several DaSTS studies relating to “National” and “City and Regional” networks which will consider the issue of freight access to ports. The RDAs believe reference should be made, in the NPS, to the long term national transport infrastructure planning processes (eg DaSTS).

2.6 The RDAs consider there should be better co-ordination, at a national level, between significant increases in port capacity and timely investment in surface access. This will help unlock the potential of ports and enable them to deliver significant economic benefits nationally, regionally and locally. RDA analysis of port related transport infrastructure delivery timescales illustrates, however, that although some major ports have consent for increased capacity, the associated infrastructure improvements, which are also key to maximising the wider economic impacts, are lagging behind the ports response to market demand.

2.7 The NPS must help ensure there is an integrated approach between increased port capacity (and the IPC’s determination of applications at Ports) and delivery of improved access arrangements. RDAs expect the proposed NPS on National Networks to help achieve that. Failure to achieve integration presents a risk to the ambition of the NPS to secure sufficient and spare capacity at ports, in the right places, to handle expected growth, respond rapidly to market demands and promote a competitive ports sector.

2.8 The NPS should require decision makers to acknowledge the timing and scale of investment being planned through RFA programmes, DaSTS studies or other mechanisms. A package of measures, including innovative funding mechanisms and demand management, is often used to fund surface access improvements. These help ensure a balance between public sector funding, to support economic growth and delivering the “public good”, and drawing down funding from those third parties who will benefit from the transport improvement. RDAs consider that use of innovative funding mechanisms, such as Regional Infrastructure Funds (RIF), provide an efficient, effective and fair way of helping to secure infrastructure improvements. Decision makers should consider these mechanisms alongside those promoted in DIT’s Guidance.

Alignment of the NPS with regional and sub-regional policy

2.9 The NPS takes an ambitious approach to the expansion of ports and, as such, sets a positive, long term (30 year) policy framework for ports and associated infrastructure. This approach is generally reflected in existing regional strategies. However, the draft NPS does not state any preference for locations for port expansion, nor, unlike the NPS for Energy, does it require decision makers to consider regional strategies. As such, there is no clear role for regional and local policy frameworks to inform the decision making process for port development, as it the case for energy infrastructure.

2.10 The NPS has a clear role to play in providing a robust and positive framework for future strategy development which informs the emerging Single Regional Strategies and local spatial and transport policy development. In addition, it should require decision makers to consider regional strategies, and evidence supporting them, in determining major development proposals.

31 For example, there are a number of schemes on road and rail routes from Felixstowe to the West Midlands, funded from a mix of public and private sector sources, enabling the wider economic benefits of port development to be realised.

32 Funding transport infrastructure for strategically significant developments April 2009.
2.11 Better integration is required between schemes for port expansion (perhaps expressed through port masterplans, particularly for smaller ports), transport and spatial planning. Proper account must be taken of the needs of ports as businesses and the needs of other businesses that need to be co-located with ports. This includes the provision of land close to ports to accommodate, for example, “agglomeration” businesses and intermodal freight facilities. Providing such space not only helps deliver higher productivity, but also supports transfer of goods by the most sustainable means possible and reduces carbon emissions.

**Speed and certainty in the planning process**

2.12 The NPS provides, on the whole, clear guidance to applicants and decision makers, on social, economic and environmental impacts. Scheme promoters are now required to engage the community at an early stage in the development process. These requirements, coupled with the need for the IPC, to make decisions on Nationally Significant Infrastructure Projects within 12 months, will help to secure greater certainty and speed in the planning process.

**Thresholds for referring proposals to the IPC / MMO**

2.13 RDAs support the defined thresholds for referring major applications for port development to the IPC. These thresholds will, however, need to be kept under review to ensure they remain fit for purpose in ensuring the IPC consider national significant infrastructure proposals.

2.14 RDAs are concerned that development proposals falling below these thresholds, often relating to smaller ports, will need to comply with NPS requirements, which includes detailed impact assessment requirements (eg for proposals over £20 million defined by NATA/WebTAG). This is likely to be onerous and prohibitive, particularly for smaller ports or developments. RDAs recommend that a revised Project Appraisal Framework for Ports (see section 3.6) better discerns between larger and smaller ports or developments in respect of the requirements to be applied to them.

### 3. Wider Economic Impacts of Port Development

**Evidence of wider economic impacts**

3.1 There is good evidence that the 650 ports (approximately) across the UK, especially the largest 16 ports identified in the National RDA Ports Study, have beneficial economic impacts well beyond their boundaries and, often, at an international, national and regional scale.

3.2 A study commissioned by the UK Major Ports Group (UKMPG) reported, in March 2009, that the ports sector directly employed 132,000 people (0.5% of all UK employment) and contributed £7.7 Billion to UK GDP (0.5% of UK output). Indirectly, the ports sector supports 363,000 jobs in the UK (1.3% of total employment) and £17.9 Billion GDP. It is estimated that for every job generated in a port another 1.74 jobs will be generated elsewhere. The DfT’s own study forecasts an increase in container traffic of 183% (measured by TEU) between 2005 and 2030, and 101% for Ro-ro HGV traffic in the same period.

3.3 It is essential, in order to achieve balanced and fair decisions, that the NPS requires decision makers to consider the wider economic impacts of increased capacity and capability at ports and to give those impacts appropriate weight in the decision making process, alongside the weight given to environmental impacts.

**NPS guidance to decision makers on wider economic impacts**

3.4 RDAs consider that the NPS is, in parts, weak and potentially confusing in the advice it provides to decision makers and scheme promoters on the assessment of wider economic impacts. These relate to general approach and to specific mechanisms for assessment. These are indentified below, alongside ways in which the RDAs believe the NPS could be improved.

3.5 In relation to general approach there are two key areas of concern:

- The NPS advises, in paragraph 1.11.12, “the Government believes that there is a compelling need for substantial additional port capacity over the next 20—30 years, to be met by a combination of development already consented, and development for which applications have yet to be received.” This appears to be tempered by the advice in the NPS (para 1.12.1) for decision makers to take account of capacity already consented. RDAs suggest that it is for decision makers to work on the basis that additional port capacity, above that already consented, is required (as advocated elsewhere in the NPS) and for port owners/operators to determine whether to promote additional capacity or to implement any additional permissions.

- In seeking to guide decision makers on economic impacts, the NPS (paragraph 2.6.4) advises that “the weight attached to (economic) benefits should take account of the level of uncertainty . . . External effects remote from the development in space, nature of activity or time are likely to be uncertain. This contrary to evidence of wider economic impacts from existing port expansion and to the advice provided in the draft NPS (paragraph 2.5.6) “the decision maker should give

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34 The economic contribution of ports in the UK, Oxford Economics, March 2009.
35 Update of UK Port Demand Forecasts to 2030 and economic value of transhipment study, MDS Transmodal Ltd, July 2007.
substantial weight to the positive impacts associated with economic development, in line with the policy set out in the NPS”. As such the NPS is likely to leave the decision maker unclear about what weight to attach to broader impacts. This is particularly the case as the DfT’s Consultation Document and Section 1 (Policy on Planning for Ports) of the NPS encourages scheme promoters and decision makers to consider qualitative, wider economic impacts (eg agglomeration effects, regeneration), a broad scope of impacts (eg carbon, renewable energy, socio-economic factors such as tourism) and to consider the long term growth of ports over the next 20–30 years.

3.6 In relation to specific mechanisms for assessment of wider economic impacts, RDAs have fundamental concerns that may not be able to be addressed in the NPS. These are set out in detail in Appendix 1, but are summarised as follows:

— Guidance within NPS on the appraisal of wider economic impacts is not detailed, but states that the appraisal approach proposed by the two sources it mentions (WebTAG/NATA and PAFP) should be adopted. However, good evidence from a range of studies shows these mechanisms do not provide sufficient assessment of wider economic impacts.

— The Project Appraisal Framework for Ports (PAFP) was introduced by DfT in January 2002 to set out an appraisal framework for those port projects in England and Wales that require some form of official approval. It remains as the main reference on port appraisal indicated on the DfT website. However, it has not been updated to take account of more recent changes in policy or appraisal methods since 2002. WebTAG has continued to be developed and refined. It aims to cover modelling and forecasting methods and subsequent appraisal within all types of transport studies and projects. However, the key components of wider economic impact assessment do not relate to the impacts of port developments in a meaningful fashion.

— The lack of updating to PAFP and continued development/refinement of WebTAG has meant that by now there are methods and terminology where these two sources differ significantly when covering the same topic. This is likely to be confusing to scheme promoters and decision makers.

— RDAs have reviewed three recent planning decisions for major port expansion (Felixstowe, Bathside Bay and London Gateway). Other than regeneration impacts, there was little explicit consideration of the wider economic indicators proposed in PAFP even though PAFP had been published more than a year prior to the submission of the planning applications for both Bathside Bay and Felixstowe South.

— Many of the wider economic impacts of existing port development would not have been reported in assessments undertaken using the above mechanisms.

3.7 In the absence of better mechanisms for assessing wider economic impacts of port development there will be a significant evidence gap between local appraisal of ‘on site’ impacts and national data. Decisions on port proposals are, as a consequence, less likely to be favourable to the scheme promoter, balanced and fair. Additionally, in the absence of a full understanding of wider economic impacts, decisions relating to, and implementation of, port expansion are less likely to deliver sustainable economic growth and sustainable movement of goods and people.

3.8 RDAs recommend the following solutions:

— NATA/WebTAG should be revised as soon as possible to ensure assessment of the wider economic impacts of port development and the Project Appraisal Framework for Ports is integrated with NATA/WebTAG;

— in the meantime the NPS should promote use of NATA/WebTAG and PAFP only to provide a minimum level of information, to be supplemented by further assessment of wider economic impacts by scheme promoters;

— that good practice guidance, on assessing wider economic impacts, is published for port owners/operators and scheme promoters; and

— that robust and tested evidence on wider economic impacts available at regional and sub-regional levels is referenced in the NPS to be considered by decision makers.

APPENDICES:

January 2010
APPENDIX 1

REVIEW OF THE DRAFT NATIONAL POLICY STATEMENT FOR PORTS PROPOSALS FOR ASSESSING WIDER ECONOMIC IMPACTS

1. Context:

The Project Appraisal Framework for Ports (PAFP) was introduced by DfT in January 2002 to set out an appraisal framework for those port projects in England and Wales that require some form of official approval. It remains as the main reference on port appraisal indicated on the DfT website. However, it has not been updated to take account of more recent changes in policy or appraisal methods since 2002.

WebTAG was designed within the New Approach to Appraisal (NATA) launched in 1998, to provide an online facility in 2003 containing a best practice guide to Transport Analysis Guidance (TAG). WebTAG has continued to be developed and refined. It aims to cover modelling and forecasting methods and subsequent appraisal within all types of transport studies and projects. Three key components of wider economic impact assessment are defined, in NATA, in terms of changes in the performance of inland transport systems and so they do not relate to the impacts of port developments in a meaningful fashion.

The lack of updating to PAFP and continued development/refinement of WebTAG has meant that by now there are methods and terminology where these two sources differ significantly when covering the same topic. This is likely to be confusing to scheme promoters and decision makers.

Section 2.6 of the NPS provides an overview of the economic impacts of port developments, while the associated commercial, competition and tourism related economic impacts are covered in its Sections 2.7 to 2.9, respectively. The guidance within NPS on the appraisal of external economic impacts is not detailed, but indicates that the appraisal approach proposed by the two sources it mentions (WebTAG / NATA and PAFP) should be adopted.

2. Examples of deficiencies in NATA/WebTag

NATA/WebTAG includes a small number of components (see bold type below) of wider economic impacts which it requires to be measured. The following examples show how inappropriate these are when applied to port development:

— The method of calculation of the agglomeration benefits compares an accessibility measure of employment densities between the base and alternative (ie the with port development) scenario. However, the measurement of the difference in employment densities between scenarios is a calculation just of the differences in inland transport costs for employees’ commuting trips and for business trips. In the case of a port development, rather than an inland transport scheme, this accessibility measure will be identical in all scenarios, so that zero agglomeration benefits will result from this measure.

— The calculation of the output change in imperfectly competitive markets is estimated as a fixed proportion of total user benefits to business and, where relevant, to freight journeys. For this indicator to be meaningful for freight port developments it requires a methodology for the calculation of the freight user benefits associated with such developments. This methodology is not explicitly covered in the WebTAG documentation. Because it would require relatively detailed information on changes in port operating costs and on the dwell times of cargos, etc. it would not be a straightforward calculation to specify and implement in a standardised fashion and might raise issues of commercial confidentiality.

— The calculation of the economic welfare impacts arising from labour market changes is based on the changes in commuting costs "arising from the scheme". Unless there are commuters arriving to work via the port, this accessibility measure will be identical in all scenarios, so that zero labour market benefits will result from this measure.

3. Conclusions

In summary, although the principles of WebTAG do indeed carry across to port and maritime planning, the current text in use in WebTAG does not reference explicitly to ports or maritime transport. There is need for a major extension and overhaul of its content in order to provide guidance in a form that is as appropriate for ports as it currently is for road and rail transport. In its current form WebTAG is some considerable distance from meeting the appraisal requirements introduced in NPS.

The NPS largely delegates the details of guidance on appraisal of the external economic impacts of port developments to the specialist sources: PAFP and WebTAG/NATA. This is appropriate in principle, particularly as the guidance in WebTAG on this topic is continuing to evolve and to be updated and so would be likely to rapidly become outdated if enshrined in detail within the NPS itself. However, in practice, these two sources urgently need significant revision to convert them into a form that could meet the needs of the NPS.
Consequently, RDAs want to secure amendments to the NPS to ensure:

- wider economic impacts are fully assessed;
- there is clarity for applicants and decision makers about the nature of, and weight to be given to, wider economic impacts; and
- these impacts influence the design and outcome of the scheme.

If the NPS is not amended, it is likely that wider economic impacts will not be fully assessed; decision makers will not have the benefit of fully understanding those impacts; decisions are less likely to be balanced, fair and robust. If, as a result, port expansion proposals do not gain approval then NPS/Government objectives (eg sustainable economic growth, sustainable movement of goods and people) are less likely to be delivered and wider economic benefits are less likely to materialise.

4. **Recommendations**

RDAs make the following recommendations:

A. **PAFP** is urgently updated such that:

- it is in a form that is aligned to the current DaSTS Objectives of DfT;
- it is integrated with WebTAG through inclusion of hyperlinks providing direct references to the particular Units of WebTAG in which further detail is provided on methods for the measurement and construction of appropriate indicators;
- it continues to provide discussion on topics and examples specific to ports that are not currently presented explicitly within WebTAG, while including:
  - new step-by-step detail on how to apply the measurement methods of WebTAG in the context of ports rather than that of inland transport;
  - a clear identification of which aspects of WebTAG appraisal guidance are not needed when appraising privately funded port developments as opposed to government agency funded road or rail schemes.

B. In turn, **WebTAG** should make explicit reference to the updated PAFP because the latter contains much of the material that is directly relevant to port appraisal. In providing such references, it is for further consideration by DfT whether:

- the material currently in PAFP should be fully integrated within the WebTAG system in some form so that PAFP would then disappear—WebTAG currently includes a set of individual topic summary pages (eg public transport, freight, cycling and walking) to which ports should be added; or
- PAFP after it has been fully updated and hyperlinked should continue as an independent document that is complementary to WebTAG, which should be fully referenced and accessible from the WebTAG site.

C. The NPS advocates use of NATA/WebTAG and PAFP (in their current form) only to provide a minimum level of information, to be supplemented by further assessment of wider economic impacts by scheme promoters.

D. Within each region there is, at a regional and sub-regional level, evidence relating to the wider economic impacts of ports. This evidence has been produced either in relation to the development of regional/sub-regional policy, forming part of the regional evidence base, or in relation to individual ports. This evidence should inform planning applications for port developments and the decision making process. If it is not included with the planning application, the RDAs— as statutory consultees for major development proposals—could provide evidence of wider economic impacts as part of the consultation process. NPS should reference this.

E. Further guidance should be produced for promoters of port expansion and decision makers. This should take the form of best practice guidance, using examples from the UK to illustrate the capacity of ports to meet national and regional objectives, wider economic impacts of port development and the assessment of those impacts. It could also include best practice from DaSTS work, nationally and locally, to ensure better integration between sustainable development objectives (specifically re carbon reduction) and the need for ports to gain quick, uncongested access to their origin / destination markets. RDAs will work with DfT, Port owners/operators and other partners to produce such guidance in conjunction with publication of the final NPS.
Given what is happening in and around Dover and Calais, I would, therefore, like to extend a further invitation to the Committee. The Committee would now be able to experience and visit Dover on the High Speed Rail service and be able to actually visit both the operations at Dover and hear first hand about the issues. In addition to this, a presentation could be made on both the further expansion of the Port and the Speed Rail service allowing the Committee to fully understand the complex and costly and represent a significant barrier to the development of key infrastructure vital to the national economy. We therefore endorsed the proposals set out in the Planning Act 2008, including the setting up of the Infrastructure Planning Commission and the introduction of National Policy Statements for major infrastructure sectors such as ports.

The United Kingdom Major Ports Group welcomes the opportunity to respond to the consultation on developing a Ports National Policy Statement and on the suite of documents published on 9 November 2009.

This response is being submitted by 15 January 2010 so that it can be taken into account by the Transport Select Committee in its own consideration of the draft National Policy Statement for Ports.

First, some brief background about UKMPG. We are one of the two associations representing ports in the UK. UKMPG represents nine groups who operate 41 ports throughout the UK plus two container terminals. UKMPG ports handle some 70% of the UK’s international trade by volume, which makes us major players in the country’s economic performance and international competitiveness. Our members have been investing upwards of £300 million in new and improved port facilities annually and this is scheduled to increase substantially as several large new container facilities come on stream over the next few years. A recent study by Oxford Economics has shown that the UK ports sector as a whole directly employs and supports over 350,000 jobs in the UK and contributes some £18 billion annually to the UK economy (1.2% of GDP). Finally, it is worth noting that the UK ports sector is the largest in the European Union, both in terms of the number of ports and the tonnage handled.

UKMPG has given strong support to the development of an improved system for dealing with planning applications for nationally significant infrastructure projects. The present approval arrangements are time-consuming, complex and costly and represent a significant barrier to the development of key infrastructure vital to the national economy. We therefore endorsed the proposals set out in the Planning Act 2008, including the setting up of the Infrastructure Planning Commission and the introduction of National Policy Statements for major infrastructure sectors such as ports.

We are pleased that a draft National Policy Statement for Ports has now been published, though we regret that it has not been accompanied by a National Policy Statement for Road and Rail Networks in view of the important linkage between ports and connecting road and rail routes (see below). In general, with just a few exceptions, UKMPG considers that the draft Ports NPS strikes the right balance and is in accord with our strong view that the UK economy is best served by a private sector ports industry which functions without construction or operating subsidy and against a background of fair competition between different modes of transport taking appropriate account of differing environmental impacts.
We are particularly pleased to see that in the NPS:
- The Government recognises that ports and other international gateways are essential for the UK’s economy and make a huge contribution to national economic wellbeing (para 10);
- In order for the UK economy to develop successfully, UK ports need to have sufficient capacity to cater for the projected growth in demand and the Government wishes to see substantial additional port capacity developed over the next 20 to 30 years (para 10, 13);
- There needs to be sufficient spare capacity to allow ports to operate efficiently, to compete effectively and to offer sufficient resilience (para 14); and
- The ports sector is a successful market-led sector and should be responsible for bringing forward applications for development when the market considers them necessary (para 19).

We do, however, have some reservations about the way in which the draft NPS has been framed. These are set out below.

PRIORITISATION AND FOCUS

The considerations set out for decision taking are expressed in a very generalised way with no real prioritisation. Considerable discretion is left to the IPC (or the Marine Management Organisation for all proposals below the threshold for nationally significant port infrastructure projects). There is little or no guidance on prioritisation to help the decision taker decide which are the key factors which need to be addressed. The extent to which the project delivers the Government’s economic and transport policy aims should be given the highest weighting. It would also be helpful to bring out the extent to which environmental impacts are governed by EU or UK law.

It would also be sensible for the NPS to make sure that the crucial importance of the key international gateways and strategic national corridors identified in Delivering a Sustainable Transport System (November 2008) is fully taken into account (for example, in respect of their major economic significance).

Some other important aspects, eg the possibility of modal split targets for inland transport connections, are left entirely to the discretion of the decision taking body (though we question whether it is appropriate for the IPC and MMO to set such targets). These are important and difficult areas and surely warrant some further guidance from Government.

As a general point we consider that the MMO, for whom infrastructure planning decisions will only be a small proportion of the organisation’s total business, requires rather different and fuller guidance on ports issues than does the IPC.

RELATIONSHIP WITH NATIONAL NETWORKS AND OTHER NATIONAL POLICY STATEMENTS

As mentioned above, it is regrettable that the draft Ports NPS is coming out before the draft NPS for Road and Rail Networks. Ports are important nodal points on the UK national transport network. Prospective port development, signalled through port masterplans and elsewhere, should be taken into account by road and rail network providers at national and regional level when developing their own plans. We have been pleased to see that ports feature prominently in the strategic corridors which the Government have drawn up for the purposes of follow-up work on Delivering a Sustainable Transport System (DaSTS) and we would expect to see this framework underpinning the draft National Networks NPS when it appears next year.

Furthermore, it is important that the guidance explicitly brings out the potential linkages with other national policy statements including that on national networks. This is significant in cases where a scheme is related to other schemes which require approvals, such as upgrading landside transport infrastructure, electricity distribution networks or developing a major offshore wind farm. It also helps to ensure that a project is properly considered in the context of all relevant policy objectives, as set out in other national policy statements, and will help to promote consistency.

There is a particularly close link between port and offshore wind development. At present the high threshold for port schemes to be referred to the IPC means that it is likely that port developments connected with offshore wind projects over 100MW would need approval from the MMO whereas the offshore wind development would be referred to the IPC. The Government needs to consider further how such port schemes should best be handled—it would make sense for such schemes to be referred to the IPC as a matter of course.

FINANCING INLAND TRANSPORT LINKS

A related issue is the financing of transport links to and from ports. Disappointingly, the draft Ports NPS persists with the notion that port developers should contribute to connecting road and rail schemes in proportion to the relative usage of the infrastructure in question. In UKMPCG’s view, this is an unreasonable burden on UK ports and unfairly discriminates against UK ports in comparison with continental ports, which do not have to contribute to infrastructure in this way. This additional financial burden must discourage investment in UK port facilities. We do not accept the argument in the Appraisal of Sustainability that this obligation to meet some non-port costs has not discouraged investment in UK ports. While it is true that several port development applications have been submitted in recent years, relatively
few of these schemes having received planning approval are now moving forward to the construction phase. It cannot be concluded that the imposition of planning obligations of this kind have had no effect on viability and scheme development. Moreover such a requirement discriminates against new port development in comparison with existing facilities which have not had to pay such a charge. We hope that the Government will withdraw this misguided policy.

**Single Consent Regime**

One of the major advantages of the new arrangements for business is replacing a multiplicity of existing licensing and approval requirements with a single consenting regime. While the Ports NPS is rightly essentially about policy, it is surprising that the opportunity has not been taken to emphasise the single consent regime aspects of the new planning system. Indeed, at several points the draft NPS appears to assume that there will be no change to existing licensing processes. We suggest that the final version of the NPS should bring out clearly that the Government expects a single consenting regime to be put in place and for other licensing bodies to co-operate with the IPC in this regard.

**Detail**

UKMPG’s views on the questions posed in the consultation document are set out in the attached Annex.

**Annex**

**UKMPG Response to Consultation Document Questions**

**Q1. Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?**

UKMPG welcomes the strong statements in the NPS and the consultation document about the importance of ports to the UK economy and the need for ports to have sufficient capacity to facilitate the movement of imports and exports. We agree with the Government’s assessment of the likely future growth in demand based on the MDS Transmodal forecasts, and that this is likely to be most significant for the container and ro-ro sectors. We also agree that this is likely to require additional capacity at ports over the next 30 years beyond the projects which have recently received planning consent or for which there are already firm development plans. We are pleased to see recognition that there needs to be some additional headroom in capacity so that ports can operate at maximum competitive efficiency, respond rapidly to new commercial opportunities and provide resilience in the event that some facilities are temporarily unavailable or previously consented schemes are not implemented.

**Q2. Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?**

We strongly agree that ports are best placed to take commercial decisions on the form, timing and location of new infrastructure. It would not make sense for the Government to attempt to second guess the market by suggesting where and when development should take place. However it must be recognised that major port developments may need to be integrated closely with the development of capacity on the rail network and on the road system at national, regional and local level. In this regard, it would be appropriate for the ports NPS to refer to the strategic national corridors identified in Delivering a Sustainable Transport System (November 2008), which we believe should form the basis of the forthcoming draft NPS for national road and rail networks. Like the ports NPS, the national networks NPS should equally recognise the importance of ports.

The port masterplans and other strategic plans which many major ports are producing can be an opportunity for ports to set out future development intentions so that these can be taken into account by network providers in developing investment plans.

Ports have long recognised that it is important to be able to offer a range of connecting inland transport modes to port users so that they can choose the option(s) most suited to their commercial needs. Those decisions may also be affected by Government measures to influence modal choice in order to reduce road congestion and/or the environmental disbenefits of road transport including higher greenhouse gas emissions. These matters are best decided by ports themselves as part of their development plans and we do not believe that the IPC or the MMO would normally have a role to play in setting modal split targets as a condition of granting development approval. It is not appropriate to use planning decisions to achieve modal split outcomes which go beyond what can be achieved commercially taking account of wider Government policies designed to influence modal choice. UKMPG believes that rail, inland waterways and coastal shipping connections can compete strongly with road; one half of rail freight movements already start or finish at a UK port.
Q3. Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

UKMPG considers that the draft NPS contains some good material on the economic significance of ports to the national and local economy and sets out the main areas of benefit which individual development projects can bring. Section 1.8 of the draft NPS which is not specifically referred to in the consultation question is particularly relevant here. However we would have liked to have seen some steer given in the draft NPS to the effect that decisions by the IPC and MMO on port development applications should give particular weight to economic factors in view of the importance of ports to the national and regional economy. It would be sensible to refer to the key international gateway ports and associated strategic national corridors identified in Delivering a Sustainable Transport System (DaSTS) in this respect.

Q4. It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

Ports already play a significant role in reducing greenhouse gas emissions through the facilitation of transport of goods by energy efficient transport modes (shipping and rail) and through promoting the development of renewable energy (especially offshore wind and biomass). It is right that greenhouse gas reduction aspects should be brought out clearly in port development proposals but as with modal split (see Q2 above) we do not see a role for the IPC or MMO in setting obligations to minimise greenhouse gas emissions since this should be achieved through the application of policies applying to the economy in general (ie through measures to promote energy efficiency or in due course through carbon pricing).

On climate change adaptation we agree that port development schemes which are often intended to last for a 50 year period or more should take full account of the most up to date forecasts of the impacts of climate change. Forecasts of sea level rise will be particularly relevant here. The draft NPS might usefully have referred to the climate change adaptation reports which ports over 10m tonnes are to be directed to produce by 2011 under the provisions of the Climate Change Act 2008.

Q5. Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

As has been mentioned above coastal shipping and to some extent inland waterway connections can make an important contribution to reducing congestion and improving the environment. However planning decisions on port development applications should not be the mechanism for promoting these modes. This should be the role of wider Government policy which ports and users can take into account in planning development. We are disappointed that to date the Government’s broad messages of support for coastal shipping have not been matched by specific schemes to encourage its development. We hope that action to this effect will be taken in time to influence port development proposals to be brought before the IPC and MMO.

Q6. Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

Ports have a strong record in promoting all aspects of health and safety and with two exceptions UKMPG has no difficulties with the proposed guidance on these aspects. One area of debate is making provision for checks on the safety of HGVs. While HGV safety is important, it must be recognised that the land required for the checking of vehicles can be significant particularly when the claims of other enforcement bodies such as UKBA and the police are taken into account. The guidance should therefore bring out the need to take risk assessment, the location of alternative facilities and the availability of land into account when deciding on the desirability of HGV checking facilities as part of a port development proposal. The other concern is that ports are operational areas which inevitably pose some safety risks and this needs to be recognised when public access issues are considered (eg in relation to public rights of way and coastal access issues).

Q7. Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

UKMPG supports the promotion of equal opportunities although in practice this is unlikely to be a significant factor in deciding on port development applications.

Q8. Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

Yes.
Q9. Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment? and

Q10. Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

The draft NPS contains full guidance on the environmental considerations to be covered in port development applications. We have no difficulties with this as we understand that it does not add in any way to existing environmental law. We suggest however that it would be helpful for the decision taking body if the guidance differentiated between those aspects of environmental policy which are requirements under EU and national law and those which are not obligatory where the IPC and the MMO can apply some discretion in reaching decisions.

Q11. Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

No difficulties of principle. Again the guidance could usefully distinguish between what is a legal requirement and what is not, where there may be a greater degree of discretion available to developer and decision taker.

Q12. Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

UKMPG considers that one of the greatest challenges for decision takers will be deciding what the key considerations are in determining whether or not a project should be granted approval. This section on key considerations is a missed opportunity. It merely cross refers to a wide range of policies and considerations which should be taken into account in such a way that virtually nothing is excluded. It would have been of greater value to set out those areas which were likely to be key factors in most applications, which should have included economic factors (for the reasons set out in Q1 above) and environmental obligations under EU and national law (Q9/10). Another key consideration that should be included in the NPS is whether proposed developments are covered by the strategic national corridors identified in Delivering a Sustainable Transport System. This is essential for informing a robust view of economic importance (and one that is properly aligned with the Government’s view), as well as other factors such as the benefits associated with realising landside infrastructure enhancements.

Q13. Do you think the draft ports NPS provides appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

The discussion of considering alternative sites could have been presented in a clearer way. The position as UKMPG sees it is that there is a formal requirement to consider alternative sites under habitats legislation if the port development in question could have a significant effect on a site of European importance (NATURA 2000) and this cannot be avoided by alterations to the proposal. In other respects however we consider that the application process would be greatly facilitated if the focus is on a single proposal brought forward by the developer. It is important to recognise here that alternatives will be considered and either rejected or put forward as a result of the normal functioning of the market. This would not exclude the possibility of agreeing minor adjustments to the proposals during the application phase or as part of the final decision.

Q14. Do you think the draft ports NPS provides appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?

Yes, though any analysis of in combination/synergistic impacts should take account of the benefits of the proposal as well as any negative effects.

Q15. To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision makers:

(a) the IPC for port applications over the NSIP threshold; and

(b) the future Marine Management Organisation for port applications under the NSIP threshold.

UKMPG’s view is that the guidance set out in the draft NPS is generally well suited for decisions to be taken by the IPC. However the threshold for ports schemes going to the IPC has been set very high in the Planning Act 2008 and the vast majority of schemes, particularly in early years while larger schemes which already have planning permission are developed, will in practice go to the MMO for decision (assuming that the Department for Transport agrees to hand over responsibility for Harbours Act cases at an early stage). Unlike the IPC the MMO’s case load will generally not be planning work and the MMO is therefore unlikely to build up experience on planning cases as quickly as the IPC. We do not consider that at present the guidance is well directed at the MMO who may well require more detailed guidance on how to handle port development applications particularly in areas where the decision taker has some discretion or where the
decision taker is asked to consider possible mitigation measures. We therefore hope that there will be further discussions between the MMO and DfT on what additional guidance may be needed, which should also be the subject of consultation with stakeholders before it is finalised.

We would also be concerned if ports projects associated with other developments to be considered by the IPC went instead to the MMO. This could occur for example in the case of large offshore wind developments which necessitated a port development application which was below the threshold for reference to the IPC. It would not make sense for both the MMO and the IPC to be involved in such cases and the overall timetable for development could be put at risk. UKMPG would expect to see the Government exercising its power to refer such cases to the IPC if the overall timetable required this.

There is a strong case for reviewing the thresholds set for ports projects being referred to the IPC taking account of the types of applications presented and the performance of the IPC and the MMO in handling those applications.

Q16. Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

The guidance in the draft NPS covers a wide range of topics and is generally exhaustive (at least for IPC purposes) though as has been said above in response to Q12 there is a need for greater prioritisation. However there are three areas where the guidance could do with some further elaboration. First as already mentioned, it is important that the potential impacts of a port development can be considered in the context of the key international gateways and strategic national corridors identified in Delivering a Sustainable Transport System. The second is in relation to making provision for shore side power where an important relevant consideration is the capacity of the local power grid and its ability to deal with the prospective surge in power usage if ships switch to shore side power supply. The third area is where a port development is linked to one or more other developments requiring approval, for instance an associated road or rail scheme or a renewable energy scheme which is directly connected to a harbour development. The existing guidance is not well structured to deal with multi-applications of this sort.

Q17. It is a requirement of the Planning Act that an NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

Yes.

Q18. It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

There is relatively little guidance in the draft NPS about design. We think this is right because the design of port infrastructure and associated operational equipment (eg cranes) has to be functional and there is relatively little scope for purely design factors to be taken into account. Nevertheless it is reasonable for the guidance to deal with the issue of visual impact.

Q19. To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

No comments; the approach appears to have been commendably thorough.

Q20. Do you agree that the environmental component of the AoS constitutes an SEA for the purposes of Directive 2001/42/EC?

Yes.

Q21. Has the AoS considered all the relevant plans, policies and programmes?

Yes.

Q22. Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

UKMPG’s one major concern is that the assessment of policy alternatives in section 6 is insufficient in relation to issue 7 (developer funding versus state funding of inland connections). The economic analysis is too facile in suggesting that investment in UK ports has not been suppressed as a result of requiring developers to fund connecting infrastructure. In practice, the onerous financing obligations attached to several recent port planning decisions and the delays in negotiating deals with network providers may well have contributed to the projects being put back. Looking ahead, the inequality of treatment between UK and continental ports in this regard may well make it more difficult to secure private investment in UK port facilities in what is likely to be a less benign international finance environment.
Q23. *Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?*
   No.

Q24. *Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?*
   Yes.

Q25. *Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?*
   No.

Q26. *To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?*
   The alternatives covered are appropriate though subject to the reservations on issue 7 set out at Q22 above.

Q27. *To what extent do you think the approach taken to the assessment of alternatives is suitable?*
   The approach is reasonable, again subject to the reservations set out at Q22.

Q28. *Do you agree with the results of the assessment of alternatives?*
   Yes, apart from issue 7 (see Q22) where UKMPG does not support the conclusion that the beneficiary should pay for connecting infrastructure.

Q29. *To what extent do you think the approach used to identify and assess effects is appropriate?*
   No comment.

Q30. *To what extent do you think the assessment correctly identifies the sustainability effects of the draft NPS?*
   No comment.

Q31. *Do you agree with the recommendations proposed in the assessment?*
   Yes.

Q32. *Have any key findings from the AoS report not been taken account of properly in the NPS?*
   No.

Q33. *To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?*
   Because of the high threshold for ports schemes to be referred to the IPC and the number of planning consents which have recently been given but not yet implemented, we doubt whether the number of NSIP applications will be as high as one per year, at least in the early years. Monitoring opportunities are therefore likely to be very limited. We are surprised to see no reference to monitoring of schemes going to the MMO, given that this organisation will be deciding on the majority of port development applications and the guidance in the draft NPS is intended to apply to the MMO as well as to the IPC.

Q34. *To what extent do you think the Appropriate Assessment is a suitable high-level assessment of the impact of port development on protected sites and species?*
   No comment; the Appropriate Assessment looks fit for purpose recognising that separate AAs are likely to have to be carried out for schemes which impact on NATURA 2000 sites.

Q35. *Do you agree with the analysis of costs and benefits set out in the Impact Assessment?*
   Yes.

Q36. *Are there any impacts of producing a National Policy Statement that have not been considered?*
   No.

*January 2010*
Memorandum from New Forest District Council (NPS 32)

1. New Forest District Council (NFDC) is particularly concerned with the apparent proposed change in national policy regarding the need for proper consideration of alternatives when a port proposal would adversely affect internationally protected nature conservation sites. It also considers the appropriate assessment (AA) of the draft NPS deficient. This is the Council’s interim response, outlining its key concerns with the Secretary of State’s proposals, so that these can be taken into account by the Transport Select Committee. A more detailed response will be submitted to the Secretary of State following consideration by the relevant Council committees.

2. An application to develop a container port at Dibden Bay (which lies within New Forest District) was rejected by the Secretary of State for Transport in 2004 following a long public inquiry, largely on the ground that, having regard to potential alternatives, the project’s harm to conservation interests protected by the Habitats and Wild Birds Directives outweighed its benefits and it thus failed the IROPI (imperative reasons of overriding public interest) test under the Conservation (Natural Habitats & c.) Regulations 1994 (“Habitats Regulations”). Central to this decision was the Inspector’s conclusion (accepted by the Secretary of State) that there were potential alternative ways of providing extra port capacity elsewhere and thus alternative means of serving the public interest. The Secretary of State’s overall conclusions are attached as Appendix 1 to this statement.

3. This position is understood to tie in with EU legislation and regulations.

4. The Draft National Policy Statement on Ports, read with its associated documents—in particular the Habitats Regulations Assessment (HRA)—appears to propose a significant change that would in effect rule out of consideration the fact that there may be more suitable alternatives for providing port capacity elsewhere. In this and other respects it seeks to restrict the IPC’s examination of alternatives in a way that would breach the Habitats Regulations and the UK’s obligations under the Habitats and Wild Birds Directives that the Regulations implement. NFDC has sought counsel’s advice in relation to the Draft National Policy Statement on Ports and in particular the issues of compatibility with the Habitats Regulations, underlying Community legislation and relevant guidance. That advice can be summarised as follows.

5. First, the draft NPS is a “plan” requiring an AA under Habitats Regulations reg. 48(1). But the AA contained in the HRA is deficient. Notably, it fails to provide any quantitative information about the impact the Government’s proposed approach to capacity would have on coastal European Sites as a whole, and thus contains no evaluation of the differential impacts of that and alternative policy approaches. The function of an AA is to inform both the integrity test under reg 48(5) and, where it is relied on, the test of “imperative reasons of overriding public interest” (IROPI) under reg 49. Major port proposals are unlikely to satisfy the integrity test and thus will need to surmount the high threshold of IROPI under reg 49. The proposition that the creation of surplus capacity to promote competition over and above the capacity to meet projected need for port services can properly amount to an “overriding” public interest is itself doubtful. But at the very least, an AA of that policy approach must quantify the differing anticipated impacts on protected habitats of the “need” and “need plus surplus” approaches. The AA makes no attempt to do so. The Assessment of Sustainability (AoS) and its appendices fail to make good this omission. In any event, by analogy with case-law on EIA (Berkeley v. Secretary of State [2001] 2 AC 603), the key information must appear in the AA itself. The reader should not be sent on a paper-trail in order to understand the impacts evaluated by the decision-maker.

6. Second, the Government’s choice of a criteria-based rather than locationally specific policy approach makes it particularly important that the IPC should adopt a lawful and adequate approach to the IROPI test when individual proposals come forward for development consent. There must in each case be a sufficiently searching evaluation of alternatives to justify convincingly why they have been discounted in favour of the option chosen. The NPS, read with the HRA, creates a serious risk that the IPC will adopt an unlawfully restrictive approach to alternatives in a number of respects.

7. The Commission advises (in its Managing Natura 2000 Guidance) that alternatives to a plan or project include the “zero option” as well as the possibility of meeting the need concerned in other regions or even countries. It also advises that the criteria for comparison between alternatives must focus on ecological rather than economic considerations. The HRA contains statements that conflict with that advice. That is compounded by the insistence in the NPS itself that alternatives are confined to alternative means of meeting the particular (by implication, localised) need the proposal is designed to serve. Moreover the AA of the draft NPS is itself affected by those shortcomings and must be regarded as defective for that further reason.

8. Counsel advises that when issuing the NPS in its final form, the Secretary of State is bound to ensure that these defects are corrected. He should first adopt a lawful AA of the NPS itself, and given the significance of the change required to the current AA he should re-consult on the revised version before finalising the NPS. While neither the NPS nor the HRA can override the UK’s Community obligations, it is important the documents avoid leading the IPC into error. The Secretary of State should therefore either (a) ensure that the NPS as issued contains lawful guidance to the IPC on the IROPI test, or (b) issue separately the necessary clarification and amendment of the problematic content of the HRA. Counsel
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further advises that the NPS would be vulnerable to a successful claim for judicial review if these steps were not taken. The UK Government would also be likely to attract a Commission investigation for failure to comply with the Habitats and Wild Birds Directives.

9. Having regard to that advice, NFDC considers that the draft National Policy Statement on Ports provides an inadequate basis for the Infrastructure Planning Commission to be able to properly determine proposals for nationally significant port development that come before it for decision. The National Policy Statement should be clearer about the appropriate locations for major port development, having regard to international designations, other infrastructure capacity (roads, rail), impacts on local communities and other relevant considerations. The National Policy Statement fails to provide the necessary basis for these very important decisions if it merely leaves the port operators to argue their individual proposals against a set of arguable criteria within a “market led” framework. The Policy Statement should set out the basis for decisions that will result in port capacity being provided at the most appropriate locations regionally and nationally:

— where avoidance of damage to international designations will meet the requirements set out in EU legislation;
— where the impacts on local communities and other interests will be minimised;
— where it is clear that the necessary related infrastructure (rail, road etc) can be provided at least cost and with the least damaging impacts;
— where the implications of related dredging and channel capacity issues between alternative locations have been properly considered; and
— where wider issues have also been properly taken into account including the impact of port development at alternative locations on the Government’s policy to minimise CO2 emissions.

10. In the view of NFDC, the National Policy Statement on Ports, as with the National Policy Statement on Nuclear Power Stations, should have been prepared after a proper and thorough investigation of the strategic alternatives for providing any necessary additional port capacity. This requires alternative locations and policy approaches to have been considered, including a thorough evaluation of the impacts on nationally and internationally designated nature conservation sites.

11. The Council’s full response will be sent by 15 February 2010 deadline.

January 2010

Memorandum from English Heritage (NPS 33)

Executive Summary

1. English Heritage supports the general approach of the Ports National Policy Statement (NPS) to consideration of the historic environment which reflects that of the Planning Policy Statement 15 (PPS15). As the PPS15 is still in draft form (at the time of writing) it would be helpful if the Department for Transport (DfT) continued to involve English Heritage and the Department for Communities and Local Government so that as both the PPS and the NPS are finalised, the text of the NPS continues to reflect PPS15.

2. However within the Landscape section the NPS does not recognise the principle-of the historic landscape and the need to consider historic assets within their wider contexts.

3. In addition the role of high quality design in mitigating the effect of a new development on its surroundings is not sufficiently developed in consideration of the potential impact on historic assets.

Introduction

4. As the government’s adviser on matters relating to the historic environment, English Heritage is a statutory consultee for Nationally Significant Infrastructure Projects. The term “historic environment” includes buildings, archaeology, landscapes (including registered parks and gardens and battlefields), conservation areas, World Heritage Sites and scheduled monuments.

5. However, our work on the designated and protected historic environment is only one aspect of English Heritage’s interests in promoting the understanding, management and public enjoyment of the historic environment. It is therefore important for us that the historic environment is considered within the wider environment, including submerged and often buried prehistoric landscape areas, together with archaeological sites and remains of coastal activities dating from all eras of history. We therefore consider it essential to ensure the management and use of every part of the historic environment, is conducted in a manner that best serves the public understanding and enjoyment of the whole, and not just of the designated and protected sites.

6. In accordance with our function as a statutory adviser to the planning system we have been involved in the drafting of the ports NPS up to the current iteration. We have also provided comments on the Appraisals of Sustainability.
7. As well as being involved in commenting on previous drafts of the NPS, we have been working closely with the Department for Communities and Local Government (CLG) and the Department for Culture, Media and Sport (DCMS), on the development of the draft PPS15 and the accompanying practice guidance. It has been established, both in a statement in the House of Lords, given by then CLG Minister Baroness Andrews, and within the consultation document, that the NPSs should wherever possible reflect the relevant PPS. We support this need for consistency and hope to continue to work with colleagues in CLG and DfT to ensure that it is achieved.

8. English Heritage will be submitting a response to DfT to the consultation on the ports NPS. That response will be consistent with this written evidence, but will be more detailed than would be appropriate here given the nature of this inquiry. We therefore wish to bring to the committee's attention the broader issues which need to be addressed to prevent significant and unnecessary damage to the historic environment.

9. A fuller explanation about the role of English Heritage is set out in the Appendix, with contact details.

Detailed Points

Historic Environment (section 2.24)

10. The text currently reflects that of the draft PPS15 which was consulted upon (closing on 30 October 2009) by the CLG. English Heritage has worked closely with CLG and DCMS on the drafting of both the PPS itself and the ports NPS. It is however, important to stress that PPS15 is still being developed and will no doubt undergo further amendments. Given the assurances given by CLG, those amendments will need to be reflected in this NPS. We feel that as the government’s adviser on the historic environment it is important that we play a full role in how those amendments are mirrored in the NPS and are seeking assurances from DfT that this will be the case.

Design

11. The ports NPS quite rightly emphasises the importance of good design. However, as currently drafted it does not recognise the role that design has to play in potentially mitigating the impact on the historic environment. English Heritage works closely with local government and partners to ensure that new development sits well within the historic landscape and is not detrimental to historic views. High quality design is a key factor in minimising adverse impacts, particularly at the scale of Nationally Significant Infrastructure Projects. Therefore, the impact on the historic environment needs to be a material consideration when assessing design of new structures.

12. The use of the terminology relating to design is not consistent within the NPS. For example, paragraph 1.10.2 requires that new port infrastructure should “be well designed”. There are a number of other references to, variously, “good environmental design” (1.10.5), “good design” (numerous) and “designed sensitively” (2.23.10). These inconsistencies need to be addressed in a way that supports a level of design equivalent to “high quality design” proposed by paragraph 2.24.16 and in other draft NPSs such as the overarching energy NPS (EN-1). Other NPSs, such as the overarching energy NPS (section 4.5), includes a specific section on “criteria for good design”. This section explains that good design is about ensuring attractive, usable, durable and adaptable places and contributing to sustainable development. It emphasises that good aesthetic and functional design can go together, and that the development should be as visually attractive as possible as a result of good architecture and appropriate landscaping. Although we would like some amendments to this section for consistency (for example referring to “high quality design” as explained above), this section is welcomed and a similar provision ought to be included in all NPSs, including the ports NPS.

Landscape

13. The NPS includes a section on “Landscape and Visual Impacts”. We feel that it does not properly acknowledge the historic element of the landscape. Heritage assets are an important element of viewpoints. Many of England’s iconic views have an historic element at their heart. The NPS need to be worded in such a way to ensure the preservation of both such nationally important viewpoints and those of importance to local communities. This should accord with the English Heritage Action Plan for the implementation of the European Landscape Convention (published February 2009).

14. Under 2.23.7, National Parks, the Broads and Areas of Outstanding Natural Beauty are listed as having the highest status of protection in relation to landscape and scenic beauty. It states that “Each of these designated areas has specific statutory purposes which help ensure their continued protection and which the IPC should have regard to in its decisions.” It should be acknowledged that part of the reason for a designation may be the historic value of the landscape, and that, alongside natural beauty, this should be given weight by the decision-maker.

15. It is important that designated sites, buildings or monuments should not just be considered on their own, but also account is taken of their setting and also where appropriate, as part of a landscape. Where there is historic landscape greater weight should be attributed to its protection.
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Marine Policy Statement

16. In the section “Key Considerations” reference is made to taking account of the Marine Policy Statement and any existing marine plans. However, we consider that while the legal requirement for accordance is limited, this should not detract from the importance of the Marine Policy Statement to deliver the UK Government and Devolved Administrations “High Level Marine Objectives” and subsequent application within marine planning. It is therefore important for the ports NPS to fully address planning and management of the marine environment as beyond the realm of terrestrial planning. We consider that greater direction should be provided beyond having regard to other relevant planning mechanisms, for example in section 2.16.14 reference is made to both Shoreline Management Plans and the UK Marine Policy Statement without adequately explaining the relative differences and legal basis for these two very different planning instruments.

Recommendation

17. English Heritage feels that the whilst section 2.24 acknowledges the importance of considering the historic environment in decision making, there is a lack of understanding of both the contribution to and impact of heritage on modern life and the need for it to be properly protected. We feel that this omission can be easily rectified, without presenting significant problems for meeting the need for ports provision laid out in each of the documents as follows:

— English Heritage to be consulted on the final draft of the ports NPS to ensure it reflects the final draft of PPS15.
— The Ports NPS, like the other NPSs, should include a specific section on “criteria for high quality design”.
— Reference to the historic elements of the landscape should be included in the section on Landscape and Visual Impacts.

APPENDIX 1

The Role of English Heritage

1.1 English Heritage is an independent grant-aided body governed by Commissioners. It was established with effect from 1 April 1984 under section 32 of the National Heritage Act 1983. The general duties of English Heritage are prescribed in Section 33(1) of the Act and are as follows:

“... So far as is practicable . . .

(a) to secure the preservation of ancient monuments and historic buildings situated in England;
(b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England; and
(c) to promote the public’s enjoyment, and advance their knowledge, of ancient monuments and historic buildings situated in England and their preservation.”

1.2 English Heritage’s sponsoring department is the Department for Culture, Media and Sport (DCMS), although its remit in conservation matters intersects with the functions of a number of other government departments, particularly the Department of Communities and Local Government (DCLG), with its responsibilities for land-use planning matters, and Defra, sponsors of the new Marine Management Organisation

1.3 English Heritage is a statutory consultee providing advice to local planning authorities on certain categories of application for planning permission, listed building consent and conservation area consent. Similarly English Heritage advises both Secretaries of State on those applications, subsequent appeals and on other matters generally affecting the historic environment. It is the lead body for the heritage sector and is the Government’s principal adviser on the historic environment.

1.4 English Heritage is a major source of funding for the historic environment and is responsible for the preservation and presentation of over four hundred historic properties in the nation’s care. English Heritage has a large research and standards function that carries out projects that aim to increase understanding of the historic environment thereby leading to a greater appreciation of its value to this and future generations. Further details are set out in Annex A6-A9 of Planning Policy Guidance Note 15: Planning and the Historic Environment (PPG15).

1.5 English Heritage is also, under the National Heritage Act 2002, the UK Government’s statutory adviser on all aspects of cultural heritage within the English area of the UK territorial seabed.

1.6 Our responsibility under the Protection of Wrecks Act 1973, within the English area of the UK Territorial Sea, is to consider applications and recommendations for designation, re-designation and de-designation of shipwreck sites. On the basis of our advice the Secretary of State is responsible for designating restricted areas around sites which are, or may be, shipwrecks (and associated contents) of historic, archaeological or artistic importance. The Secretary of State is also responsible for the issuing of licences to authorise certain activities in restricted areas that otherwise constitute a criminal offence. At the end of the
Committee’s reporting year in March 2009 there were 46 sites designated within the English area of the UK Territorial Sea, which include sites located in close proximity to active ports, such as Dover, Poole Harbour and within the Thames estuary.

January 2010

Memorandum from Local Government Yorkshire and Humber and Yorkshire Forward (NPS 34)

1. This short paper has been prepared jointly by officers from Local Government Yorkshire and Humber, the regional partnership of local authorities, and Yorkshire Forward, the regional development agency; the two bodies working together to represent the Yorkshire and Humber region. It is in advance of a formal, more detailed response to the Department for Transport ongoing consultation due 15 February 2010. Our ports play a significant role in our region and its economy.

2. Yorkshire & Humber welcomes the publication of the National Policy Statement for Ports (NPS), supports its intended purpose, much of the current draft content and is currently preparing a detailed response to the consultation documentation issued November 2009.

3. Yorkshire & Humber wishes to comment on three fundamental issues relating to the content and implementation of the NPS at this stage:

(a) Sector lead; will this take account of regional requirements, including the carbon reduction priority. While the NPS leans towards a market driven approach, which is most appropriate for market led activities, greater consideration should be given to spatial planning and the challenge facing this region of the reduction in transport related carbon dioxide emissions;

(b) Wider Economic Impacts; better guidance on the calculation of and greater weighting attached to wider economic impacts is required. There is an established evidence base demonstrating that ports have beneficial economic impacts beyond their perimeters. Therefore, it is essential that decision makers give appropriate weighting to this. Neither the NPS nor the stated appraisal methods take account of Wider Economic Impacts satisfactorily; and

(c) Surface access to Ports; regionally or national funding and unnecessary delay in associated infrastructure improvements. It is expected that surface traffic will grow as a result of increased port traffic and some of our existing surface connections are inadequate. Currently schemes are proposed via the Regional Funding Allocation but given the national importance they would perhaps be funded via the national allocation of funds. Effort should be made to minimise the delay between ports expansion and infrastructure improvements to get to and from the expanded ports.

The detailed response will set out further comments on each of these issues.

Regional Context: Yorkshire and Humber’s Ports

4. The Yorkshire and Humber region has the largest ports complex in the UK and the fourth largest in northern Europe. It handles over 16% of all UK’s sea-borne trade, offering a huge range of freight and passenger services to destinations throughout Europe and beyond.

5. The Humber Ports play a critical role in the regional economy, transferring both goods and people to and from the region. The region has a number of ports with a wide range of cargoes imported, exported and distributed across the region and beyond. This requires sophisticated port infrastructure, the ability to handle a variety of ship sizes and improved road and rail access network. It is a global gateway and the UK’s largest intra-European ports complex, at the heart of the multi modal North European Trade Axis (NETA). This is the broad trade and transport corridor along the axis from Ireland, to the Mersey ports, across the M62 corridor of Northern England and via the Humber ports to the Netherlands, Germany, Poland and the Baltic States.

6. The Humber Ports handle more cargo than any other UK ports complex. Goole, Grimsby, Hull, Immingham (and a number of independent wharves on the Hull, Humber and Trent) make a significant contribution to the Yorkshire & Humber regional economy (employing 47,000 people—over 12% of the workforce in the Humber sub region) and contributing £250 million directly and around £500 million indirectly, which is 4.8% of sub regional GDP and 0.8% of Yorkshire & Humber regional GDP. Immingham alone accounts for 25% of all UK rail freight.

7. The Humber plays a pivotal role in the UK energy sector with significant freight traffic in connection with the supply of coal to the region’s power stations. The Humber ports complex currently lands and distributes 20% of the UK’s natural gas and provides more than a quarter of the UK’s oil refining capacity. 32% of the UK’s coal imports come though the Humber Ports, most of which is supplied to the nearby power stations that generate around 17% of the UK’s electricity. It is anticipated that this will change as it is becoming increasingly important as a gateway for the import of biomass material which will likely become increasingly important in helping the UK meet its climate change targets.
8. It is anticipated that the Humber region will play a significant role in the massive expansion of offshore wind in the UK, with the capacity to generate enough energy to power 2.7 million homes and potentially creating thousands of high value jobs in manufacturing, research, engineering, installation, operation and services. In the recently announced “Round 3” of wind farm zones, Hornsea, one of the three largest facilities announced, is located just off the Humber coast and the energy is anticipated to come on shore in the region. The two other zones are Dogger Bank and Norfolk, both within close proximity to the Humber estuary. These three could provide 20,200MW out of a Round 3 total of 25,000MW worth of energy. These announcements will generate greater traffic through the Humber and the necessary Operations and Maintenance of this infrastructure is a real opportunity for the Humber Ports.

9. At this time of unprecedented global economic turbulence, we have seen a change in ports usage and as a result underutilised capacity. Tonnage has fallen over the past two years. Total tonnage handled by UK ports fell by 3% during 2008. Whilst this has had an impact on the Hull and Humber ports, the reduction has been lower than the national average, total tonnage handled by Grimsby and Immingham fell by 2% during 2008, and as a result the Humber Ports market share has increased.

10. Despite this, it is predicted that any underutilised capacity would be taken up relatively quickly, early in the economic upturn. It is therefore vitally important that expansion to meet predicted capacity demands, including the continuing role as a global gateway for our region and supporting the offshore energy sector should be top of the agenda, alongside improvement to road and rail connections.

11. The region is aware and has previously welcomed proposals set out in the Yorkshire and Humber RUS to upgrade the rail freight network to support the wider economic strategy for the region by lessening the impact of goods traffic on the highway network and the environment when freight is carried by road. We will continue to assess progress on this by the agencies responsible for delivery. We have also welcomed the creation of the rail Strategic Freight Network.

12. The Humber Ports offer cost, time, environmental and congestion alleviation benefits to the ports of the South of England. Humber Ports offer a viable alternate in terms of cost, time and reliability: they are the UK’s most northerly ports able to offer an overnight shipping service to and from mainland Europe of less than 12 hours; access to a UK market of 40 million people and 75% of the UK’s manufacturing industry within a four hour drive.

13. The Humber ports complex is vitally important to the region, the north and as can be seen above of national importance. Continued ongoing investment is necessary to ensure that this position is maintained, making best use of existing infrastructure, securing jobs and ensuring future opportunities are maximised and capitalised upon.

14. There are over 600 ports in the UK, serving different markets around the country but few are as strategically important as those on the Humber. It is therefore extremely important that government and decision makers alike are made aware of this, give due consideration to this and take note of the three fundamental issues made in this paper regarding the NPS.

January 2010

Memorandum from the Freight Transport Association (FTA) (NPS 35)

INTRODUCTION
1. The Freight Transport Association (FTA) is pleased to submit this evidence on the Government’s draft Ports Policy Paper to the Transport Select Committee.

2. TA represents over 14,000 companies in the UK engaged in the transport of freight both domestically within the UK and internationally. They range from operators, logistics management companies to customers—the UK’s retailers, manufacturers, and wholesalers and suppliers of raw materials. This covers all modes of transport—road, rail, water, air and sea.

3. Whilst some FTA members are port and terminal operators, FTA’s focus on ports policy is determined by the needs of the port users—British business. Many technical planning issues will be dealt with by other bodies more directly involved in the operation of ports.

BACKGROUND—UK PORTS
4. As an island economy ports are exceptionally important to the UK economy. They handle 95% of the UK’s imports and exports, and our manufacturing, retailing and indeed service industries rely upon them.

5. Unlike elsewhere, UK ports are entirely privately run and funded. Whilst this has produced an effective market-led ports industry, lack of investment has hindered the UK’s port capability in comparison to our near neighbours and direct competition. Continental ports receive substantial funding for their internal

development, as well as typically 100% funding for inland infrastructure connection (road and rail). In contrast developers in the UK have to fund their own developments as well as improvements to open access public owned transport infrastructure often some distance from the port.

6. There is evidence that the UK is losing some of its direct calls by deep sea vessels in favour of other European destinations. This would mean increasingly containerised goods will have to be “feedered” in by smaller vessels to the UK from the major continental ports. The consequence for UK business of such a trend would be increased costs, delays and uncertainty in the supply chain. The increased use of larger vessels in the medium term may see increased pressure on the number of direct calls in Europe, exacerbating the situation.

7. The exclusion of UK ports where it happens is partly due to increased demand from eastern European destinations (eg Poland), but also to do with congestion and unreliability of UK ports and their service levels.

8. The main reasons for these issues with UK ports are a) a lack of public investment compared to continental ports and b) the UK’s planning system.

FTA RESPONSE TO THE DRAFT PORTS POLICY PAPER

9. FTA supports the principles of the new National Policy Statements (NPS) system and the associated Infrastructure Planning Commission. The UK needs improved and expanded infrastructure and has been in desperate need of a more efficient planning system for many years. We do not need a system that says “yes” more easily, but rather a system that gives an answer one way or the other on a more efficient basis. Southampton port recently spent £45 million on a seven-year planning application at Dibden Bay that was ultimately turned down. This is an active disincentive to investment in the ports industry. The Association believes that the reforms in the Planning Act 2008 are a significant step towards achieving this more efficient system.

10. FTA supports the contents of the Draft Ports Policy Statement. It appears to capture the economic importance of ports, expected demand and type of need in a fashion that should aid decisions about development. The analysis of future need seems sound.

11. In particular, we would support the noting of the potential merits of having capacity above that of the strict demand level. The market for UK port facilities is currently less competitive than that of continental operations due to the restricted capacity in the UK. FTA believes a more efficient and cost effective service could be delivered for UK business if port capacity is increased above the actual level of demand.

12. Similarly, a key deliverable for UK business from future UK port capability would be increased resilience. Currently, any problems (weather, accidents, etc) can cause major and long lasting delays—for more extensive in nature than on the continent. The inclusion of this as a criterion is therefore important and very welcome.

13. The paper is vague about locations for port development and trends in port use. An argument could be made that it could have been more directive (eg “more container capacity is required in the greater south-east region”) as this would aid potential developers. However, we support the way in which conclusions have been expressed. Development must be market led to deliver what the UK needs now and in the future. Setting general criteria, then acknowledging that business trends will continue to develop, allows the flexibility to achieve this. Whilst the Policy statement may aid the future development of ports, there is room for further revision to allow it to do more.

ISSUES TO CONSIDER FOR IMPROVING THE DRAFT NPS

14. NPSs should guide all potential infrastructure development—not just those that qualify as Nationally Significant Infrastructure Projects (NSIPs). Many new developments and extensions to existing facilities which are too small to count as NSIPs could greatly enhance UK port capability. The planning process for these developments also needs to gain from the clarity of the NPS. Therefore decision makers such as local authorities and the Marine Management Organisation also need to work to these policy documents. However it is unclear what weight is to be given to these statements in the planning process. FTA would like to see them have statutory force in the local decision making process.

15. One of the key potential advantages of the new planning system is that development would only have to go through one application process to get development assessed—a “single consent” regime. However the document leaves the situation unclear for ports due to the potential overlap with other marine and landside bodies. Greater clarity on how and when single consent will be possible would be welcome.

16. FTA has concerns regarding the range of “commercial impacts” to be considered in planning applications (Section 2.7). In particular, the phrase: “The decision maker may need to make judgements as to whether possible adverse impacts would arise from the impact of the development on other commercial operators”. It is unclear what this refers to. Impacts on transport links are dealt with elsewhere and anti-competitive developments can be handled under Competition Law. As worded, there is a potential for it to be applied to not disadvantaged an existing port facility by providing enhanced competition—this would be a retrograde step. The Government should be challenged to explain their meaning on this point and to narrow the definition in the text.
17. NPSs will only work if the contents of related statements join up. For the Ports statement, the National Networks NPSs will be crucial. If a developer can gain permission to develop a facility but not the appropriate inland links, all the efficiency gained at the port application will be lost. The contents of the Ports NPS should be considered alongside the forthcoming National Networks statement. It is expected that the National Networks statement will focus on the geographic corridors outlined in the Government’s Delivering a Sustainable Transport System document—it remains to be seen how this will be reconciled with the non-geographic approach of the Ports NPS.

18. In general further explanation and guidance should be offered where possible throughout the document. Where references are made to “under certain circumstances” are made, these potential circumstances could helpfully be expanded upon.

January 2010

Memorandum from Planning Aid England (NPS 36)

INTRODUCTION

“Planning Aid” is at the forefront of engaging and giving an equal voice to all affected by the planning process. It seeks to raise awareness of planning and the need for communities and individuals to engage in the planning process. It provides free, independent professional planning advice to individuals and community groups who cannot afford to pay professional fees.

Planning Aid England is part of the Royal Town Planning Institute and operates through a network of nine regional services. Planning Aid is run independently in London, Wales and Scotland. Our regional knowledge, 35 year proven track record and access to almost 1,200 qualified volunteers underpin the strength of the Planning Aid service.

“Planning Aid” specifically helps people whose household income is low and those who are socially excluded. It also provides planning advice to small charities, voluntary and community groups, and tenants’ organisations with limited funds or free reserves, social enterprises and other not-for-profit businesses.

Planning Aid England and Planning Aid London are independent of government. This independence allows us to act both as a “critical friend” to government and as a trustworthy source of advice and assistance to communities and individuals.

Planning Aid England and Planning Aid London are playing a positive role in raising awareness of the content and importance of the National Policy Statements (NPS) consultation process with communities and individuals. We are also providing support to community groups who wish to respond to the consultation.

THE PLANNING AID ENGLAND RESPONSE TO THE TRANSPORT STATEMENT SELECT COMMITTEE

The Planning Aid England response is confined to matters relating to the consultation process and how this impacts upon communities and our key stakeholders.

CONSULTATION ON THE PORTS NPS

Good, inclusive consultation brings benefits to all involved. Whilst acknowledging that it is not possible to please everyone, it is important that as wide a range of views as possible are received if the outcome is to be respected and deliverable. That said, there are enormous challenges of engaging the public in matters at a national level, and which as yet do not affect them directly.

Why is this consultation so important to communities? In addition to establishing the national need, the Ports NPS will “provide a framework for future decisions on proposals for new port development to be taken by the Infrastructure Planning Commission” (para 1.2.1). In essence it sets out

— what applicants should consider in preparing their proposal;
— what the IPC should look for; and
— what mitigation is considered reasonable.

In terms of the Ports NPS, it is important that the consultation process recognises the diverse types of community which may have an interest in the NPS. For example there are the communities who:

— live in coastal areas which may be subject to future applications for future port expansion;
— may be dispersed, but have a shared interest in ports eg the fishing community;
— may visit coastal areas close to ports, for example tourists; and
— communities who may be affected by associated developments some distance from the ports.
Each of these communities will have a different perspective on the issues and concerns which they would wish to see considered by the IPC when determining any future NSIP application. What they share however is the need to make their views known as part of this consultation, as failure to do so will mean that raising these issues at a later stage, for example when consultation is taking place on a NPS, will be “out of bounds”.

It is therefore critical that from a community perspective, the issues identified are the right ones—have any been omitted, are the “local” matters which the applicants should assess and the Infrastructure Planning Commission (IPC) should consider the right ones, are the mitigations identified reasonable etc? If these are not adequately reflected in the NPS, then applicants will not address these in their proposals, and IPC will not be able to consider such issues, if raised by communities, when deciding a NSIP development.

The NPS will also have an indirect impact on planning policy and planning decisions (under the Town and Country Planning Act) at a local level as it will become material consideration in the determination of relevant planning applications and development plans may need to be amended to reflect the NPS. As such it is important that local communities are aware of this, and have the opportunity to provide informed comment on the content of the NPS.

The Challenges of Good Public Engagement in a National Policy Consultation

National policy consultations are a challenge. An additional difficulty for this consultation is the lack of knowledge and understanding in the wider community of the Planning Act 2008 and how this will affect certain types of infrastructure projects—this makes community consultation much harder.

It is also very hard to raise awareness and enthusiasm within communities when there is no current application (and indeed there may never be an application within their locality) around which they can focus their comments.

With regard to the NPS consultation, Planning Aid has worked with communities to help them to think through and develop an informed response, although this has primarily focused on areas identified in the draft nuclear power NPS.

Our approach when working with our target communities is based upon a process which encourages groups to think through their areas of concern if a NSIP proposal was to come forward which affected them, how these might then be overcome by the promoter and the benefits which could result from a development. They are then encouraged to look at the NPS to ensure that it asks potential applicants to take account of the relevant community concerns/issues as part of their submission, that the IPC are asked to take account of these in their decision making and that the mitigation measures proposed reflect the way in which adverse impacts on local communities can reasonably be reduced. This is clearly easier where there are already location specific proposals.

It is also important that the public are made fully aware of what is, and what is not, “up for debate” in the consultation. In this case, communities need to understand that the Ports NPS does not introduce new policy; rather it translates ports policy into a framework to guide applications to the IPC and for IPC decision making. Failure to ensure that this is fully appreciated may result in responses which focus on the wrong issues at the expense of those which are of relevance to this consultation process.

Planning Aid—Raising Community Awareness of the Draft Ports NPS

The new planning process for NSIPs involves a very welcome “step change” in pre-application consultation with local communities and will significantly improve their ability to influence how some of the local impacts of a proposed NSIP are dealt with. This “step change” is strongly welcomed by Planning Aid, however it is important that communities who do participate understand what they are able to influence and what has already been fixed—hence the need to raise awareness in the consultation on the draft NPS and encourage responses.

Our independent role and respected expertise in community engagement has allowed Planning Aid to work alongside the Department to support the consultation process and promote awareness of this consultation within the wider community and our target groups.

Planning Aid England and Planning Aid for London produced a two side summary sheets for the Ports NPS. This was facilitated by DfT who supplied draft text in advance of the launch to allow the summary sheet to be published at the same time as the start of the consultation was announced. Similar summary sheets were also produced for each of the draft Energy NPS. A copy of the Planning Aid England and Planning Aid London draft Ports NPS summary sheet is appended to this submission.

A special purpose web site was developed by Planning Aid England and Planning Aid for London which contains basic information about the Planning Act 2008, the consultation process, downloadable copies of each of the Planning Aid NPS summary leaflets and a series of frequently asked questions and answers. Paper copies of the A4 Ports NPS and other energy NPS summary sheets were also sent by post to stakeholders and others without internet access. Awareness of these leaflets and the web site was raised through a cascade of emails, sent to coincide with the announcement of the start of the consultation, to Planning Aid volunteers, stakeholders, and community groups who were asked to forward them to anyone they felt may have an interest in the consultation.
By 4 January 2010 there had been 91,068 hits on the Planning Aid NPS web site and a total of 1,130 Ports NPS Summary Sheets had been downloaded from the site. This number of downloads represents the “tip of the iceberg” as those downloading the documents are encouraged to copy, print and circulate to a wider audience, thus cascading information further. Planning Aid England and Planning Aid London have both established a dedicated phone lines for enquiries on NPS and a special email address.

Planning Aid England has also delivered five training events in December for staff and volunteers (further events are planned for early 2010). These events are aimed at raising awareness of the implementation of the 2008 Planning Act in general and the NPS consultation for Energy and Ports in particular. Circa 120 people have already attended these events. In addition articles on the NPS consultation, the importance of engagement and where to find information have been produced for the Planning Aid regional newsletters—these are distributed to volunteers, local authorities and community groups.

Planning Aid England has also supported the DfT with the two national consultation events which have been held in England, taking the role of independent chair/workshop discussion session facilitators at the events.

How does the DfT consultation meet government guidance on good consultation?

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<thead>
<tr>
<th>Code of Practice Consultation Criteria</th>
<th>Comment/notes</th>
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<tbody>
<tr>
<td>1. When to consult—formal consultation should take place at a stage when there is scope to influence the policy outcome</td>
<td>NPS is in draft form. DfT have made clear that the NPS does not contain “new policy”. There is scope to influence the advice which the NPS will set out for applicants and the IPC relating to local impacts.</td>
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<tr>
<td>2. Duration of consultation exercise—consultations should normally last for 12 weeks and consideration should be given to longer timescales where feasible and sensitive</td>
<td>The consultation period lasts for 14 weeks.</td>
</tr>
<tr>
<td>3. Clarity of scope and impact—consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals</td>
<td>Draft NPS document is clear about consultation process. PA raised community awareness through the summary sheet which was prepared with the support of DfT and through information on a special web site.</td>
</tr>
<tr>
<td>4. Accessibility of consultation exercises—consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach</td>
<td>The NPS is well written and uses reasonably accessible language. The PA summary provides a limited overview of each NPS and provide a starting point for raising awareness within communities.</td>
</tr>
<tr>
<td>5. The burden of consultation—keeping the burden to a minimum is essential if consultations are to be effective and if consultees’ buy in to the process is to be obtained.</td>
<td>Responses can be completed on-line and also in hard copy.</td>
</tr>
<tr>
<td>6. Responsiveness of consultation exercises—consultation responses should be analyse carefully and clear feedback should be provided to participants following consultation</td>
<td>This stage has not yet been reached.</td>
</tr>
<tr>
<td>7. Capacity to consult—officials running consultation should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.</td>
<td>Not known</td>
</tr>
</tbody>
</table>

Conclusions

Planning Aid England and Planning Aid for London have played a positive and valuable role in the process of raising awareness of the draft Ports NPS consultation process with communities and in doing so, have brought real and measurable added value to the process.

Planning Aid England believe that the national consultation events held so far could be further supplemented with local events in areas where there is the potential for Ports related NSIP proposals to come forward. These local events would bring added value in terms of consultation feedback to the Department as they would allow real issues which have the potential to be of importance to communities, and which relate to the drafting of the NPS, to be captured.
Good consultation brings rewards to all involved. Community engagement in the consultation process is important with local knowledge enabling communities to look at the NPS in a way which other stakeholders may not, thus adding a different “user” perspective to the pool of responses.

January 2010

Memorandum from Scottish Environment Protection Agency (SEPA) (NPS 37)

DRAFT PORTS NATIONAL POLICY STATEMENT

Thank you for providing the Scottish Environment Protection Agency (SEPA) with the opportunity to comment on the above consultation document.

I write to advise you that we have no comments to make on this occasion.

As a public body committed to openness and transparency, SEPA feels it is appropriate that this response be placed on the public record.

December 2009

Memorandum from Peel Ports Ltd (NPS 38)

SUMMARY

Peel Ports Ltd would challenge the overall approach within the Draft Ports Policy in failing to properly acknowledge regional economies and disparity, and the role that ports policy should play in terms of contributing to and stimulating economic regeneration. It is acknowledged that the ports industry should be responsible for bringing forward applications when the market considers them necessary, whilst also allowing resilience and spare port capacity in excess of forecasts. However, in our view a number of matters have been overlooked and ought to be more fully assessed prior to publication of the Ports NPS, as follows:

— The Draft Ports NPS fails to pay due regard to the role of northern ports and the relationship between ports policy and regional economic and planning strategies. The NPS should favour regeneration and regional economic aspirations in a more positive manner in order to reduce the disparities which exist between southern and northern Britain.

— The funding of surface access improvements (both road and rail) particularly in the South East has distorted the market to the benefit of southern port operators. There is a necessity to expedite surface access improvements to ports within the North West to more fully achieve their operational, environmental, and economic potential.

— The role of ports and their increasing diversity in catering for other uses (eg wind farm manufacture, energy projects etc) is such that the Ports Policy should adopt a more proactive stance in directing Local Authorities and Regional Development Agencies to assist in land assembly for port related expansion. The role of Port Master Plans should be referenced within the Ports NPS.

— The unique assets comprising the Port of Liverpool and The Manchester Ship Canal create an “all water” freight distribution solution stretching for 44 miles which has considerable potential for further usage, reducing the incidence of container movements by road and rail from the South East, and thereby contributing to cutting carbon emissions. The investment plans of Peel Ports Ltd have to be matched through public sector support for surface access improvements and land acquisition through a positive planning framework.

OVERVIEW

1. Peel Ports Ltd is the second largest port owner and operator in the United Kingdom, handling some 65 million tonnes cargo per annum. Our operations include upon the Mersey: The Port of Liverpool and The Manchester Ship Canal; the Lancashire Port of Heysham; upon the Medway: the Ports of Sheerness and Chatham Docks; in Scotland, upon the Clyde: King George V Dock (Glasgow), Greenock, Ardrossan and Hunterston, and with terminals in Dublin and Belfast.

2. Peel Ports Ltd is privately owned with ambitious investment plans identified for the next decade amounting to some £1 Billion of capital investment on port infrastructure projects. Additionally we continue to work in partnership with a number of our port tenants many of whom are blue chip international operators such as Shell, Cargill, European Metal Recycling, Tate & Lyle, and Scottish Power in terms of their current and further additional private sector investment plans.
3. The combined volumes at the Port of Liverpool and The Manchester Ship Canal are some 40 million tonnes of cargo. This volume of cargo generates some 15,000 shipping movements per annum. The Mersey Ports are the most diverse range of cargoes compared to any other major Estuary other than the Thames in the UK. Significantly the North West represents the largest container generating region outside of London and within a 125 mile radius has the largest concentration of distribution and manufacturing activity and the largest concentration of population (see attached plan).

4. In recognition of the increasing size of vessels (notably those employed on the global container routes) Peel Ports are developing a Post Panamax Container Terminal upon the Mersey Estuary. The amalgamation with The Manchester Ship Canal and further projects theron—Port Wirral, Port Ince, Port Warrington, and Port Salford results in a unique “all water” freight solution stretching for 44 miles at the heart of the UK and Britain’s richest cargo creating and consuming region outside London. A barge service linking the deepwater Port of Liverpool and Irlam Container Terminal on The Manchester Ship Canal was launched in October 2007 providing dedicated water freight capacity, thereby alleviating road congestion and contributing to cutting carbon emissions.

5. In our submissions we have a number of concerns where we believe matters in respect of the emerging Ports Policy have been overlooked and ought to be more fully assessed prior to final publication.

ECONOMIC REGENERATION AND THE REGIONS

6. The Draft NPS highlights in the very broadest terms the essential role of ports to the UK economy. However, we consider an important consideration has been overlooked relating to the interaction of ports policy with regional development aspirations and economic development. There is also very little cross-referencing in the Draft NPS to the interactions with Regional Spatial and Economic Strategies, Local Development Frameworks (LDF’s), and the role of emerging Sub-Regional strategies such as the Liverpool City Region Multi-Area Agreement and Liverpool SuperPort.

7. The Select Committee will be aware of “The Northern Way”, a unique initiative bringing together the cities and regions of the North of England to work together to improve the sustainable economic development of the North towards the level of more prosperous regions such as the South East. The economic benefit of the Northern Way Ports in 2006 highlighted a total impact of Gross Value Added (GVA) of £2.7 Billion and sustaining in excess of 66,000 maritime related full time jobs. The research and analysis highlighted a number of distinct economic and transport benefits in pursuing a ports policy that encouraged and supported the development of the Ports in the North of England. In the light of the above we would suggest the National Policy for Ports should better align and acknowledge the role of the Northern Ports, and the further potential they offer in terms of reducing regional disparity, enhancing economic performance in Northern Regions, and helping to alleviate pressure upon ports in the South East.

8. The Mersey Ports are a major economic driver being of local, regional, and national importance. A study undertaken by Mersey Maritime (The Maritime Sector on Merseyside—Economic Impact Study, January 2007) highlighted the significant economic benefits of the maritime sector with total impact of Gross Value Added (GVA) being £913 Million and sustaining in excess of 26,000 maritime related full time jobs.

9. By adopting a more proactive ports policy around regeneration and economic development, harnessing the assets of Mersey Ports would have considerable potential to reduce disparity through creation of employment opportunities. For example, the Port of Liverpool adjoins a number of residential areas suffering from some of the highest levels of social deprivation and worklessness in the UK. Similarly, the Isle of Sheppey represents one of the most deprived communities within Kent and the South East, with the Port of Sheerness playing an invaluable role as one of the key employers and assets upon which to build.

TRANSPORT & SURFACE ACCESS

10. The success or otherwise of a port is inextricably linked to the ability for freight to be moved in or out and therefore surface access (be it road or rail links) are of paramount importance. It is therefore disappointing that the Department of Transport have not issued simultaneously the Draft NPS relating to National networks (strategic roads and railways). We understand the further NPS is expected in early 2010 but do not consider it appropriate to decouple transport considerations from the emerging Ports Policy.

11. The Draft Policy confirms the Government’s longstanding position in that “Ports in England and Wales operate on commercial lines, without public subsidy and with investment from their own operating profits or from private sector investors” (Para.2.7.1). However, it is beyond question that significant amounts of public sector funding have been and continue to be directed into road and rail improvements in the Greater South East providing an indirect subsidy to a number of ports, and thereby providing such operators with a competitive advantage.

12. In illustrating our point we would highlight the range of schemes (and values) identified for delivery upon the Strategic Rail Freight Network in Control Period 4 (2009–10 to 2013–14) the magnitude of funding being directed into the Greater South East, with only £1.7 million (or 0.64%) of the overall £266 Million being attributable to rail freight enhancements in the North West.
**Strategic Rail Freight Network Projects**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ipswich to Nuneaton capacity enhancement</td>
<td>£50 million for capacity and signalling enhancements</td>
</tr>
<tr>
<td>W10 Gauge clearance</td>
<td>£55 million for Southampton to Basingstoke diversionary route</td>
</tr>
<tr>
<td>Channel Tunnel route</td>
<td>£10 million for signalling modifications south of London</td>
</tr>
</tbody>
</table>

**Productivity Transport Innovation Fund**

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peterborough—Nuneaton</td>
<td>£80 million to enhance loading gauge and capacity</td>
</tr>
<tr>
<td>Southampton—Nuneaton</td>
<td>£42.8 million to enhance the loading gauge to W10</td>
</tr>
<tr>
<td>Humber Ports to East Coast Main Line</td>
<td>£8.0 million to increase capacity on the rail link with the port</td>
</tr>
<tr>
<td>West Coast Main Line to Liverpool Docks</td>
<td>£1.7 Million to improve rail access to the port</td>
</tr>
<tr>
<td>Gospel Oak to Barking Line in London</td>
<td>£18.5 Million for gauge clearance and freight capacity work</td>
</tr>
</tbody>
</table>

(Source: Strategic Rail Freight Network: The Longer Term Vision, Dept. for Transport, September 2009)

13. In the case of rail accessibility to the Mersey Ports in particular, we consider significant opportunity exists for enhanced rail freight capability and this needs to be seriously considered for funding as part of Control Period 5. Such interventions would include:

- Re-instatement of Canada Dock Freight Line (Port of Liverpool);
- Re-instatement of Birkenhead Docks Freight Line;
- Freight Line connections to Port Wirral, Port Ince, Port Warrington, and Port Salford.

14. From a highways perspective and although not subject to the current consultation we note the designation of the “Strategic National Corridors” by the Department for Transport and the identification of the largest port complexes such as Mersey Ports. However, in identifying Liverpool as a national port we feel surface access enhancements should be treated at a national level and not be devolved into a local issue with the resulting uncertainty over funding and delivery. The transport “bottlenecks” arise closest to the Port and although there may be some short-term relief during the current economic downturn, congestion and unreliability are likely to get worse again as business expands and new port developments come on stream from 2010 onwards.

15. We are supportive of the identification of a number of highway access improvements within the North West which would contribute to enhanced accessibility for port operations, but we need commitment and certainty over delivery timescales. The particular enhancements are as follows:

- A5036T Access to Port of Liverpool Improvement.
- Bidston Moss Viaduct (M53 J1) Major Maintenance Scheme.
- Completion of the Heysham to M6 Link.

16. With a number of consents already in place for new and expanded port facilities in the Greater South East, with further in the pipeline, a fundamental question arises about the role of northern ports and the capacity they could have to take the strain off and alleviate congestion within the South East region. This is particularly so when in excess of 65% of containers imported through South Eastern ports are bound for a destination north of Birmingham. In order to properly realise the offer within the North West, and Mersey Ports in particular the above surface access schemes need to be expedited.

17. We have referred to the scale of our investment plans over the next decade and quite simply our aspirations and ambitions need to be matched by public sector funding for surface access improvements. The Draft Ports NPS persists with the notion that port developers should contribute to connecting road and rail schemes. The ports sector is an essential component of UK competitiveness supporting many thousands of jobs and as such we consider funding of surface access improvements puts UK ports at a competitive disadvantage, in comparison with EU ports which do not have to contribute to infrastructure in this way.
PLANNING & LAND ASSEMBLY

18. The ports sector is dynamic, continually adapting and responding to global trends and circumstances. Such dynamics are reflected in the operations upon port estates as they are becoming more diverse in their function. Their historical role as complexes for the import and export of cargo remains but increasingly they are attracting interest in a number of complimentary sectors—portcentric warehousing and distribution, processing facilities, wind farm manufacture and assembly, and energy generation projects.

19. However, the emerging diversity of port uses brings a number of challenges, not least land utilisation and importantly the necessity for port expansion land. By their very nature operations and land requirements are best served in conjunction with access to water space and berthing facilities. As such there are “unique” circumstances for identification of port expansion land being within and/or directly contiguous with existing operations. Expansion lands often fall outside of the port’s ownership and can be fragmented and difficult to assemble.

20. The Port of Liverpool is severely land constrained and is unable to respond proactively to the many new enquiries received in terms of further private sector investment. Likewise, Medway Ports have been identified as being suitable for wind farm manufacture and distribution given accessibility to deep water berthage. However, such business opportunities and their ensuing employment benefits will be difficult to be realised at the Port of Sheerness due to land availability. For the above reasons we consider the Draft Ports Policy should place a more proactive emphasis upon Local Authorities and Regional Development Agencies for example, to assist in land assembly and delivery of port related developments, thereby contributing to employment opportunities.

21. Port operators for their part are expected to prepare and consult upon a Port Master Plan based upon the Department for Transport “Guidance on the Preparation of Port Master Plans” (December 2008). A reference ought therefore to be included within the Draft Policy in respect of Port Master Plans and the weight that should be attached to them by the decision-maker, on the basis they have been prepared and consulted upon and therefore represent a “material” planning consideration. With the majority of major port expansions already consented it is unlikely that further projects will of such scale as to warrant consideration by the Infrastructure Planning Commission (IPC). Therefore, the Ports NPS and its relationship to lesser port projects and assessment of planning applications needs to be much clearer.

MERSEY PORTS & SUSTAINABLE DISTRIBUTION

22. We have highlighted above the unique circumstances of the Mersey Ports particularly the 44 mile long water highway linking the Liverpool and Manchester City Regions within which we estimate there are more than 120,000 industrial and commercial enterprises and with a population in the North West region in excess of three million. Furthermore, the geographical benefit and strategic position of the Mersey Ports are such that the hinterland and populations they serve exceed the comparable areas and populations from a south eastern perspective. This is illustrated upon the plan extract attached hereto.

23. Peel Ports has been working closely with retailers and manufactures to understand how water can reduce “end-to-end” supply chain costs, significantly lower carbon emissions, and reduce the impact of congestion on Britain’s strategic road and rail corridors. At present, some 300,000 containers per annum imported into the North West enter through the congested ports of the South East, and arrive into the region by road and rail. A number that increases to over a million containers when the area is expanded to include the rest of Northern Britain and Ireland. Diverting those containers destined for the North West alone through the Mersey Ports would remove up to 7,500 truck journeys per week from the M1/M6 corridor, removing congestion, reducing emissions and increasing competitiveness.

24. The Port of Liverpool is the most centrally positioned deep-sea port in the UK and in conjunction with The Manchester Ship Canal means they are ideally situated to serve all cargo bound for Northern Britain. The savings to customers are typically in excess of £150 per container moved, when compared to those entering the UK through one of the southern ports for onward distribution often over long distances. Additionally, the cost savings are supplemented in carbon reduction terms in that freight transport by water is cleaner than transport by road, as moving goods by water is more fuel efficient, leading to CO₂ emissions that can be one-quarter to those of road transport. Notwithstanding a number of successful operations that are taking place along the 44 mile water highway, notably the barging of wine (for Tesco) to Irlam Container Terminal and building materials for Media City at Salford Quays the potential is there for considerably more realised at the Port of Sheerness due to land availability. For the above reasons we consider the Draft Ports Policy should place a more proactive emphasis upon Local Authorities and Regional Development Agencies for example, to assist in land assembly and delivery of port related developments, thereby contributing to employment opportunities.

25. In this regard, our investment plans seek to exploit the synergies with our infrastructure to further effect—the Port of Liverpool acting as the deepwater port of entry with the development of a series of “multi-modal” ports along the Manchester Ship Canal—Port Wirral, Port Ince, Port Warrington, and Port Salford. However, for the reasons already highlighted such benefits can only be realised if Peel Ports investments are matched with corresponding public sector support for surface access improvements, road improvements and rail freight connections and a proactive planning framework, not least through land acquisition and approval of port projects within the corridor.
EXECUTIVE SUMMARY

Globally, trade should take place in the most environmentally benign way possible. This inevitably means an increased proportion of goods will have to be transported by ship. In the UK, this will require action to cope with the consequences of increased trade and shipping. We consider ports and shipping to be key parts of an integrated transport policy. The challenge is to make the right decisions about which combination of transport is the best environmentally.

The RSPB welcomed the principle of National Policy Statements (NPSs) when they were first proposed in the Planning White Paper of 2007. However, the draft Ports NPS is highly deficient as a planning document and in terms of compliance with environmental law. It fails to capitalise on, and potentially sets back, over 15 years of constructive work between the UK port sector and nature conservation groups in finding more sustainable solutions to meet the needs of both the port sector and nature conservation. In particular, its inadequate approach to need and alternatives will hinder the Infrastructure Planning
Commission’s (IPC) decision-making process, contrary to the intention of the new planning system. There is a serious risk that the NPS will neither speed the delivery of additional port capacity nor give adequate protection to the natural environment.

Key concerns

— The nature of the NPS: the NPS is more a development control document than a strategic policy statement. It is not spatial and is not integrated with other NPSs, especially with the energy NPSs and national networks NPS. Its relationship with the rest of the planning system and the DfT’s own, recently introduced, port master planning process is unclear.

— Need: although there are projections of port capacity demand, there is no attempt to prescribe how much infrastructure or of what type is needed in the public interest, or where. The NPS simply states that a lot more of everything is needed, and quickly. As a result, the NPS asserts an overwhelming, urgent need for new infrastructure, which is used to relegate any environmental concerns to issues of local detail. This is despite the Government having recently consented a significant proportion of the UK’s projected 2030 demand for major container port capacity (16m TEU out of approximately 20m TEU). Consequently, the market will decide where it wants to supply new capacity without any significant policy constraints in terms of meeting environmental objectives eg the conservation of Natura 2000 sites in-situ.

Therefore, we recommend the NPS be amended to include clear criteria for the approval of new capacity that ensures such capacity meets environmental as well as socio-economic objectives. It should ensure sufficient capacity can be consented to meet projected demand and reflect the timescales to bring such capacity online (c. 10 years). A sequential approach is required that minimises environmental impacts, especially to Natura 2000 sites, through requiring promoters to demonstrate best use of existing infrastructure eg through efficiency and productivity gains, as a prerequisite for any proposals for further development. This is in line with the approach taken by DfT for airports.

We consider there is a strong risk that the absence of clear criteria and guidance to the IPC and port sector is likely to create considerable uncertainty for developers as to what are the key issues that bear on whether a scheme will be consented and therefore how the IPC will approach its decisions. Not only could this waste time and resources in proposals getting stuck in a consenting quagmire, it runs the risks of decisions breaching environmental legislation.

— Appraisal of Sustainability/Strategic Environmental Assessment (AoS/SEA): an analysis commissioned by the RSPB and WWF shows that the appraisal has been carried out very poorly and is not compliant with the SEA Directive, with particular reference to its approach to alternatives and the baseline information used.

— Habitats Regulations Assessment (HRA): similarly, the strategic HRA appears to be deficient and based on outdated UK sustainable development principles. In particular, the consideration of “alternative solutions” at the NPS level is unduly narrow and appears designed to preclude development of a more sophisticated sequential policy framework that facilitates increases in capacity while avoiding or minimising adverse effects on Natura 2000 sites. As a result, the NPS does not provide clear guidance to the IPC on the proper application of the Habitats Directive tests. This places the IPC at unnecessary risk of granting consent for damaging schemes in breach of the EU Habitats Directive eg by constraining their ability to test whether there are less damaging alternative solutions to schemes that will damage Natura 2000 sites. Reference in the HRA to the legally-flawed concept of “equal value” compensation should be deleted: this concept has no legal basis and conflicts with UK and EU policy on the provision of “like for like” habitat compensation.

— Carbon assessment: the IPC is essentially “carbon blind” in its decision-making as it is told to attach “limited weight to the estimated likely net carbon emissions performance of port developments.”(para 2.13.6, Ports NPS). The de-facto abandonment of the traditional Greater South-East centric growth model could have provided an opportunity to promote a more carbon efficient approach to port supply, but the NPS fails to do so.

— Impact criteria: the biodiversity criteria need to be robust in the face of the ongoing biodiversity crisis, not weakened to accommodate additional port capacity at any cost. We are concerned at the lack of emphasis on avoiding ecological damage in the first place and the failure to emphasise the duty on the IPC and harbour authorities to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of Sites of Special Scientific Interest (SSSIs).

— Consultation and scrutiny: given the timing of the consultation period, and the squeeze on the Parliamentary process caused by the delay in NPS publication and the forthcoming general election, we have concerns about how robust the consultation and scrutiny process will be.
The Nature of National Policy Statements

1. Environmental groups such as the RSPB have recognised for many years the benefits of strategic planning in guiding developments of all types to the most appropriate locations, avoiding significant environmental harm. Strategic planning can do this in a number of ways; both positively by identifying areas or locations where development is needed, and negatively by identifying areas or locations where development is less appropriate or excluded altogether. Plans may be spatial or criteria-based or a combination of both; however, for plans which are purely criteria-based there is a greater risk that developers will propose poorly located development, only to have their schemes subsequently rejected.

2. The need for strategic, spatial planning is one reason the RSPB and others have called for the introduction of some kind of national spatial framework or strategy for England, along the lines of the Wales Spatial Plan or the National Planning Framework for Scotland. The RSPB considered that NPSs could be a step towards this approach by providing a national spatial infrastructure plan for England and Wales (see PortsWatch (2003) Troubled Waters: the PortsWatch manifesto).

3. In its evidence to the Transport Committee’s inquiry into the ports industry in session 2006–07 (House of Commons Transport Committee (2007) The Ports Industry in England and Wales. Second report of session 2006–07), the RSPB identified a number of market failures arising from a market-led approach that needed to be addressed in an integrated, sustainable transport system. These included:
   - Damage to public goods, in particular impacts on Natura 2000 sites and climate change.
   - Failure to plan the provision of appropriate landside transport infrastructure for inland freight movement, in particular modal shift.

We identified the need for a revised ports policy to emphasise the need to avoid impacts on Natura 2000 sites and tackle climate change, the latter through reducing CO2 emissions, with particular reference to improved planning of surface access. As will be noted later in our evidence, we are concerned that the guidance which the draft NPS provides to the IPC is wholly inadequate to address these market failures and may serve to exacerbate them.

4. The Ports NPS is not location-specific. While it cannot be described as spatial in any sense of the word, it does appear to represent a clear change in the spatial focus of UK ports policy. There is a distinct but implicit shift from the traditional ports policy view that new major container port capacity should concentrate in the “Greater South East” to a looser spatial model dictated by the market (para 1.11.8, Ports NPS). However, there is no obvious policy link made with the potential to reduce CO2 emissions associated with the inland transport of goods through a combination of the location of new capacity and modal shift (see Carbon assessment below).

5. Some of the generic criteria may apply more particularly in some places than others (for example, in protected landscapes or wildlife sites). Despite this, the NPS’ view of the country is of a blank canvas; one where the Government is generally not concerned where the market decides to place new port infrastructure, only that it should go somewhere, therefore leaving the IPC to sort out these complex issues.

6. With the exception of the nuclear NPS, the national policy statements are not spatial in nature: as such there is little spatial integration between them. This lack of integration is a significant cause for concern because ports may host various types of energy infrastructure or have others in close proximity, such as oil and gas storage facilities, biomass and nuclear power stations, and may act as the landfall location of submarine cables from offshore windfarms.

7. The relationship of the NPS with the rest of the planning system is unclear. Para 1.2.1 states the NPS provides the framework for future IPC decisions in relation to port infrastructure and associated development, as prescribed in the Planning Act 2008. Para 2.1.2 then broadens the NPS’s scope considerably to apply to “all decision makers”. It then fails to describe how:
   - The IPC should deal with conflicts between the NPS and planning policy statements and circulars cross-referred to in the NPS.
   - The IPC should take account of regional and local development plans and what weight it should afford them.
   - The Marine Management Organisation and planning authorities should use the NPS to take decisions on port-related infrastructure that falls below the thresholds to be considered a Nationally Significant Infrastructure Project (NSIP).

8. It is important to note the complete failure of the NPS to provide guidance to the IPC as to what weight, if any, it should afford to port master plans. In December 2008, the DfT issued guidance to major ports on the benefits of voluntarily producing such plans in order to clarify their long-term planning and thereby inform strategic planning by transport network providers and regional and local planning bodies. It seems odd that the NPS fails to make any reference to what could be important contributions to understanding the spatial implications of providing additional port capacity and inland transport infrastructure.
NEED

9. The question of need (as opposed to demand) lies at the heart of strategic planning. Regional plans, for example, which have to deal with a number of market-oriented development sectors such as housing, retail and business uses, have to tackle questions such as how much land is needed and in what areas. According to the Planning Act 2008, national policy statements may in particular “set out … the amount, type or size of development … which is appropriate nationally or for a specified area.” (s. 5(5)(a)).

10. The RSPB welcomes the use of demand projections for port capacity by DfT and the commitment to update these every five years: this is in line with recommendations made by the RSPB (and other NGOs) (eg see PortsWatch (2003) Troubled Waters: the PortsWatch manifesto, and para 6 of the RSPB evidence in House of Commons Transport Committee (2004) Ports. Ninth report of Session 2002–03. Volume II.). Based on pre-recession conditions, the NPS concludes two sectors will exhibit major growth in demand for additional capacity to 2030: containers and ro-ro traffic (para 1.11.3, Ports NPS). Drawing on the RSPB’s historic work on port supply and demand, we have no reason to disagree with this general conclusion but note it does not take account of the effects of the recession. This reinforces the need to undertake periodic reviews of supply and demand.

11. However, the NPS essentially ducks the question of defining “need” by failing to translate its demand projections into a policy on how much (or where), additional capacity will be needed over the planning horizon to 2030. Instead, the conclusion is simply that there should be unspecified, unconstrained and market-led growth over and above the predicted demand for additional capacity by 2030 to ensure competition and resilience, as to do otherwise would accept limits on UK economic growth, as well as the price, choice and availability of goods to the UK consumer (para 1.11.12, Ports NPS). The RSPB has several concerns with this approach:

— UK major container port demand to 2030 is almost met: Using DfT’s own figures on consented capacity (para 1.11.6 Ports NPS and Table 4.2, MDS (2007) Update of UK port demand forecasts to 2030 & economic value of transhipment study. Final report.), the UK has now met the projected demand figure for deep-sea capacity of 16m TEU through consenting the schemes at Bathside Bay, Felixstowe South, Liverpool, London Gateway and Teesport. If the proposed schemes at Bristol and Southampton are consented, the UK will have consented a supply of 19.1m TEU, out of a predicted total demand of 20m TEU by 2030. This would be ahead of schedule and does not take into account the delay in demand caused by the recession. It is also probable that productivity improvements will mean the 20m TEU capacity can be met within these schemes (see Productivity below). This strongly suggests that there is no “urgency of need” for additional capacity, as implied in the NPS (eg see para 2.3.4, Ports NPS).

— Utilisation, competition and sensitivity analysis: the RSPB accepts that no port can operate at 100% utilisation all year round and that a degree of spare capacity in port supply is necessary if the UK is to remain competitive, provide choice to customers and consumers (see para 1.11.10, Ports NPS) as well as ensure the health and safety of port employees. However, the NPS places no upper limit on the capacity required by the UK economy (ie the need). It suggests that the only alternative to unlimited growth is no growth, which would thereby accept limits on economic growth and affect the price and choice of goods available in the UK. This is too simplistic an analysis. A better approach would be to ensure clear, weighted criteria are provided to the IPC to ensure additional capacity meets a series of economic, social and environmental objectives, such that it is genuinely in the public interest. This would include addressing known market failures eg reducing carbon emissions from inland transport of goods and avoiding impacts on Natura 2000 sites.

The sector has already brought forward major schemes that have addressed some of these market failures. For example, the reconfiguration of Felixstowe South and recent increases in capacity at Southampton Container Terminal (see Productivity below), have been achieved without any adverse effect on Natura 2000 sites.

In order to guide the IPC as to what, if any, additional capacity is acceptable, we would also have expected a sensitivity analysis of the marginal costs to the UK economy and consumers of constraining demand by different amounts above the predicted demand.

— Productivity: providing additional capacity by first making best use of existing ports and, where possible, increasing the productivity of the existing port estate should be a key policy requirement of the NPS. The NPS needs to provide guidance to the IPC on a rational approach to measures of port productivity to enable the IPC to decide how and when a port operator can feasibly increase capacity by making more effective use of its existing infrastructure as a less damaging alternative to new development. This would be in line with the European Commission’s Communication on European Ports Policy (section II.1, CEC (2007), COM(2007) 616 final), the Department’s own approach to airports (para 31, DfT (2005) Guidance on the Preparation of Airport Master Plans) as well as long-standing recommendations by the RSPB (para 6 of the RSPB evidence in House of Commons Transport Committee (2004) Ports. Ninth report of Session 2002–03. Volume II.) It would help to avoid or minimise the need for damaging new developments. Unfortunately, the NPS lacks any requirement for proposals for port operators to demonstrate they have made best use of existing capacity before bringing forward new developments.
Modern deep-sea, deep-berth container ports are able to operate at much higher levels of productivity than older, shallower-berth container ports and provide greater operational flexibility in the size and type of vessel they can service. Deeper water, use of modern equipment and technologies, improved configuration of the land behind the berths and effective inland transport connections, can combine to produce a more efficient operation.

However, the modelling work for DfT assumes no productivity improvements at major UK container ports after 2010. In its modelling work for DfT, MDS Transmodal assumes a productivity level of 1110 TEU/m/year for the main UK container ports from now until 2030 (eg. see Table 4.17, MDS (2007)). MDS applied this to recently consented schemes at London Gateway and Bathside Bay, even though the Government consented them based on achieving 1530 TEU/m/year. It seems nonsensical to assume there will be little or no productivity improvements between 2010 and 2030. Today, the deepest-berths at Trinity Terminal (Felixstowe) can average around 1800 TEU/m/year.

The following case study on the Port of Southampton illustrates the need for such a policy on “best use first” by highlighting the potential to extract greater productivity out of existing port estate through modernisation and reconfiguration. It contrasts markedly with DfT’s conclusion in its Appraisal of Sustainability (AoS) that a promoter is highly unlikely to bring forward a new development when it could make better use of existing facilities (see para 6.7.2, page 97, Appraisal of Sustainability).

**Southampton Container Terminal (SCT) and the Refusal of Dibden Bay**

*Case study on productivity potential being realised*

In 2000, Associated British Ports (ABP) proposed a new container terminal at Dibden Bay with a capacity of 2.4m TEU. One of its main reasons for the new port was that it was necessary to enable the Port of Southampton to continue to thrive and compete. At the time, the SCT had a capacity of 0.7m TEU (see Table 4.7, MDS (2007)): Dibden would provide more than triple that capacity. During the Dibden Bay public inquiry, ABP rejected objectors’ arguments that significant capacity increases at SCT were possible through reconfiguration and modernisation without the need for a new terminal at Dibden. The Government rejected the Dibden Bay proposal in 2004 on environmental grounds. This required ABP to look hard at how to make best use of the existing SCT.

The Draft NPS highlights that today, SCT capacity has almost tripled to 1.9m TEU without the need for new consents, and current ABP proposals could take this to 3.6m TEU. This is over five times the capacity in 2000. The majority of this will be through reconfiguration of the port through re-use of existing dock infrastructure and application of state-of-the-art container-handling technology (see ABP (2006) *ABP unveils a major sustainable strategy for container expansion at Southampton*. Press release dated 27 September 2006.).

— The IPC as ports policy maker?: by failing to define any upper limits on the UK economy’s need for additional port capacity or set out a policy on a sequential approach to the provision of additional capacity (with productivity improvements first), we are faced with one of two scenarios for the IPC’s role and that ultimately will create uncertainty for the port sector:

— The DfT essentially leaves the IPC to determine key elements of national ports policy on the hoof, as the majority of predicted UK demand for major container ports has already been met. The IPC would be placed in the position of deciding how much and where any additional container port capacity should be provided against a vaguely defined “need”; and/or

— The IPC has no option but to grant all proposals in order “to maintain the UK economy”, as its mandate as set out in the NPS does not allow it to test any “additional capacity” argued for by developers, or to test whether there are more environmentally acceptable means to provide additional capacity eg through improved productivity. DfT specifically constrain the IPC’s consideration of alternatives eg see para 34 of the HRA, which could result in decisions that do not comply with environmental legislation (see Habitats Regulations Assessment below). Such unconstrained growth also defeats the purpose of carrying out periodic reviews of supply and demand to inform the IPC on “need”.

— Need for clear policy criteria: There are key socio-economic (eg over-supply and associated market uncertainties) and environmental implications (eg unnecessary environmental damage from new development, increased carbon emissions) associated with providing additional and especially surplus capacity to meet the needs of the UK economy. We conclude there is a need for clear criteria in the NPS on how the IPC should test these social, economic and environmental impacts. As noted above, it is essential that any additional port capacity not only be of socio-economic benefit to the UK, but also address, in the public interest, well-known market failures in the port sector eg impacts on Natura 2000 sites and increased carbon emissions from inland transport. Lack of criteria on such matters appears to defeat the object of having an NPS to guide the IPC and to take key decisions on the shape of UK ports policy out of the hands of the DfT. We could be left in the same position as we were in the early 2000s when faced with a “goldrush” of major container port
proposals in the absence of any clear Government policy as to where, when and how much additional capacity was needed and how the public interest was best served in delivering that capacity.

12. An indication of the possible reasoning behind this flawed approach may be found in the HRA accompanying the NPS. It is both telling and illuminating that DfT reverts to outdated, superseded UK sustainable development principles from 1999 which place emphasis on the “maintenance of high and stable levels of economic growth and employment” (para 27, Ports NPS HRA). DfT has failed to place the Ports NPS in the context of current UK sustainable development policy from 2005, which emphasises the need to achieve a sustainable economy while living within environmental limits (HMSO (2005) Securing the Future, page 16).

13. This has particular implications for proposals which affect Natura 2000 sites, as discussed further below. Generally, though, this means that the NPS is a developer’s charter. It is a blunt tool, seeking to establish an overwhelming need for new port infrastructure over and above predicted demand, which is used to relegate any concerns about the natural environment to issues of “local” detail. Even where this detail concerns damaging impacts on internationally designated wildlife sites, the effect of the policy will be to weight strongly the decision in favour of granting consent. While this may speed up consent for some specific proposals, in the longer term this is not an adequate basis upon which to deliver a sustainable strategy for the provision of additional port capacity in a timely way. It fails to capitalise on, and potentially sets back, over 15 years of constructive work between the UK port sector and nature conservation groups in finding more sustainable solutions to meet the needs of both the port sector and nature conservation.

14. In conclusion, we recommend that the NPS be amended to include clear criteria for the approval of new capacity that ensures such capacity meets environmental as well as socio-economic objectives. The current policy of anything and everything the market wants above predicted demand is inconsistent with the Government’s sustainable development principles and its obligations under the EU Habitats Directive (see below) to find solutions that provide additional capacity without damaging Natura 2000 sites. The policy criteria should recognise that from original conception it takes around 10 years for major new capacity to come online and that therefore it is appropriate to have sufficient consented capacity to meet projected demand over that timescale: this would be similar to the approach taken in other sectors such as minerals.

15. The provision of such capacity should follow a sequential approach to minimise environmental impacts, with a requirement to demonstrate best use of existing infrastructure first eg through efficiency and productivity gains. This should ensure the IPC is able to comply with the requirements of the Habitats Directive to avoid damage to Natura 2000 sites. Where new capacity is proposed that does not damage Natura 2000 sites, the IPC should still test the need for such capacity to ensure it meets other social, economic and environmental objectives eg reduce CO₂ emissions from inland transport of freight.

16. Far from speeding up development, there is a strong risk that the absence of clear criteria and guidance to the IPC and port sector is likely to create considerable uncertainty for developers as to what are the key issues that bear on whether a scheme will be consented and therefore how the IPC will approach its decisions. Not only could this waste time and resources in proposals getting stuck in a consenting quagmire, it runs the risks of decisions breaching environmental legislation.

APPRAISAL OF SUSTAINABILITY/STRATEGIC ENVIRONMENTAL ASSESSMENT

17. Strategic Environmental Assessment (SEA) is an internationally recognised planning tool, the purpose of which is to provide for a high-level of protection of the environment. In discussions on the Planning Bill, the RSPB, supported by legal advice, argued that the SEA Directive (Council Directive 2001/42/EC) and the transposing Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004 No 1633) (the SEA Regulations) (together the SEA legislation) required that all NPSs should undergo SEA. The RSPB proposed that this should be incorporated within the “Appraisal of Sustainability” (AoS), in a similar manner to how the sustainability appraisal of regional spatial strategies and local development frameworks must incorporate SEA. This has now been accepted in that the appraisal of the ports NPS states that it incorporates the requirements of the Directive (eg see page 20, Ports AoS).

18. The RSPB and WWF commissioned an analysis of the energy and port NPS appraisals by Collingwood Environmental Planning, specialists in SEA, as part of a broader piece of work considering the use of SEA by governments in the UK. The report, which is due to be published in January 2010, assesses the appraisals against the requirements of the Directive. This includes an analysis of the National Planning Framework for Scotland (NPF2) for comparative purposes.

19. The requirement of the Directive for plans to consider “reasonable alternatives” is one of the most critical aspects of SEA and should act as a valuable tool for decision-makers in searching for the least environmentally damaging options. However, this is the most significant weakness of the non-nuclear appraisals, including ports. The report found the Ports AoS consideration of alternatives to be peculiar in that the seven alternatives were mostly alternatives for selected policies rather than strategic options for the NPS itself. They found little spatial reference, and an NPS intent on expanding capacity wherever it might be demanded.
20. Good baseline information at the appropriate level of detail is essential to be able to understand the potential impacts of the NPS and the evolution of the environment in the absence of an NPS. The report found the baseline information in the Ports AoS to be “quite inadequate” as it was entirely generic with little or no emphasis on the environment related to ports. For example, it fails to identify the specific Natura 2000 sites in or adjacent to major ports. This compounds a poor quality assessment of environmental effects. In particular, they found that the AoS failed to assess the full range of impacts of the NPS, including the likelihood that it will speed up and bring about major port development that may be different to what would happen otherwise. They found no assessment of the “no-NPS” option, as required by the SEA Directive.

21. In short, they concluded the appraisal of the NPS is inadequate and raised concerns about whether it is legally compliant with the SEA Directive.

**HABITATS REGULATIONS ASSESSMENT**

22. The Sustainable Development Commission has described the EU Birds and Habitats Directives as “…representing an enlightened approach to dealing with environmental constraints, and one that is at the heart of sustainable development.” (page 143 in SDC (2007) “Turning the Tide: Tidal Power in the UK”).

23. The UK port sector has, in many ways, led the way in the UK and the EU in working with statutory and voluntary nature conservation groups to find constructive and more sustainable ways to work within sensitive ecological environments and respect the need to avoid and minimise impacts on sites of European wildlife importance ie Natura 2000 sites. The RSPB is concerned that the draft NPS could set back this significant progress.

24. The coastal location of major ports means it is inevitable that they overlap with Natura 2000 sites protected under the EU Birds and Habitats Directives transposing legislation (the Wildlife and Countryside Act 1981 as amended and the Conservation (Natural Habitats &c.) Regulations 2004 as amended). The RSPB has assessed the relationship between the 39 major ports in England and Wales and the Natura 2000 site network: we estimate that nearly two-thirds (25 major ports) are in or adjacent to a Natura 2000 site.

25. Therefore, many port NSIPs are likely to affect internationally protected wildlife sites. The IPC, as decision-making body, is the “competent authority” for the purposes of the Habitats Directive and must ensure that its specific legal requirements are met. This is a means of ensuring that infrastructure is provided in a way that respects the integrity and coherence of Europe’s most valuable sites for biodiversity, and as such is not merely a matter of legal compliance.

26. The RSPB is concerned that the NPS does not provide clear guidance on the proper application of the tests in the Habitats Directive. In particular, we are concerned about the guidance on alternatives that is provided in section 2.3 of the NPS. There are two problems with this section: firstly, it glosses over the strict legal requirements that arise under the Habitats Directives (see para 2.3.3, Ports NPS); and secondly, the range of alternatives offered is unduly narrow.

27. The NPS does not provide any adequate sector-specific guidance on how the IPC should consider arguments relating to the strict tests on Alternative Solutions, Imperative Reasons of Overriding Public Interest (IROPI), and compensation, for projects that cannot avoid adverse effects on Natura 2000 sites. This is extremely unhelpful to the IPC and could lead to unnecessary breaches of the requirements of the Habitats Directive. This is particularly so in the major container port sector where the majority of predicted UK demand has already been met.

28. The NPS does cross-reference to the general guidance on the Habitats Directive tests set out in the relevant Government Circular (ODPM 06/2005, Defra 01/2005, Biodiversity and Geological Conservation—Statutory Obligations and their impact within the Planning System). However, any decision of the IPC will be taken in the context of the finding of IROPI for the NPS HRA. The HRA is deliberately not a site (or scheme) specific assessment, and should only properly apply to ensure the NPS itself meets the requirements of the Habitats Directive. It does not and should not constitute a finding that there are no alternative solutions and IROPI for each scheme. However, this is essentially its message to the IPC.

29. We consider the NPS’s failure to offer appropriate guidance to the IPC on dealing with impacts on Natura 2000 sites stems largely from the HRA’s flawed consideration of less damaging alternative solutions. The HRA poses the wrong question and therefore arrives at the wrong conclusion to the alternative solutions test.

30. A key public interest objective of the ports NPS is to secure sufficient additional capacity to maintain a thriving UK economy. Instead of asking what alternatives exist to deliver additional port capacity, the HRA incorrectly asks what alternatives there are to new development. It then considers the alternatives to damaging new development described, such as improved productivity, as mutually exclusive options to provide the capacity. This precludes development of a more sophisticated sequential policy framework designed to increase capacity while avoiding or minimising adverse effects on Natura 2000 sites eg decision-making criteria that require promoters to demonstrate of the best use of existing capacity before new development is promoted. The examples of Felixstowe South and SCT demonstrate the port sector is already able to bring forward non-damaging capacity growth: the DfT fails to apply policy pressure on the industry to do so in the future.
31. As a result, while the NPS correctly states the IPC will need to satisfy the alternative solutions and IROPI tests, it does little to guide the IPC on how to approach these strict tests. It pretty much ties the hands of the IPC, as the competent authority, in testing whether there are credible less damaging alternative solutions (see para 34, HRA). In fact, the NPS’s role in this context should be to establish the public interest objectives that an individual scheme should contribute towards. Any scheme that cannot avoid an adverse effect on a Natura 2000 site is required to go through a sequence of legal tests aimed at ensuring the most sustainable solution is found in society’s interests. UK and EU guidance state that alternative solutions be defined broadly and can include different sites or different practicable approaches which would have a lesser impact, such as different technologies. In the case of ports, this should include improved efficiency and productivity within the existing UK port estate.

32. The IROPI test should only be considered once less damaging ways of delivering the public interest objectives have been exhausted. In the absence of clear criteria as suggested above, we are concerned the IPC will find it difficult to address these points, especially less damaging alternative solutions to meet the public interest objectives, in the face of arguments from scheme proponents that the issue of IROPI for their scheme has effectively been “pre-decided” by the HRA. This could place the IPC at unnecessary risk of granting consent for damaging schemes in breach of the requirements of the Habitats Directive. The HRA (para 35) exacerbates this by strongly suggesting that regional and local benefits can form an IROPI that outweighs the public interest of conservation Natura 2000 sites of European importance. This contradicts the Government’s own decision at Bathside Bay Container Terminal (BBCT) where it explicitly rejected sub-regional benefits as comprising IROPI (see para 21, ODPM minded-to decision letter on BBCT, 21 December 2005).

33. Where damage to Natura 2000 sites is to be permitted due to there being no alternative solutions and IROPI, Member States must secure the necessary compensatory measures to protect the overall coherence of the Natura 2000 site network. It is UK and EU policy that this be on a like-for-like basis, such that the needs of the impacted species and habitats are provided for, preferably as close to the location of damage as possible. For port schemes, this normally requires the provision of intertidal habitats. All relevant UK port schemes have done so.

34. However, the HRA introduces the undefined concept of so-called “equal value” compensation (para 37, HRA). This concept is being explored by the SDC on behalf of DECC as an alternative to “like for like” in the context of the Severn Tidal Power studies. As yet, it has no legal validity or acceptance in the application of the EU Habitats Directive or UK and EU guidance. Its use in the HRA goes beyond UK Government policy (c.f. the HRA for the Energy NPS) and fails to reflect the reality that the port sector should always be able to deliver “like for like” compensation. We recommend that reference to it be deleted as it is unlawful, inappropriate ecologically and inappropriate in policy terms: it could undermine the positive role model set by the UK ports sector in delivering sustainable solutions that respect the purposes and requirements of the Habitats Directive.

**Carbon Assessment**

35. Article 3 of the Environmental Impact Assessment Directive (Council Directive 85/337/EEC, as amended) requires qualifying projects to be assessed for their direct and indirect impacts on, among other matters, climate. Most port-related NSIPs are likely to qualify under the Directive. The Ports NPS makes cursory reference to this requirement. Indeed, it advises the IPC that it should attach “limited weight to the estimated likely net carbon emissions performance of port developments.” Consequently, the IPC has little or no guidance on how to judge the relative costs and benefits to the UK carbon economy from emissions generated by inland freight movements.

36. The implications of this hands-off approach should be seen in the context of the failure of the public inquiries into the recently consented major container ports to address this important climate change issue. As a result, MDS Transmodal estimates that by 2030, HGV movements from UK ports will increase from 500 million kilometres per annum to 1,200 million kilometres per annum. Ironically, the de-facto abandonment of the traditional Greater South-East centric model to port supply (see paragraph 4 above) could have provided an opportunity to promote a more carbon efficient approach, but the NPS fails to do so.

37. It appear that in effect there will be no rigorous carbon assessment required for individual projects, and the IPC is essentially “carbon blind” in its decision-making.

**Impact Criteria**

38. Part 2 of the NPS deals with assessment principles and generic impacts and is intended to provide detailed information and criteria for the IPC’s decision-making. It is intended to provide a clear statement of Government policy on a range of issues, including environmental impacts. The RSPB has focussed its attention on the assessment principles set out in sections section 2.12 “Biodiversity and geological conservation”.

39. We make these comments in the context of a continuing biodiversity crisis and the almost certain prospect that the UK will fail to meet its target of halting biodiversity loss by 2010. New targets are likely to be set during 2010, which must recognise that the country’s economic and social health depends in large measure on the health of our ecosystems.
40. Current Government policy on biodiversity and geological conservation is set out in Planning Policy Statement 9 (2005), which has generally been incorporated into the NPS (TAN 5 in Wales). However, we are disappointed that the NPS fails to make reference to the fact that both the IPC and harbour authorities are section 28G authorities under the Wildlife and Countryside Act 1981 (as amended). This requires them to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of Sites of Special Scientific Interest (SSSIs). This should have an important influence on how harbour authorities bring forward their schemes and how the IPC takes decisions where those schemes affect SSSIs.

41. The Department of Communities and Local Government is currently undertaking a review of PPS9. The RSPB understands that it will be merged with other planning policy statements which deal with the natural environment, and that a consultation draft may be published shortly. We are concerned both that there must be no weakening of the policy and that there must be consistency between the NPS and the new PPS.

42. There is welcome reference to Government Circular ODPM 06/2005, which sets out statutory obligations. While the NPS does refer to some generic ecological impacts that might arise from port infrastructure, it is incomplete. We are concerned that it omits mention of direct habitat loss impacts. These are perhaps the most significant impacts associated with new port infrastructure, as they cannot be mitigated. In this context, we are concerned that the list of mitigation measures to avoid ecological impacts fails to mention the most obvious one: avoidance.

CONSULTATION AND SCRUTINY

43. During debates on the Planning Bill, the RSPB and others objected strongly to the removal of the right to cross-examine evidence during the examination process. In response, the Government has consistently claimed that the Planning Bill improved public involvement in the planning system because there are now three opportunities for influence: in consultation on national policy statements; in pre-application consultation on individual projects, and in the Infrastructure Planning Commission’s examination of projects.

44. The consultation and scrutiny process of the ports NPS is still underway, but there are already grounds for concern about how robust the process will be. DfT has held three stakeholder events, which are welcome, but we are not aware of any events specifically held for the general public.

45. Stakeholder consultation on scoping of the AoS and the HRA was limited to statutory bodies. While this is the minimum legal requirement, it was a missed opportunity to engage stakeholders such as the RSPB who have expertise (and relevant data) in this field. This contrasts with DECC’s approach to involving the RSPB and others in the SEAs for Offshore Energy and Severn Tidal Power, which has allowed us to engage constructively in these processes.

46. The process of Parliamentary scrutiny has been squeezed by the delay in NPS publication and the forthcoming general election. It is hard to see how the Committee can be expected to thoroughly scrutinise the NPS in this time.

January 2010

Memorandum from Unite the Union (NPS 40)

Unite is the UK’s largest trade union with two million members across the private and public sectors. The union’s members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, food, agriculture, education, health, not for profit and of particular relevance to this submission, the docks, rail, ferries and waterways sectors.

Unite’s docks, rail, ferries and waterways sector has just under 19,000 members and is continuing to grow. Unite has membership in port-based or coastal maritime activity in companies such as Associated British Ports, Hutchison Port Holdings, Forth Ports, DP World, as well as British Waterways canals. Unite has members who are tug boat operatives and masters in companies like Svitzer. Unite also organises ferries in Scotland, Liverpool and Southampton. Unite is the biggest maritime union in British waters, uniting masters and ratings. Therefore Unite welcomes the Transport Committee’s inquiry into the proposal for a National Policy Statement on Ports.

1. EXECUTIVE SUMMARY

1.1 Port Development—Over capacity must be maximised before any future capacity increases are considered and this should not be achieved at the expense of our member’s terms and conditions. Unite believes, that the industry requires planned growth and that this must not be dependant on market forces.
1.2 Port Passports—Anybody working in the area of a port should have a minimum level of safety training before they can enter the port, an identification badge with their picture on it, and their core competences given on the badge.

1.3 Training & Safety—Unite believes poor safety and low wages may lead to difficulty in finding workers for ports since they can work in other industries which pay similar amounts but have a better safety record.

1.4 Logistics issues—There is a need for a more integrated approach which looks at the whole logistics chain being overseen nationally by Government.

1.5 No liberalisation of UK Ports—Unite asks the Government for assurances, that it will not support any measures for liberalisation of the UK ports.

1.6 Trust Ports—The wider purpose of seaports in facilitating trade and generating economic and social benefits is best stressed in public-ownership.

2. PORT DEVELOPMENT

2.1 Unite believes it is important that we have a strategic overview of port development over the next 30 years, similar to what we have seen in aviation. Port development is too important to be left to the vagaries of the “free market”. A market led approach to ports has not been beneficial. It encourages ports to compete with each other, with no overall plan, which leads to inefficiency.

2.2 Ports are not being used efficiently due to the restricted throughput. Rather than creating new ports to handle this problem, it would be better to make more efficient use of existing ports. By improving transport infrastructure, creating feeder ports and using short sea shipping to remove the burden on key ports and allow them a much higher volume of containers passing through. We need also to ensure extensive land attached to existing ports is used effectively, and hence minimise the environmental impact of creating yet more ports.

2.3 Unite believes that before any new port infrastructure is introduced current overcapacity must be maximised. There has been a decline in container volumes in the past year, in some cases more than 20%.
In Southampton our members tell us that out of the current 1.9 million twenty-foot equivalent units (TEU) capacity only one million TEU is being used, leaving a spare 900,000 or 47.4%.

2.4 Aside from the current downturn, Unite estimates a spare seven million TEU of capacity where permission has been granted within existing facilities that must be used before new port infrastructure projects are even considered to be viable.

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<tr>
<th>Container Port</th>
<th>TEU Current Capacity</th>
<th>TEU Future Capacity</th>
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<tr>
<td>Existing Facilities</td>
<td>Southamton 1,900,000</td>
<td>3,700,000</td>
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<tr>
<td>Felixstowe 3,000,000</td>
<td></td>
<td>4,000,000</td>
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<tr>
<td>Flexistowe South 2,300,000</td>
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<td>2,300,000</td>
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<tr>
<td>Flexistowe Bathside</td>
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<td>Thamesport 660,000</td>
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<td>Liverpool 700,000</td>
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2.5 Unite believes that there is a great danger in just assuming that once the current economic downturn is over that container volumes will bounce back and new port infrastructure can begin or even be used as a way to alleviate the recession. UK ports handled 562 million tonnes of freight traffic in 2008, six million tonnes (1.1%) less than in 1998 and 19 million tonnes (3.3%) less than in 2007.
Clearly the lack of demand has been there for the last 10 years and given the structural problems facing consumer demand in Western Europe at this time it is far more likely that Europe will face a wave of mothballed port projects.

2.6 Therefore during these uncertain times Unite believes that current over capacity in UK ports must be maximised before a strategic policy of controlled growth of ports can even be considered. Unite would also like to put on record that any future capacity increases should not be achieved at the expense of our members and their terms and conditions.

3. Ports Passports

3.1 In the docks industry, five causes of accidents account for 90% of all accidents experienced in 2007–08. So the nature of the accidents is clear for all to see. So it is disappointing that accident statistics in the last three years for Docks and Cargo Handling have got worse.

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<tr>
<td>Total</td>
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CARGO HANDLING (SIC 6311 ONLY)

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<tr>
<td>Major</td>
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<td>43</td>
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</tr>
<tr>
<td>Over-3-Day</td>
<td>338</td>
<td>369</td>
<td>414</td>
</tr>
<tr>
<td>Total</td>
<td>389</td>
<td>413</td>
<td>477</td>
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3.2 Therefore, for health, safety, welfare, and security reasons, Unite is calling for the introduction of a mandatory ports passports scheme. This scheme would be similar to the successful Construction Skills Certification Scheme operating in the construction industry.

3.3 The scheme would require anybody working in the area of a port to receive a minimum level of safety training before they can enter the port, and would have an identification badge with their picture on it, and their core competence given on the badge. Without such a scheme Unite believes that it will not be possible for health, safety and security reasons to make the ports safe.

4. Training and Safety

4.1 Industry has moved to using casual workers, recruited through agencies. But casual workers are largely unskilled and untrained in dock work. Paragraph 4.1.24 of “Modern ports: A UK policy” suggested “the Government is introducing new regulations to ensure that people supplied by employment agencies are trained and competent for the jobs they do” but we are not clear that anything happened on this.

4.2 Casual workers also present a serious problem in terms of safety. The industry has a very poor record for safety. The National Dock Labour Scheme provided a trained workforce which was aware of the dangers of the industry and hence resulted in a much better safety record. Privately owned and smaller ports are a bigger problem than municipal and trust ports.

4.3 There is a need for an industry wide recognised and regulated mandatory qualification programme to improve safety and training. Currently any training is offered voluntarily by employers, and trained staff may then be “poached” by rival employers—thus there is no incentive to train, particularly when agency staff, are easily available and cheap.

4.4 Currently none of the agencies or bodies (HSE, Ports Safety organisation) or regulations (ILO, Ports Passport scheme) has any teeth as they are voluntary and have therefore not been able to create extensive improvements in safety.

4.5 Responsibility for safety and training rests with port authorities, and as a result only tend to be acted upon when there are potential financial implications of a lack of training or poor safety (eg the damage to expensive equipment, insurance claims or injury claims).

4.6 Ultimately poor safety and low wages may lead to difficulty in finding workers for ports since they can work in other industries which pay similar amounts but have a better safety record.

5. Logistics Issues

5.1 A critical issue is the need for improvements in the transport infrastructure around ports. Current ports would be more than able to cope with demand if the transport infrastructure around them was sufficient to meet current port capacity. The trend within the industry towards larger containers will only make this worse.

5.2 It is critical to consider the creation of feeder ports from existing ports and using short sea shipping of containers to move them around the country more efficiently.

40 http://www.hse.gov.uk/docks/accidents.pdf
41 http://www.hse.gov.uk/docks/accidents.pdf
42 http://www.cscs.uk.com/RunScript.asp?p=ASP.Pg0.asp
43 http://www.dft.gov.uk/pgr/shippingports/ports/modern/modernportsaukpolicy?page=5#a1012
5.3 Once the goods have arrived at the port every effort should be made to maximise the utilisation of the most sustainable transport mode available. Consequently rail gauge enhancements and links to inland waterways should be sort to enable the shipment of containers and bulk cargo onto the rail, coastal shipping and barges in preference to road. This will reduce road transport to shorter distances from rail hubs and from canals and drivers responsibility for the security of loads while parked overnight on long distance hauls.

5.4 There is a need for a more integrated approach which looks at the whole logistics chain. This would need to be led at national level but there may be objections from within the industry about the degree of Government involvement.

6. NO LIBERALISATION OF UK PORTS

6.1 Having defeated the “Access to Ports Services Directive” and the “Services in the Internal Market Directive” (commonly referred to as the “Bolkestein Directive”), Unite asks the Government to give assurances, that it will not support any measures for liberalisation of the UK ports.

7. TRUST PORTS

7.1 Unite believes that Trust Ports in the UK should be about creating new and improved port infrastructure and facilities to benefit the economy locally and nationally, which is the aim in other countries, not simply as a mechanism used to remove Trust Port assets from public ownership. The wider purpose of seaports in facilitating trade and generating economic and social benefits is best stressed by public-owned Trust Ports like it is in other countries.

8. CONCLUSION

8.1 Over capacity must be maximised before any future capacity increases are considered and this should not be achieved at the expense of our members and their terms and conditions. Unite believes, that the industry requires planned growth and that this must not be dependant on market forces, which will only threaten the future development of UK ports and the workers in the industry.

January 2010

Memorandum from Wildlife and Countryside Link (NPS 41)

Wildlife and Countryside Link (Link) brings together 35 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together our members have the support of over 8.3 million people in the UK and manage over 690,000 hectares of land.

Many Link members were part of the Better Planning Coalition (formerly known as the Planning Disaster coalition) which campaigned on the Planning Bill. The coalition’s work is now being taken forward by Link’s Land Use Planning Working Group.

This response is not intended to deal with the specific policy content of the draft National Policy Statements (NPSs), which will be dealt with in detailed responses by Link members, but to deal with high-level issues about the nature of NPSs and their appraisal. It is therefore addressed to all the Government Departments responsible for NPSs and to the Department of Communities and Local Government and is supported by the following 14 organisations:

— Amphibian and Reptile Conservation Trust
— Badger Trust
— Buglife—The Invertebrate Conservation Trust
— Butterfly Conservation
— Campaign to Protect Rural England
— Campaign for National Parks
— Council for British Archaeology
— Friends of the Earth England
— The Grasslands Trust
— Royal Society for the Protection of Birds
— The Wildlife Trusts
— Wildfowl & Wetlands Trust

Background

National Policy Statements (NPSs) offer the opportunity to create a proper strategic framework for decision-making on individual projects, which fully incorporates environmental considerations. The Planning Act 2008 requires that they undergo public consultation and Parliamentary scrutiny, as well as an appraisal of sustainability. In preparing them, the Secretary of State must do so with the objective of contributing to the achievement of sustainable development. In particular, the Secretary of State must have regard to the desirability of (a) mitigating, and adapting to climate change; (b) achieving good design (s. 10, Planning Act 2008).

Many organisations welcomed the principle of NPSs when they were first proposed in the Planning White Paper of 2007, and subsequently as they became enshrined in part 2 of the Act. Environmental groups had complained for many years that the lack of coherent government policy for some sectors created strategic uncertainty and led to environmentally-damaging development coming forward. Business and environmental groups alike had complained that policy has sometimes only been formulated in response to specific proposals, and that inquiry time has been needlessly spent in debating it.

The provisions of the Act establishing NPSs received a broad consensus of support, both within Parliament and outside. For environmental groups, however, our hopes have been dashed by the publication of the first tranche of NPSs by the Departments for Energy & Climate Change (DECC) and Transport (DIT), covering energy and ports infrastructure respectively.

There is no Vision of Place

There is little strategic vision in any of the draft NPSs beyond envisaging that there will be more of every infrastructure type. How much more is unclear, only it seems to be much more. As a result, NPSs are more development control documents than policy statements.

With the exception of nuclear, the NPSs are not location-specific. Indeed, they cannot be described as spatial in any sense of the word. Some of their generic criteria may apply more particularly in some places rather than others (for example, in protected landscapes or wildlife sites). Ports can only be sited in a limited number of coastal or estuarine locations, for example. Yet despite this, the NPSs’ view of the world is of a blank canvas; one where the Government is not concerned where the infrastructure goes, only that it should go somewhere, leaving the Infrastructure Planning Commission to sort out the local issues.

The draft NPSs are far from aspirational; not only do they lack vision and a sense of place, they are not integrated either. Apart from some similar generic criteria and the timing, there is little to link the energy and ports NPSs. There is no sense in which the published NPSs fit together to form part of a single strategic national infrastructure plan, but rather each NPS is presented as a separate plan or programme for the particular infrastructure type. Whilst the overarching energy NPS is intended to be read with each of the technology specific energy NPSs, there is a distinct lack of connectivity between the technology specific NPSs themselves. Furthermore, the delay in the timing of the road and rail networks NPSs makes it impossible to assess how joined up ports development will be with new road and rail infrastructure.

The development of NPSs could have been the first step towards an integrated spatial strategy for England, the missing piece of the jigsaw in England’s planning framework. However, we believe that what we have been presented with is a missed opportunity.

The Appraisal of Sustainability is Inadequate

The NPSs envisage a significant amount of infrastructure being developed over the next few years, to replace ageing infrastructure and to meet the energy and economic challenges of the future. The Infrastructure Planning Commission is already receiving information from proponents of nationally significant infrastructure projects (NSIPs) as to the nature and type of each application and to enable it to estimate that it may receive up to 60 applications in its first year of operation. One might reasonably assume therefore, that the appraisal of sustainability of each NPS would make some overall assessment of the environmental impacts of the expected programme for development in the immediate future.

The problem is, with the exception of nuclear, there is no programme. This cannot be in itself due to the market-oriented nature of energy and ports development; after all, most other forms of development (homes, retail, business) are also provided by the market. As the statements are high-level strategy, it would be unreasonable to expect a very detailed assessment, but it is not even possible to tell from the appraisals in general terms what the overall environmental impact might be. In fact, it seems that the appraisals are not actually assessing the impact of the NPSs on the environment, but rather their impact on the consenting regime for NSIPs—which is not the same and nor is this the purpose of the appraisal.

Wales already has the Wales Spatial Plan. How National Policy Statements relate to the Wales Spatial Plan is in itself a matter for concern.
A further omission is that, whilst a stated objective for reforming the planning system is to assist in the transformation to a low carbon economy, the appraisals do not attempt any kind of carbon impact assessment. Instead, complete faith is placed in the fact that the Government’s climate change policies will not allow carbon intensive development to come forward and that the policies only promote low carbon forms of infrastructure. The result is the farcical summary of the appraisals that the NPSs must therefore have a positive environmental impact.

In discussions on the Planning Bill, environmental groups received legal advice that NPSs should be subject to the requirements of the European Union Strategic Environmental Assessment Directive, the purpose of which is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development. We were initially pleased that both DECC and DfT seem to have accepted this and have chosen to incorporate the requirements of the Directive into the appraisals of sustainability.

The way in which the assessment has been carried out, however, appears to be nothing less than a case study of how to circumvent the spirit of the Directive. If this is not the deliberate intention, the assessment approach has been poorly conceived and there seems to be little real intention that the assessments should influence the planning process.

In particular, the objectives of the energy NPSs have been framed so narrowly that any sensible discussion about alternatives is precluded. It is clear that the consultants undertaking the energy appraisals were themselves concerned about this, and suggested a long list of potential alternatives, all of which were dismissed as unreasonable by DECC. The result is again almost farcical, with the main alternatives being considered reduced to whether one should, or should not, have a national policy statement at all. For a detailed analysis we refer to the report by Collingwood Environmental Planning commissioned by the RSPB and WWF.

By considering infrastructure in isolation and in a piecemeal way without proper assessment of its effects, the new system also removes the opportunity for proper understanding of the natural environment’s role in creating a sense of place and mitigating and adapting to climate change.

NPSs are a Developer’s Charter

The question of need lies at the heart of strategic planning. Regional plans, for example, have to tackle questions such as how much land is needed, and in what areas, for homes, shops and businesses. According to the Act, NPSs may “set out … the amount, type or size of development … which is appropriate nationally or for a specified area.” (s 5(5)(a)).

The NPSs (again, with the exception of nuclear), entirely duck this question. There are, indeed, projections of demand for different infrastructure types, but the NPSs do not even give an indicative view of how much is needed, or where. They adopt a “predict and provide” approach, implying a lack of serious consideration of options for demand management and other solutions to the identified public need, whether for low-carbon energy or port capacity.

The conclusion made within the NPSs is simply that we are likely to need a lot more of everything, and indeed that we should plan for a lot more than we actually need because not all of it may happen; there is a perceived need for spare capacity. The Infrastructure Planning Commission is specifically instructed that it must not therefore question this assumption of need.

Furthermore, where proposals will affect Natura 2000 sites (most major port developments, for example), the assumption of need and the perceived national benefits of increased infrastructure development are used to demonstrate satisfaction of the test of “imperative reasons of overriding public interest” under the Habitats Regulations, without proper assessment of the environmental impacts and a completely inadequate strategic assessment of alternatives.

The NPSs are a developer’s charter. They establish an overwhelming need for new infrastructure which is used to relegate any environmental concerns to issues of local detail. Even where this “local” detail concerns impacts on internationally-designated sites, the effect of the policy will be to weight strongly the decision in favour of granting consent because both the NPSs and their appraisals introduce a clear assumption that the overall environmental impact of infrastructure development will be positive.

The draft NPS policies encourage the Infrastructure Planning Commission to treat each developer’s application favourably, but do not encourage proper consideration of the context and relationship which each application should have to other infrastructure and the natural environment.

47 Sheate, W, Eales, R & Vaizgelaite, I (January 2010) Appraisals of sustainability and the new national policy statements: opportunities missed and challenges to come? Final report to RSPB and WWF by Collingwood Environmental Planning
Transport Committee: Evidence  Ev 183

T HE Y ARE L EGALLY F LAWED, A ND U NSO UND

We can only conclude that the NPSs and their appraisals of sustainability are both legally flawed and unsound.

They are legally flawed because they fail to comply with the SEA Directive, in particular because of their failure to consider properly reasonable alternatives as discussed above. They also fail on issues such as an inadequate non-technical summary (for the Ports NPS Appraisal of Sustainability) and the poor quality of assessment of environmental effects. There are also issues of compliance with the Habitats Directive, both in terms of the strategic assessments carried out on the NPSs and the way in which the Infrastructure Planning Commission’s consideration of alternative solutions is heavily circumscribed by the NPS.

They are unsound because they fail as strategic planning documents, fail to meet their intended aspirations and they fail to provide helpful, strategic planning guidance to the Infrastructure Planning Commission.

T HE P UBLIC C ONSULTATION A ND S CRUTINY IS I NADEQUATE

The consultation and scrutiny process of the energy and ports NPSs are still underway, but there are already grounds for concern about how robust the process will be.

Although the consultation periods are slightly longer than the Cabinet Office recommended minimum of 12 weeks, this has included the Christmas and New Year holiday period. It also included the period of the Copenhagen summit in December 2009, which fully engaged climate change and energy specialists in many NGOs at a crucial time in responding to the energy NPSs.

DECC and DfT have held a number of public and stakeholder events, which are welcome, but we are concerned about reports of poor publicity and attendance at some of these events. The Departments should be transparent about the numbers attending events and whether they are representative of local communities, and should be prepared to hold follow-up events in localities where turnout was poor.

Apart from the nuclear NPS, stakeholder consultation on scoping of the Appraisals of Sustainability and the Habitats Regulations Assessments was limited to statutory bodies. While this is the minimum legal requirement, it was a missed opportunity to engage stakeholders who have expertise in this field. This contrasts with DECC’s approach to involving stakeholders in the Strategic Environmental Assessments for Offshore Energy and Severn Tidal Power, which has allowed NGOs to engage constructively in these processes.

The process of Parliamentary scrutiny has been squeezed by the delay in NPS publication and the forthcoming general election. It is hard to see how Select Committees can be expected to thoroughly scrutinise the NPSs in this time, especially as they will not be able to take account of responses to the consultation received after 15 January.

R ECOMMENDATIONS

Link remains supportive of the principle of NPSs and believes that the NPSs can be made robust by allowing the policies to be developed in a more collegiate, deliberative and participative process. In particular DECC and DfT should:

— Allow time and resources for a further review of the draft policies in view of the reports of scrutiny by the relevant Select Committees, and hold further public examinations to gain additional expert evidence to inform policy where needed.

— Revisit the Appraisals of Sustainability and Habitats Regulations Assessment to ensure full compliance with the SEA and Habitats Directives, in particular to look at a full range of alternatives.

— Involve all stakeholders with environmental expertise.

— Explore further ways of engaging the affected communities and the wider public in a debate over the country’s energy and port infrastructure needs.

— Require the Infrastructure Planning Commission to consider the carbon impacts of each development and provide it with the discretion to refuse development that would adversely impact on the ability of the UK to meet its greenhouse gas emission reduction targets.

— To refine the statements of need such that there is a more accurate assessment of what the actual need is in planning terms and what infrastructure must be built to fulfil this need.

January 2010
Memorandum from The Northern Way (NPS 42)

SUMMARY

— This submission is by The Northern Way, the partnership led by North West Development Agency, One North East and Yorkshire Forward established to promote the North’s productivity and output growth.

— The ports in the North are national assets. Measured by tonnes lifted, the port complex at Grimsby and Immingham on the Humber is the nation’s largest, Teesport the third largest and the Port of Liverpool is the seventh largest.

— The North’s ports support 43,000 jobs directly and 24,000 jobs indirectly. Through this they contribute £2.7 billion per annum to the nation’s GVA. These direct and indirect employment related impacts are outweighed by the further benefits that come from facilitating international trade. Ports are a foundation of our national economy.

— Ports are just one link in the logistics chain. As well as adequate port facilities, road and rail access is needed with the required capacity and capability, as are regional and national distribution centres and rail freight interchanges. Policy needs to support the appropriate provision of each of these.

— The Northern Way’s Strategic Direction for Transport identifies the importance of road and rail infrastructure to ports and in particular the need for a gauge-cleared rail network that can cater for high-cube inter-modal containers on standard wagons.

— The Northern Way’s Short, Medium and Long Term Transport Priorities report identifies as priorities road enhancements to the ports on the north and south Humber banks and to the Port of Liverpool. It also identifies the absence of a gauge cleared network serving the North’s ports as a Strategic Delivery Gap. With Network Rail, we are currently working to help close this gap.

— The Northern Way believes that in the main the National Policy Statement for Ports appropriately reflects the Government’s ports policy and gives appropriate guidance to decision makers. However, there are three issues that we would wish the Transport Select Committee to consider:

(i) while we consider the Ports NPS appropriately reflects the Government’s ports policy, the Northern Way believes that there is scope to develop further the policy position with the goal of supporting national economic growth and wider Government objectives.

(ii) The Northern Way welcomes the clear guidance given to decision makers that substantial weight should be given to the positive impacts associated with economic development. We are concerned, however, that the Department for Transport’s guidance on the methods for port promoters to assess these impacts is currently inadequate.

(iii) The Northern Way believes that the NPS should explicitly direct decision makers to give weight to a port development being identified as beneficial within regional strategies. In such circumstances, the positive policy endorsement should be one of the factors which can be weighed against any adverse impacts that may be identified.

The Northern Way

1. This submission has been prepared by the Northern Way. The Northern Way is a Government-backed initiative, led by the three Northern Regional Development Agencies (North West Development Agency, One North East and Yorkshire Forward). Our goal is to improve the sustainable economic development of the North towards the level of more prosperous regions by growing the North’s economy faster.

Ports in the North

2. The ports in the North are national assets. In 2007, collectively their throughput was 197 million tonnes. This is larger than the national port throughput of Sweden, Denmark or Finland. In 2007, the North’s throughput was 34% of the UK total, a share that had grown from 30% in 1999. Measured by tonnes lifted, the port complex at Grimsby and Immingham on the Humber is the nation’s largest, Teesport the third largest and the Port of Liverpool is the seventh largest.

3. Evidence collated by the Northern Way and published in September 2008 indicates that the North’s ports support 43,000 jobs directly and 24,000 jobs indirectly. Through this they contribute £2.7 billion per annum to the nation’s GVA. In addition, the North’s ports deliver further benefits by facilitating international trade and thereby are a foundation of the national economy. While challenging to quantify, these wider impacts are believed to be substantially greater than the direct and indirect employment related impacts.

4. The Northern Way has identified a number of reasons why the North’s ports have grown their market share. These include:

— Pressure on South Coast and Thames Estuary port capacity.

— Lower transport costs and better delivery reliability in the North compared with the South.

— The port-friendly planning environment in the North.
— The availability of land and labour supply for port-related developments.
— The northward shift in retail distribution and logistics.

5. From mid 2008, the North’s ports have been adversely impacted by the recession with a decline in throughput and loss of market share, although the latest quarter for which data is available (Quarter 3, 2009) shows growth in throughput and market share compared with the previous quarter. As the economy recovers, it is anticipated that traffic through the North’s ports will grow further. Future growth of the North’s ports will be supported by approved development proposals for the Port of Liverpool, Teesport and for Hull. These will be vital for the North in continuing to grow market share of inter-modal container traffic.

THE NORTHERN WAY GROWTH STRATEGY

6. The 2004 Northern Way Growth Strategy Moving Forward: The Northern Way sets out how the Northern Way seeks to bridge the output gap in the North’s economy. The Growth Strategy was developed to build on the North’s three Regional Economic and Spatial Strategies. It highlights transport as a priority for transformational change. It recognises the importance of the North’s ports both as economic entities themselves and through their vital role of facilitating international trade. It identifies three transport investment priorities:

— to improve surface access to the North’s airports;
— to improve access to the North’s sea ports; and
— to improve links within and between the North’s City Regions.

THE NORTHERN TRANSPORT COMPACT

7. The Northern Way has established the Northern Transport Compact to provide advice on transport priorities at the pan-northern level linked to productivity. Chaired by Professor David Begg, the Compact includes RDA, City Regional, and private sector members from the North’s three regions. The Compact has led the development of the Northern Way’s Transport Strategic Direction and Priorities as well as subsequent work.

THE STRATEGIC DIRECTION FOR TRANSPORT

8. The Northern Way’s Strategic Direction for Transport is an evidence-based assessment of the most appropriate transport interventions that will promote productivity gain, while at the same time seeking to protect and enhance the North’s natural and built environment, and contributing to the nation’s commitments regarding climate change. Looking over 20 to 30 years, it sits below the three high-level transport goals of the Growth Strategy and above the level of individual priority schemes and projects. The Strategic Direction sets out the types of interventions which will have the greatest productivity impact, as well as where in the North those interventions will have the greatest impact. The Strategic Direction identifies the importance for supporting international trade and hence the economic growth of the North of targeted enhancement to the road and rail networks that access the North’s ports.

THE NORTHERN WAY’S SHORT, MEDIUM AND LONG TERM TRANSPORT PRIORITIES

9. Having established our Strategic Direction for Transport, we then identified Short, Medium and Long Term Transport Priorities. The Northern Way’s transport priorities include the A63 Castle Street, Hull and A160/A180 upgrade on the South Humber Bank, both of which remain priorities to the Yorkshire & the Humber region for Regional Funding Allocation support. Our priorities also include the A5036 Port of Liverpool access, which is the subject of an on-going DaSTS study led by 4NW.

10. Our prioritisation work also shows that while the transport proposals being pursued by stakeholders across the North will make worthwhile contributions to productivity growth, taken together they do not allow our Strategic Direction for Transport to be met. Consequently, if the North’s productivity growth is to be maximised the “Strategic Delivery Gaps” between what is currently being promoted and what the Strategic Direction suggests will be required, need to be addressed. We identified as a critical Strategic Delivery Gaps the absence of a strategy for a gauge cleared rail network to allow high cube inter-modal containers to be carried on standard wagons to the Mersey, Humber and Tees ports. The Northern Way therefore welcomed the Government’s commitment made in its July 2007 Rail White Paper that a Strategic Freight Network would be created.

11. Since the publication of the Priorities report in 2007 we have been working with national and regional delivery partners to close this Strategic Delivery Gaps. In particular, the Northern Way has co-funded the Olive Mount Chord project which has delivered gauge enhanced access for the Port of Liverpool to markets served by the West Coast Main Line. In addition the Northern Way has supported Network Rail’s Midland and Northern Rail Routes Enhancement Project. This has investigated the cost and feasibility of gauge enhancement of rail routes between the North and Scotland and the Midlands to the North’s east coast ports and also across the Pennines to and from the Port of Liverpool. In Network Rail’s Strategic Business Plan
for 2009–14 £40 million has been allocated to progress gauge clearance as part of the Strategic Freight Network. We are continuing to support Network Rail’s business case work with the goal of releasing this funding to deliver by 2014 a gauge cleared East Coast Main Line, a gauge cleared route between Yorkshire and the East and West Midlands and gauge cleared access to the Tyne, Tees and Humber ports.

THE NORTHERN WAY’S EARLY WIN PROJECTS

12. The Northern Way has also used the capital funding that it has available to support the implementation of a number of early win projects that have benefited the North’s ports directly. These include:

- The reinstatement of the Olive Mount Chord and gauge enhancement of the Runcorn route to the West Coast Main Line (WCML) has improved rail access of the Port of Liverpool. The Northern Way has also actively supported an associated DfT Productivity TIF-funded project adding a gauge-cleared route to the WCML via Earlestown.

- Capacity enhancements on the Hull Docks Branch Line (co-funded with Yorkshire Forward). The Northern Way has also actively supported a wider Productivity TIF-funded package of enhancements to rail access to the Humber ports including those on the south bank of the Humber.

THE NORTHERN WAY AND NATIONAL PORTS POLICY

13. The Government’s national ports policy is set out in the Interim Report of the Ports Policy Review published in 2007. The Government’s policy is that it is the role of the private sector to provide port facilities commercially and that it is the role of Government to ensure that environmental and social obligations are met and that any adverse impacts of port development are adequately and appropriately mitigated. As we set out in our September 200650 response to the Ports Policy Review consultation, the Northern Way is strongly supportive of this market-led policy approach. However, as we also set out in our response we also identified an important role for the public sector for enhancing surface access to the Northern ports to ensure that they have comparable opportunities to access potential markets as ports in the South.

14. The Northern Way also responded positively to the Department for Transport’s 2008 consultation of Ports Masterplan Guidance.51 In this we set out that the Northern Way believes that the establishment of port masterplans will help the North’s city regions to work with the port operators, the Highways Agency and Network Rail to establish road and rail access propositions that help support the sustainable growth of ports, whilst minimising adverse impacts on local communities. Moreover, by setting out the development proposals of ports as well as the impacts of these proposals, we also believe that ports masterplans will prove particularly helpful in informing Integrated Regional Strategies.

15. The passage of the Planning Act through Parliament and the creation of the Infrastructure Planning Commission occurred subsequently to our response to the masterplan consultation. Notwithstanding, the Northern Way believes that ports masterplans will aid both promoters of ports developments and decision makers by ensuring that proposals and associated mitigation measures are developed in the context of a strategic approach that has been subject of stakeholder consultation.

16. The Northern Way also responded to the Department for Transport 2008 consultation on Funding Transport Infrastructure for Strategically Significant Developments.52 We welcomed the Department’s initiative of seeking to bring greater clarity to the procedures and processes for Government co-funding of transport infrastructure to serve private sector led point developments such as ports. We were concerned, however, that the draft guidelines failed to reflect the national economic importance of developments such as ports and hence the Government’s interest in ensuring that such developments come forward in a timely manner and deliver the anticipated benefits to the nation. We also expressed concern that there is little guidance to local authorities or regional bodies about whether (and how) they should support transport developments to ports (and other strategically significant developments). Following the publication of the DIT’s response to the consultation and the final guidelines in April 2009, these concerns remain.

THE NORTHERN WAY AND THE NATIONAL POLICY STATEMENT FOR PORTS

17. The Northern Way believes that in principle the Planning Act reforms will lead to a more streamlined and efficient process for the consideration of planning applications for nationally strategic developments. The thresholds set out in the Planning Act suggest that it is most likely that it is future expansion proposals for the North’s largest ports on the Mersey, Humber and Tees which would be referred to the Infrastructure Planning Commission, although it cannot be ruled out that other proposal could come forward that met the defined thresholds. We note, however, that it is intended that the NPS will also give guidance to the proposed Marine Management Organisation (MMO) which would have jurisdiction over smaller applications.

18. We are also of the view that in the main the National Policy Statement for Ports appropriately reflects the Government’s ports policy and gives appropriate guidance to decision makers. However, there are three pertinent issues that we would wish the Transport Select Committee to consider.

19. The first of these is that, while the Northern Way considers the Ports NPS appropriately reflects the Government’s ports policy, the Northern Way believes that there is scope to develop further the policy position with the goal of supporting national economic growth and wider Government objectives, such as PSA Delivery Agreement 7, which relates to regional economic performance. In particular, ports proposals are developed in the context of the national and regional road and rail networks. At present, we consider that the approach to ports policy does not sufficiently capture the role the Government should take in:

   — Promoting the port development that the nation’s economy needs through the provision of adequate and appropriate national transport networks.
   — Setting the planning framework to support the development and provision of national and regional distribution centres and inland terminal facilities such as Rail Freight Interchanges.

20. This position is amplified by two further considerations, namely:

   — The identified need to respond to the recession by supporting the growth and development of the nation’s high technology and manufacturing base. Given the availability of land and skilled labour, the North has a key role to play in this initiative. Provision of port facilities and road and rail infrastructure that minimises the costs of imports and exports is critical.
   — The need to support the development and operation of the off-shore renewable energy sector, where again the North will play a pivotal role.

21. The second issue relates to the Consultation Draft of the NPS itself. The Northern Way welcomes the clear guidance given to decision makers on the weight that they should give to the different positive and negative impacts of ports development. In particular, we believe that the guidance that decision makers should give substantial weight to the positive impacts associated with economic development is appropriate and correct. We are concerned, however, that the Department for Transport’s guidance on the methods for port promoters to assess these impacts is currently inadequate and that this then has the danger that one of the key justifications for a port development is calculated in a way that (a) does not capture the full impacts of a port development and (b) is not comparable between different applications.

22. For guidance on assessing the economic impacts of ports, the Consultation Draft of the NPS refers to the NPS should also explicitly direct decision makers to give weight to the converse, specifically a port development being identified as beneficial within regional strategy. In such circumstances, the positive policy endorsement should be one of the factors which can be weighed against any adverse impacts that may be taken as representing the Institute’s final observations on the draft NPS consultations.

January 2010

Memorandum from the Royal Town Planning Institute (NPS 43)

The Royal Town Planning Institute (RTPI) is the leading professional body for spatial planners in the UK. It is a charity with the purpose to advance the art and science of town planning for the benefit of the public as a whole. It has over 22,000 members who serve in government, local government and as advisors in the private sector.

While the evidence provided in this submission focuses on the draft ports national policy statements (NPS), many of the issues will apply to the energy NPSs, and the emerging NPSs for other infrastructures.

This paper has been prepared as evidence for the assistance of the Select Committee only and should not be taken as representing the Institute’s final observations on the draft NPS consultations.
KEY ISSUES OF THE DRAFT PORTS NATIONAL POLICY STATEMENT

1. There is generally a lack of clear spatial guidance in the NPS, particularly in translating the national need for ports into the need to provide a port in a particular locality: this makes a robust assessment balancing need with local impacts very difficult. A national spatial planning framework could assist with giving locational guidance for investors, and this could be assisted by a sequential approach to site selection embedded in the NPSs.

2. Interpretation of the NPS is hindered by its structure, which does not clearly distinguish between what is policy and what is guidance, or evidence/background. Lessons could be learned from the “new style” Planning Policy Statements (PPSs). Similarly, the NPS should provide guidance for the preparation of policies and proposals for Nationally Strategic Infrastructure Projects (NSIPs) to come through development plans at the regional and local level.

3. Consideration needs to be given to the relationship between the ports NPS and subsequent NPSs to further reduce the potential for repetition, conflict and the constant review of established principles. This would also contribute toward greater understanding of the NPSs amongst stakeholders and the community.

GENERAL COMMENTS

4. The draft Ports NPS establishes the need for new port infrastructure but this is premised on arguments of additional capacity to allow for competition, choice and resilience. As a consequence there is little to guide decision makers on the location, scale or phasing of port facility provision. The draft NPS neither sets out a level of “need” nor does it establish an “urgency” of delivery. Rather it indicates an industry impacted “severely” by the recession, where consented development may be delayed, but which needs to be able to respond to changing market demands and build in additional capacity to ensure resilience, however neither the capacity required nor the “urgency” are quantified, and this leads the reader to question whether further development is justified.

5. This unspecified approach to need fails to enable the coordinated provision of related infrastructure such as road and rail transport, energy generation and transmission. Only through the coordinated provision of related infrastructure can the Department for Transport’s (DIT’s) overarching policy, of encouraging sustainable port development, be achieved. In particular coordinated infrastructure provision is a necessity if the aims of, sustainable transport, trans-modal shift, capacity for the development of renewable energy and economic and social cohesion are to be met. Certain ports provide for more efficient on-journeys than others and the market cannot be relied upon to identify these.

6. In summary the draft NPS is inadequate in that it fails to identify the quantity, location and timing of the provision of additional port capacity or provide sufficient guidance to enable regions and localities to benefit fully from future port investment.

BENEFITS OF A NATIONAL SPATIAL PLANNING FRAMEWORK

7. The main purpose of a National Spatial Planning Framework (NSPF)\(^5\) is to enable the alignment, in an open and transparent way, of strategic investment decisions on housing and economic growth with the infrastructure needed to support them.

8. A NSPF would include broad expectations (not necessarily targets) for growth in different areas, and would enable a translation of the national need for infrastructure to target the locations for delivery to meet local/sub-national need. (It would also be helpful if the NPS made reference to ways in which the regional planning processes could assist with this issue.)

9. The cumulative impact of major development projects is not restricted just to port proposals or to those that fall above the threshold for consideration by the IPC. Cumulative impacts may arise as a combination of a variety of proposals, such as a nuclear power station, renewable energy development, port expansion and tidal barrage being proposed on one estuary. Proper consideration of such impacts would be better served by the production of a national spatial planning framework for major development rather than the production of a series of separate and unrelated NPSs for different sectors.

CASE FOR SITE SPECIFICITY

10. It is recognised that site-specific policies are easier to determine for some project types than others, and it is appropriate for there to be a spectrum ranging from actual site designation (eg with nuclear plants), through locality-specific policies and “areas of search”, to non-specific criteria-based policies.

11. There are examples in national, regional and local planning policies that could assist. For example:

   — the sequential approach to site identification for housing (PPS3) and retail (Planning Policy Statement 6 Planning for Town Centres—now Planning Policy Statement 4 Planning for Sustainable Economic Growth);

\(^5\) The RTPI has published research into the key drivers of national spatial planning which can be accessed here: http://www.rtpi.org.uk/download/748/Uniting-Britain.pdf
12. Being site-specific, or narrowing the field of search, enables investors to make more informed decisions, and makes consultation easier and more meaningful.

13. It would be appropriate for non-site specific NPSs to give more detailed guidance on identifying appropriate sites to meet needs, either through development plans (sub-national or local) or, perhaps, through subsequent locationally specific NPSs.

**Implications for the Rest of Planning**

14. The structure of NPSs needs to be aligned more carefully with the “new style” PPSs, in which policy, guidance, background and assessment criteria are carefully separated, and which provide distinct policy/guidance for making decisions on consents and for local policy-making. The latter is disappointingly lacking in the NPSs as they are currently drafted.

15. In many respects, it is in the overlaps and variances between the policies and processes of the town and country planning and NSIP regimes that potential weaknesses may surface. A National Spatial Planning Framework that sets out the broad principles for both NPSs and PPSs is in our view the best immediate and long-term remedy.

16. The NPSs disappointingly repeat and reinterpret established planning policy in PPSs/PPGs. when it may have been more straightforward simply to specify that the IPC should make decisions in accordance with PPGs/PPSs—unless directly and explicitly superseded by an NPS.

17. Further consideration should be given to the content of development plans for the area affected by the proposal. These will have been subject to community engagement and as such should have a bearing on the determination of a port proposal. The proposal may have a beneficial or an adverse effect on some element of agreed development plan policy, such as a regeneration project. More particularly further advice on the content and importance of the Local Impact Report should be given. There is no reference to local development plan documents which may well have been subject to extensive public consultation and therefore should be accorded significant weight in the process of local decision making. This should be a significant consideration in the determination of the impact of a proposal.

**Overarching NSIP Process Document**

18. Primarily, the benefits of an overall process document for all NSIPs include the reduction of repetition and the risk of conflict in the interpretation of policy, establishing overarching principles that would apply to all types of infrastructure, and reducing the burden of consultation on later NPSs. Where a specific case can be made that a particular infrastructure type should be treated differently, this can be done through the NPS consultation. It should also be possible to make amendments to such an overarching NPS if necessary as the result of consultation on an NPS for a particular infrastructure type that is more broadly applicable.

**Other Issues**

19. Masterplanning advice: There may be a case for providing guidance on masterplanning for ports—ie setting out the detailed considerations for designing ports that work well and demonstrating best practice. This would not only assist the IPC, but also communities considering what a proposal would be like. It is recognised that the NPS itself may not be the best place in which to publish such guidance, but a supporting Good Practice Note on masterplanning ports would be welcomed.

20. Capacity: There is some concern that the NPS focuses on the provision of new ports in order to meet the unquantified capacity desired. It may be that increased capacity could be better provided by increasing the efficiency of existing ports, and the contribution that such a measure could make needs to be built into the quantification of need that is required for this NPS to be fully robust.

**Select Committee Questions**

Do the general planning principles set out in the proposal for a National Policy Statement on Ports form a coherent, appropriate, proportionate and practical framework within which the Infrastructure Planning Commission (IPC) can assess future port planning applications?

21. The draft NPS does provide sufficient information for the IPC to assess proposals however the RTPI is concerned that in its current form (see issues identified below), and without a national spatial strategy, the IPC is considering proposals in isolation of the wider spatial implications of other national policy.

22. While the NPS is clear about its justification of unspecified additional capacity and its preference not to indicate the location of new development, these arguments are not persuasive and fail to provide decision makers with sufficient guidance on which to make future decisions.
23. The draft NPS fails on a number of fronts:

— The NPS is inadequate in that it fails to identify the quantity, location and timing of the provision of additional port capacity leading the IPC to decide proposals on a case-by-case basis. This approach seriously puts at risk the cumulative impacts of future port development on satisfying need and the potential risk to local communities.

— While there is generic advice on the provision of related transport infrastructure there is no detailed indication of the location, capacity or mode of transport that other bodies are expected to provide to support port development.

— The NPS ignores the importance of international and national transport networks, up-grading programmes of the railways to accommodate container traffic, or regional spatial strategies such as “The Northern Way”. The IPC should be afforded an integrated national policy to make informed decisions on future port development.

— There is little in the NPS which would assist other policy makers and investors or provide them with certainty, particularly with respect to the identification of likely locations for new port development. The IPC will need to make decisions on proposals that cannot refer to these factors in the NPS.

24. The IPC for port applications over the NSIP threshold. In relation to the IPC the draft NPS fails to provide suitable guidance for its decision making for a number of reasons:

— It fails to make the case for over-riding national interest because it fails to identify some locations as more suitable than others. Without priority being given to certain locations (albeit expressed in regional or sub-regional terms) it is unlikely that concerns of local adverse impacts will ever be outweighed by arguments of national need.

— It fails to recognise the importance of international, national, regional and local development plans either currently in place or in the future.

— It fails to provide investors in either public or private sectors sufficient certainty about the location of future port investment. Ports and the cost of related infrastructure provision are so significant in the future of the UK and its regions’ economies that the market-led approach is entirely unacceptable.

25. The future Marine Management Organisation for port applications under the NSIP threshold: The draft NPS does recognise the importance of the Marine Policy Statement (a cross-sectoral high level planning document) and of future marine plans in balancing benefits against adverse impacts, however the failure of the draft NPS to direct and help coordinate investment noted above applies equally for proposals below the threshold. Similarly there will be applications for consent which go to local authorities for which this document will be a material consideration but there is little guidance on how those considerations should be applied.

26. Essentially, the proposed assessment criteria are constrained, and the focus on the application stage means that it is difficult to assess proposals strategically, taking cumulative effects and alternative options properly into account.

Are the sustainability and environmental criteria outlined in the draft Ports NPS appropriate, proportionate and practical?

27. The term “sustainability” when defined in its widest sense includes the balancing of environmental, social and economic considerations. Given there is no specific section titled “sustainability” in the draft NPS, the comments provided in relation to this question focus on the environmental impacts section 2.10 to 2.25 including pollution, biodiversity, climate change, flooding, coastal change, waste, water, air quality, environmental health, noise, landscape values, historic environment and open space.

28. Overall the draft NPS should explicitly set out that locations for new port infrastructure should avoid areas of environmental value (such as the historic environment) or risk (such as flooding or climate change) rather than implementing mitigation measures.

29. Additionally, it is the RTPI’s view that policy and criteria set in relevant national policy (such as those set out in planning policy statements and guidance) provide the IPC with the appropriate, proportionate and practical criteria. Diversion from these policies/criteria should be only in exceptional circumstances.

Have issues or principles which should have been included in the draft Ports NPS been left out?

30. Please see our comments under “general comments” above.

January 2010
Memorandum from Adams Hendry Consulting Ltd (NPS 44)

1. We are an independent UK firm of chartered town planners specialising in the planning and consenting of major infrastructure. We have particular knowledge and wide practical experience of port development schemes, port and harbour planning, and the practical application of the planning and consenting systems generally. Amongst our clients are several owners, operators and users of ports of various sizes, as well as harbour authorities and planning authorities whose areas contain ports.

2. The views expressed in this memorandum are our own, based on our professional experience over more than three decades, and are independent of individual client interest. We have submitted it in the hope that the Committee will find a practitioner’s view helpful.

3. Our central concern, which we articulate in this memorandum, is that the draft National Policy Statement on Ports, in its current form, will not enable the Marine Management Organisation (MMO) and the Infrastructure Planning Commission (IPC) to find in favour of port proposals that are nonetheless essential in the national interest.

4. The expression of policy in the draft port NPS is too brief (it runs to only 11 pages) and too limited in its coverage of the issues and its evidence-base, for us to be confident that a decision-maker will be able to place the correct weight on the national interest represented by individual port proposals. Too much is left to the decision-maker, who is not empowered to construct his or her own version of a national strategy. This we see as an inevitable and serious problem, which will arise frequently as decision-makers are faced with the proposition either that the local impacts outweigh the need or that there are market alternatives.

5. We understand the need for a market-led port strategy and do not consider there to be a requirement for a prescriptive plan. Indeed, history suggests that there would be insurmountable problems were that to be attempted. However, such is the variety and breadth of national port interest that it is impossible to have a brief “one-size-fits-all” market-led strategy as set out in draft NPS. It is, in our view, essential to provide much more evidence of the importance of ports and to clarify the location and type of facilities that the nation requires the market to provide.

6. We draw attention to the fact that the competitive market is only truly expressed when consented facilities are built and operational. The position at the moment, which the draft NPS contemplates will continue, is that, merely by “banking” an unimplemented permission, one operator can effectively rule out a competitor gaining consent elsewhere; if not for ever, then at least for a decade or two. The manner in which the Habitats Regulations are currently interpreted makes this an entirely likely scenario. We believe that would be prejudicial to the national interest.

7. We are concerned that the draft NPS will prove insufficient to enable the IPC or the MMO to judge whether a proposal accords with the NPS. It could be said that the draft national policy is that all port developments are capable of being in the national interest, except where local considerations dictate otherwise. The decision-maker is given little guidance on the weight to apply to the need for the development in that location as opposed to the local considerations, which are, in practice and to our knowledge, much better supported by argued evidence, confirmed policy and, in some case, legislation.

8. A large part of the documentation accompanying the draft NPS deals with the assessment of the potential adverse impacts of port development, and there is comparatively little in the policy about the (we think, potentially lengthy) list of potential positive impacts of ports. Correcting this would assist the decision-maker to reach a balanced decision. Leaving it would invite legal challenge of an eventual positive decision that relied on a degree of discretion by the decision-maker that might not be justified by the legislation.

9. It may be helpful to reprise the background to our concern that the draft NPS understates the precise importance of ports. Ports are themselves part of national infrastructure but they also enable a wide variety of other national needs to be met. For example, a jetty that imports petroleum products for national distribution is, on its own account and with its storage tanks on land, a critical piece of energy infrastructure. This is in addition to the jetty’s importance as a component of national port infrastructure. It so happens that the former significance is recognised in the draft Energy NPS, however that is an exceptional circumstance.

10. Most of the key trades in which ports deal, from aggregate imports to car exports, also meet national needs, but this fact goes un-remarked in national policy. A major port such as Felixstowe or Southampton is effectively a community of firms, in those instances perhaps several hundred strong, many of which are individual components of various national interests.

11. The planning system (especially that part of it concerned with policy) struggles to deal effectively with ports. This will not change as a result of the 2008 Act. There are a number of reasons for the difficulty, but it starts with the fundamental fact that ports are not properly represented by the standard industrial classification, and data about ports do not readily clarify their economic significance. Ports are not recorded at all in many of the statistics used in preparing planning policy documents. Unless special surveys are carried out, their economic importance is frequently understated or even missed entirely.
12. Whilst data on port throughput are readily available, these are often given in units, such as tonnage, that give little insight into the significance of a port to the national or regional economy. The contrast with the well-researched and honed nature of the justification for the weight to be given to other considerations will be clear.

13. In these circumstances a brief, general, all embracing policy as set in draft NPS can only work when the market comes up with a site to which little substantial objection is made. However, that is not always the case and we suspect that in the years ahead, such proposals may become the exception rather than the norm.

14. The ports NPS has, in our view, to be drafted with these latter cases in mind, otherwise it would not be effective when it is most needed. Where there is a requirement to prove that port needs are overriding in a particular location the draft NPS is likely to prove insufficient. It must clarify the national need, which is in reality complex, sufficiently to enable the IPC and MMO to judge how important a particular proposal is. A brief, market-led policy is vulnerable to it inability to counterbalance the weight attached by highly specific, and potentially strident, other interests. By its nature, the market will always present an alternative.

15. We know the truth of the above from our own experience at public inquiries, examinations in public and hearings, under various enactments. We have had the privilege of discussing (or, in appropriate forums, being cross-examined on) current national port policy and its interpretation in the context of either an individual proposal or policies for inclusion in regional plans and local development documents.

16. The complex, cross-cutting nature of ports as a land and marine use means that in such vital inquisitorial forums (the result of which may go along way to settling a port’s long-term future) it is necessary to defend the interests of ports against those of other considerations. These other considerations can be diverse, ranging from the obvious ones of conserving the habitats of internationally designated sites and the landscapes of AONBs and national parks, to the less expected ones of protecting ports from the operational constraints that might follow from the incursion of housing required to meet regional targets. It is the case that such interests, are, without exception, much more clearly set out in legislation, the statutory development plan and government planning guidance, than are the interests of ports.

17. Until Eddington, no authoritative voice suggested that ports had a vital national significance that that might outweigh other interests. Despite general assurances to the contrary, we do not believe that the draft ports NPS takes Eddington as far as it must be taken. Our long and consistent involvement in the process of ensuring that ports are properly represented in the planning policies has left us with an acute awareness of the need for clarity and precision in the wording of port policies at all levels and conversely, the adverse consequences of ambiguity and obfuscation.

18. A starting point for the articulation of port policy already exists in the DfT’s “Delivering a sustainable transport system”, paragraph 4.10 of which identifies ten ports and seven airports that “collectively are critical to the functioning of the system as a whole and to the economic success of the nation”. We suggest that the ports NPS should follow and elaborate this approach.

19. We consider it likely that most port proposals will be considered by the MMO in conjunction with local planning authorities. There is very little in the draft NPS that gives a lead to the MMO or deals with smaller ports. We consider that to be a major defect that must be corrected.

20. We draw attention to the fact that port proposals are very likely to fall to be considered under the terms of the Habitats and Wild Birds Directives. In this context, demonstrating overriding public interest has often been interpreted to mean “in the national need”. Without clear, decisive and sufficiently explicit policy support for a proposal in NPS, then it appears to us that it would be difficult for any overriding public interest case to be successfully argued.

21. The draft statement is a long document, which contains very little in the way of actual policy. The policy elements are limited to those pages containing sections 1.8 to 1.12. The remainder of the document focuses on how proposals are to be assessed. We note the difference in approach to other draft national policy statements and strongly prefer the latter.

22. Finally, we think it essential to link the NPS to the statutory development plan. This, we believe should be done by a reference in NPS to the importance of port master plans, which most major ports are now preparing. Port master plans for the medium and long term assist the port as well as regional and local planning bodies and transport network providers, in preparing and revising their own development strategies. We consider it vital that NPS advises the IPC and the MMO that these documents have a key role to play in its consideration of need alternatives and local impacts.

January 2010
Memorandum from the Road Haulage Association Ltd (RHA) (NPS 45)

INTRODUCTION

1. The RHA is the primary trade association representing the hire-or-reward sector of the UK road freight transport industry. The Association comprises some 9,000 member companies, operating between them 90,000 + lorries and employing some 250,000 staff. Members range from single vehicle owner-drivers right through to multi-national fleet operators. A number of the member companies are either wholly or partly employed in the movement of goods through and from the ports across the British Isles, either by roll on/roll off (ro-ro) access or container movements or bulk goods movements. As such the evidence below focuses on the interests of this type of professional road haulier.

2. It is in the interests of RHA members that the future direction taken by those controlling the port facilities is planned and organised in conjunction with the UK Government and relevant local authorities. Adequate and effective land side infrastructure is essential.

DEVELOPING A PORTS NATIONAL POLICY STATEMENT

3. The RHA welcomes the draft National Policy Statement (NPS) for Ports. However, the Association cautions that the ports NPS should be joined-up with road and rail and not be informed solely by a free-market approach.

4. While the draft policy for ports rightly sets out the need for expanded capacity in the future, it is of some concern that the development needs and regional implications for England and Wales are not being considered in the round. Decision makers need to determine whether a spread of ports or a concentration on a small number of core ports, with proper infrastructure, ensures better security, safety and value added. Modal Shift opportunities should be assessed from an end user not just a port point of view and should never be considered without providing adequate road networks. Any port development application requires an accurate assessment of the effects on other ports in the relevant economic area to ensure that all ports do not make a loss through rate arbitrage. For example, Liverpool/Manchester, Harwich/Tilbury/Thames Gateway. And should not the Government be more interested in increased wealth rather than growth?

5. We are concerned to ensure that road haulage issues are given greater consideration within planning frameworks. There is an understandable but unfortunate tendency when considering planning issues to overlook the importance of maintaining a healthy and flexible British haulage services sector. Road haulage remains the overwhelmingly dominant mode, and that will continue despite significant expansion of rail and waterborne freight.

6. It is essential that planning authorities must have available to them individuals with understanding of the haulage and logistics sector when going through planning processes, over and above the involvement of stakeholders.

7. We are keen to see the development of policy in areas where there is, perhaps, no single development that is large enough to be referred to the Independent Planning Commission. One such area of particular concern to the road haulage sector is the provision of secure lorry parking sites round the country, but particularly near to ports. At present, there is a shortage of sites, creating issues in terms of security of the load and lorry driver, road safety. Social conditions for drivers, and the environment. Separate guidance has recently been published by the DfT on a lorry parking strategy to help local authorities when planning their Local Transport Plans.[1] [DfT’s Strategy for Lorry Parking Provision in England]

8. As our specialism relates to road transport rather than port operations, we propose to limit our input to those areas which we believe are relevant to our member involvement with the ports and for which we have adequate specialist competency to do so. This memorandum is therefore largely focussed on land side infrastructure, port access and those issues relating to goods vehicle operators involved in port related activities.

BACKGROUND TO THE ROAD HAULAGE INDUSTRY IN RELATION TO THIS INQUIRY

9. The domestic road haulage sector has an essential role to play in the UK economy, accounting for 6% of Gross Domestic Product and employing overall some one million people. Recent Government (VOSA) figures show that 102,000 registered goods vehicle operators carry out over 80% of all the domestic freight movements within the UK, utilising 408,000 licensed heavy goods vehicles and 265,000 semi-trailers.

THE DEMAND FOR PORT GROWTH

10. Forecasting the growth in demand for port capacity in England and Wales is an area in which this Association does not have any specialist knowledge. However, the DfT forecasts that by 2030, the final origin or destination of more than 40% of all goods being moved in the UK will be abroad with the great majority passing through the UK’s ports.

11. The existing ports’ capacity to cope with ever increasing demand has regularly been reviewed over recent years, with massive expansion proposed at several of the facilities, including Felixstowe, Harwich, Southampton and the London Gateway. Obviously, such plans court controversy and cause widespread concern at a local level, primarily because of the perceived negative impact on the local environment. Indeed
the Dibden Bay proposal at Southampton was turned down after years of consultation, whereas the Port of Felixstowe and Hutchinson Whampoa are increasing sea side capacity and their ability to manage deep water container vessels at an astonishing rate.

**Short Sea Shipping**

12. Although the European Commission and the UK government both support the increased use of short sea shipping to reduce movement by road of long distance cargo across Continents. However, in reality it is unlikely that the commercial sector in the Far East of the globe will increase its existing use of this mode if it leads to an increase in costs due to the additional handling delays. This is especially so since they have committed heavily through their own investment to deep sea vessels access at major domestic ports in the UK, the Netherlands and elsewhere. Although the emphasis across Europe is rightly on policies to reduce road transport it would be unrealistic to believe that developing countries will have the same mindset as us for a number of years to come.

13. Furthermore, with the increased ability of deep sea vessels to dock in our ports it is essential that serious thought be given to their desire to re-load commodities that they will expect to be waiting at the docks for the return leg. Additional warehousing and storage will undoubtedly be added to all planning proposals up to and beyond 2030 if UK plc is to attract more trade from the Far East.

**Drivers’ Facilities**

14. Our members advise us that in ports across England and Wales much of the existing dock side infrastructure is out of date and not “user friendly” in an age of heightened Health & Safety and employee awareness. Many of our members’ employees spend considerable time waiting within the ports and facilities, with regard to rest, food and hygiene requirements, are often not available or even considered. Professional vocational drivers, who are heavily regulated when carrying out a service to ensure the continuing success of the ports, should surely be treated with respect and adequate facilities made available to them as the norm, not the exception.

15. This issue is partly addressed by point 2.17.25 when dealing with abnormal disruption and for dedicated facilities either on the port estate or by dedicated facilities nearby. Disappointingly there is no mention of overnight lorry parking provision.

16. After a full days work drivers deserve the basic facilities of a shower and hot meal with the knowledge that their truck is parked securely. If a facility is not available, then drivers must stop where they can and this is not always acceptable to the local population and other road users. Therefore the development of a comprehensive facility can only be of benefit to the haulage industry and local residents alike.

17. The problems currently being experienced by the industry are inhibiting the efficient carriage of goods and increasing the risk of these drivers being involved in an accident. The lack of secure facilities also means that drivers and their loads are also at greater risk of crime, as high value loads have to be parked at the roadside. With the planned development of Thames Gateway, the expansion of Tilbury Port and further development associated with the Olympics the situation is only going to get worse.

**Port Security**

18. There are numerous new security regulations governing ports as a result of the terrorist threat. Our concerns are predominantly to do with the security of lorries, lorry loads and goods stored within ports. Lorries are often unable to access the port whilst waiting and are thus forced to remain outside the port in unsecure locations to the detriment of their security and the local environment.

**Port Access**

19. Continued expansion of existing port facilities in England and Wales presents difficulties when the goods that are landing must be shipped inland by road and rail at commercially acceptable rates and within customer-accepted timescales.

20. Although we are predominantly concerned with road access, the basic requirements also apply to rail access. It appears to us that road access to ports is a considerable drawback in many cases. We do not intend to discuss access to all Ports but to highlight a number of concerns. The routes to the East Anglian ports are in desperate need of road improvements, but only stop-gap measures seem to be on the agenda. The A14 is becoming infamous for the large number of container moving commercial vehicles filling up its available capacity, but the only solution put forward recently has been to consider banning commercial vehicles from the outside lane of what is only a two lane carriageway, in the hope that car drivers will be pacified.

21. Unfortunately, this will not be the answer and will only lead to further frustration and the very real threat of an increase in accidents and the accompanying delays. As a vital link to a region of high commercial activity there is a desperate need for this route to be upgraded to motorway status. These limitations do not in themselves deter hauliers from using these ports but they do have an impact on cost and the environment. In the longer term this may well result in a lack of competitiveness between ports.
22. It is essential that realistic and rational consultation is carried out with both local interests and national stakeholders with regard to how to address this situation. Although environmental considerations naturally will be a key priority for the decision makers in local and national authorities, the commercial/economic consequences must also be given serious thought. The perception from industry is that those in power are uncomfortable with giving equal consideration to commercial needs when this may be seen as in opposition to environmental concerns, irrespective of the economic benefits to the surrounding area for commerce to grow. The NPS has insufficient prioritisation and focus in this area to help the IPC.

PORT EFFICIENCY

23. Modern logistics requires up to date equipment and systems in order to achieve maximum efficiency. It is often the case that as port trade increases the port infrastructure becomes increasingly unable to cope with the demand. Port operators need to ensure they make the right investments in infrastructure such that they maintain high levels of efficiency. For example in Fishguard, there are limitations to the size and type of vessel able to use the port and consequently, the size and height of lorries able to use the port. Clearly, for the sake of the Welsh economy, such improvements could be greatly facilitated by use of grants.

24. Another matter that has been raised by members is that of non-port related activities being carried out on port land. Historically, port operators have let port land to businesses that are unrelated to the port activities and this land take-up precludes the expansion of port related activities.

THE FUTURE

25. Improved transport infrastructure in the relevant areas would surely lead to increased demand for port facilities and in turn greater job creation and additional demand for port related facilities, such as storage units or manufacturing units. Funding would be required from national and local government, as well as the commercial sector.

26. We do not believe that ports should be treated in any way differently from other commercial entities. It is not feasible for either the port operators or private investors in the ports to be expected to provide funding for the entire required infrastructure beyond their boundaries when all road users will benefit.

27. Our belief is that supporting infrastructure around and close to the ports is not always given enough thought when expansion is being considered. Furthermore, the position of the ports inevitably puts pressure on existing and connecting road networks, often because alternative routes are not commercially or politically viable due to the conurbations that have built up in parallel to the increase in port activity.

28. Local authorities naturally focus their actions and their available budget on the area where the constituents they represent live. It is nonetheless essential that some degree of uniformity be seen across all potential re-generation and additions to the ports already serving the British Isles. The need for a National strategic and integrated transport framework to inform and underpin regional and local transport decisions has never been stronger.

29. With so many parties involved from the outset it would surely be beneficial to have an overseer or body with expertise involved from the start rather than as a last resort when planning permission and road structure and improvements are being considered. There has been suggestion that local authorities set up municipal harbour management committee’s within existing Council structures, including external stakeholders with relevant expertise, much as Freight Quality Partnerships (FQPs) are utilised across England. This is certainly something that the Road Haulage Association would support.

GREATER GOVERNMENT INVOLVEMENT IN PORTS PLANNING AND POLICY

30. We feel that Government has a vital role in making sure planning and transport infrastructure issues are addressed to benefit the ports and the surrounding regions. As mentioned earlier, we believe that a mechanism must be provided which allows for commercial interests and the time taken in planning and consultation to be considered in a fair and reasonable way alongside the growing environmental demands.

31. However, our conclusions are that care must be taken to ensure that a national policy setting out how ports should develop is not an inhibiting factor to general development. Ports work in a dynamic and constantly changing international environment where each port has its unique characteristics. Any national policy we feel would place a brake on flexibility within this dynamic environment at the same time as not fully taking into account the individual traits of each port as a separate trading environment.

32. We hope that this Inquiry will recommend that serious long term thought be given to the problems faced in Wales, in relation to acceptable movements to and from the ports. This must be wide ranging and open to all those with an interest in the relevant areas.

January 2010
Memorandum from the Commercial Boat Operators Association (NPS 46)

WHO WE ARE AND WHAT WE DO

1. The Commercial Boat Operators Association (CBOA) is a trade association representing firms which carry cargo and provide engineering services on Britain’s inland waterways. We have 100 members, including associates.

2. Department for Transport statistics showed that 51.9 million metric tonnes were carried on the waterways in 2008 including the inland part of major estuaries. This is part of the 123 million metric tonnes on UK domestic waters—5% of the UK total, equal to rail. In terms of distances moved, 20% of UK freight moved by water, compared with 8% by rail; after removing figures for North Sea oil and sea-dredged aggregates, the 20% for water is about 13%. It is noteworthy that the DfT invests far more on rail freight than in water freight—that itself might be the subject of an Enquiry by your Committee.

3. Cargoes carried include aggregates, fuel oil, grain, rice, steel industry materials and products, residual domestic waste, abnormal indivisible loads (such as power station generators) and bagged domestic coal.

4. Many operators’ craft can carry 500 tonnes or more—taking the equivalent of 25 20-tonne capacity lorries off the road.

5. Water transport can play an important role in reducing lorry traffic and road congestion. It is far more environmentally friendly and emits 75% less CO₂ per tonne kilometre than road haulage and is a far better user of energy resources (Tyndall Centre for Climate Change)

DRAFT NATIONAL POLICY STATEMENT FOR PORTS

6. The CBOA welcome the Government’s National Policy Statement for Ports, and that we are encouraged by the emphasis placed on the need to consider the inland connections from ports

7. The UK’s commercial inland waterways will, we believe, have an increasing part to play in ensuring that the UK port sector continues to contribute greatly to our national economy.

8. An example of how inland waterways can contribute is one missed from the list in section 1.1.6. this is the Peel Ports’ £400 million Port Salford proposal which has obtained planning permission; we understand it will have a 0.5m teu capacity.

9. We welcome the statement in section 1.10.3 that the Government wishes to see port development providing a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable. We assume “shipping” includes inland waterways too (e.g the estuaries) but suggest that this be made clear in the wording’

SECTION 2.17 TRANSPORT

10. The problems associated with port congestion and congestion on routes in and out of our major ports are well documented and we are encouraged by the ongoing commitment to the completion of “Transport Assessments” for all port developments which are likely to have an effect on inland transport.

11. We note that section 2.17.5 requests that “applicants demonstrate why it is not feasible to use alternative modes for domestic distribution.” We do not think this is strong enough. There should be a positive obligation on applicants to state:

(a) What work they have done to study how traffic will both arrive at and leave the port.

(b) What work they have done on where traffic is expected to come from inland and to where it is expected to go.

(c) What work they have done on the costs to their customers using each mode of transport, assuming no improvement works to any of the modes.

(d) What work they have done on the costs to their customers using each mode of transport, assuming improvement works are carried out to any of the modes.

(e) What work they have done on what those improvements would cost and what suggestions they have on how they should be funded.

(f) What steps they both have— and propose— taking to encourage use on non-road modes.

We make these suggestions to avoid applicants dismissing the inland water options without proper scrutiny.

SECTIONS 2.17.11–2.17.13

12. We concur with the guidance the document gives to the “decision maker “in sections 2.17.11, 2.17.12, 2.17.13 that the decision maker should consider whether appropriate requirements should be attached to any development consent and/or obligations entered in to for funding infrastructure. These should include planning conditions and/or S 106 contributions.
13. Section 2.17.17 states that “broadly speaking” rail and coastal or inland shipping should be encouraged.

Why only broadly speak should they be encouraged? We support the concept but the Government has in the last 17 years published countless documents and made many statements that significant modal shift is required if we are to have a transport network which will be fit for purpose for generations to come. Surely therefore the words “broadly speaking” should be deleted.

14. We support section 2.17.20 about ensuring the use of inland waterways is considered. We have set out above in paragraph 11 our concern that this has in the past been overlooked. For example, when Immingham was improved, there did not seem to be any consideration to improving the Aire and Calder Navigation or the River Trent. Subsequent work has suggested that the Aire and Calder could have been upgraded to take containers carrying barges for only £10–15 million.

15. Section 2.17.22 suggests that target modal shares for rail or coastal shipping may sometimes be appropriate but are not mandatory. We disagree. The setting of targets is common in the granting of planning permissions; eg aggregates permissions where the planners require either all or an agreed % of the aggregates to go by water or rail. The aggregates companies accept this because they wish to extract the aggregates. We consider that if a port company wishes to expand, then it should have to comply with certain minimum quantities by water and by rail—just as they have to comply with other requirements relating to the environment.

16. Sections 2.17.29–2.17.34 highlight the importance of using s.106 of the Town & Country Planning Act and similar agreements (being replaced in part by the Community Infrastructure Levy—but here referred to generically as S. 106). We believe that this is a mechanism which when used appropriately will greatly assist the development of inland waterway freight carriage on the UK commercial waterway network. All commercial waterways (as designated in the 1968 Transport Act) are linked to ports and therefore are a natural conduit for the movement of goods from those ports. One of the factors which has hampered the development of inland waterway freight carriage is the availability of suitable inland waterway infrastructure, over the last decade and more we have seen wharfs sold off and redeveloped for housing and retail which can compromise the viability of the waterway as a freight carrying mode.

17. This needs to be proactively addressed. We would suggest that the use of s.106 agreements would be an appropriate way of achieving this. We have seen examples where port developers have been required to create or contribute towards road and rail infrastructure. So why not a contribution towards the development of an inland offloading facility or inland port? Or towards the cost of upgrading an inland waterway?

18. We would hope that the guidance would be amended to encourage the applicant to investigate the opportunities for investment in inland waterway infrastructure and that the “decision maker” ensures that appropriate consideration is given. Without a proactive approach from port developers and operators to the development of inland waterway freight carriage the UK commercial waterways will not be able to fulfil their great potential to remove freight traffic from our already congested trunk road network.

19. We expect many will say that it is not the port developers/operators job to develop inland waterway freight carriage, but we would contest this by saying that is exactly what has happened when s. 106 agreements have required developers to upgrade road or rail infrastructure. So why not use this mechanism to assist development of waterborne freight carriage?

20. The use of S 106 and similar agreements is common in the property development industry and there is no reason why ports should be given any special treatment. Felixstowe is an example of a port that did expand 30–40 years ago without having to contribute to the strain which its activities put on local and regional roads. They were fortunate that the A14 road was drastically changed at the cost of public funds and we hope this never recur.

21. DfT’s “Funding transport infrastructure for strategically significant developments” discusses how S 106 obligations should be assessed. We agree with the principle on page 3 that the beneficiary should pay. We also agree that the Government should act as proxy for “background users”.

Waste Generation and Resource Use

22. Section 2.18 refers to waste but does not discuss how waste should be transported away.

23. We recommend that the maximum use of made of waste collecting barges. Waste will arise from ships and barges are well placed to collect it. Other waste will arise near the waterside and can also be collected by barge. Barges can also collect recyclables.
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To Conclude

24. The National Policy Statement consultation paper poses the question “do you think the draft ports NPS provides suitable guidance to decision makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic.”

25. In short, we believe that there should be some revisions to the Statement to ensure that it is clear that the inland waterway modal option is properly and fully assessed.

January 2010

Memorandum from Dr J Lewis MP (NPS 47)

In case it may be helpful to the Committee I write in support of the submission made by New Forest District Council expressing concern that the Draft National Policy Statement on Ports may seriously undermine the protection given to extremely sensitive areas such as the New Forest.

Not only the local communities most immediately affected, but also New Forest District Council and Hampshire County Council were unanimous in opposing the proposed creation of a giant container port on reclaimed land at Dibden Bay on the very edge of the New Forest.

Please find enclosed my response to a consultation exercise recently conducted by Associated British Ports (ABP). This looks into the question of why a proposal which was overwhelmingly rejected within Hampshire, and which was rejected after a year-long Public Inquiry, should now be creeping back onto the agenda. I draw your attention particularly to the contents of pages 4–5. It seems to us that, having failed to make a sufficiently strong case for the port to be built in 2002, and having been blocked by the Government early in 2004, the industry is seeking changes in the planning rules and structures to force it through next time.

New Forest District Council is very concerned that, in future, the availability of alternative sites will not be allowed to weigh so heavily in the scales. This was a very important factor in the Dibden Bay Inquiry. The existence of alternatives such as Shell Haven in Essex (now known as London Gateway), Felixstowe and Bathside Bay (at Harwich) was rightly a crucial consideration in determining the absence of an overriding economic imperative to build a container port at Dibden Bay.

When the idea of a new and so-called “more-streamlined” planning system for major infrastructure projects was mooted in 2002, I immediately suspected that it would become a device to ram through projects regardless of considerations which would normally suffice to block them. As stated in my enclosure, the then Secretary of State, Ruth Kelly, assured me that the result would have been the same but merely have been reached more quickly. This did not seem believable then and the concerns identified by New Forest District Council and their Legal Adviser serve to confirm that it is no more believable now.

It is one thing to look at National Policy Statements in the abstract, but I believe that focusing on a specific case, like Dibden Bay, shows what is really at stake. Dismantling the safeguards which have hitherto protected some of our most precious natural environments from inappropriate development is no solution for the problems involved in meeting Britain’s extremely important port requirements.

January 2010

Annex

ABP’s “MASTER PLAN” FOR DIBDEN BAY—HOW NOT TO LEARN FROM EXPERIENCE

No-one would deny that major ports are vital strategic assets for island nations. Their locations will usually have been determined both by geography and by economic history. When the process begins, it may seem that there will be unlimited opportunities for expansion; but, as society evolves, obstacles may arise which could not have been anticipated at the outset.

The idea that Dibden Bay might one day be used for port expansion must have seemed very attractive decades ago, when the land was artificially reclaimed. Since then, however, evolution has been unkind to the Port proprietors.

First, parts of the reclaimed land have been given top-level environmental protection. Secondly, the containerisation of seaborne cargoes has created gigantic port paraphernalia—consisting of unsightly stacks of containers, over which tower enormous cranes. These cannot fail to dominate any landscape for a considerable distance in all directions. Thirdly, it is in the nature of major ports to require endless traffic movements, day and night, by road and rail. Fourthly, port activities entail a great deal of noise and a great deal of light pollution throughout the night.

How does the Dibden Bay site measure up in respect of these four characteristics? Let us consider each in turn.
1. ENVIRONMENTAL PROTECTION OF SENSITIVE SITES

It must have been a very black day for the owners of Dibden Bay when parts of the foreshore were classified as a Site of Special Scientific Interest. Other top-level protective designations have been similarly entrenched. This has meant that the site can be developed as a port only if there is an overriding economic imperative to do so. In other words, the protected land must not be touched unless there is absolutely no other available option. From the point of view of Southampton Port, there does seem to be little alternative—but that is not true of the South East as a whole, as I shall discuss later in this document.

2. THE UNSIGHTLINESS OF CONTAINER STACKS AND GIANT CRANES

If one were hoping to gain permission and approval to expand a port, the worst possible location to choose for it would be cheek-by-jowl with an outstandingly beautiful area such as the New Forest, which is rightly regarded as a national treasure. Ordinary port paraphernalia would be hard to screen. Stacks of containers might conceivably be camouflaged by carefully planned arrangements and strictly enforced height limits. Yet, nothing at all can be done to lessen the towering impact on a beautiful rural scene of colossal cranes—which would be far more visually intrusive than anything (including power stations and the Fawley Refinery) with which the Forest has previously had to cope.

3. TRAFFIC MOVEMENTS

Any port at Dibden Bay would impose a tremendous burden on the road and rail networks, neither of which is capable of bearing it. The A326 already struggles under the existing weight of traffic. Much of it is a single carriageway and none of it reaches motorway standard. When previously a container port at Dibden Bay looked like being imposed, I raised the possibility of whether a prefabricated drop-down tunnel could be installed under Southampton Water—like one of the service tunnels which have long been in place there, but on a larger scale. By taking container traffic into and out of a port, this would avoid the congested A326 and feed into the motorway network. So far as I recall, ABP’s response was to suggest that the motorway system would be unable to cope. How the poor A326 was expected to manage was never really explained!

4. NOISE AND LIGHT POLLUTION

These are inevitable features of a major port, which is another reason that few communities wish to live in close proximity to one. For the residents of Hythe and Marchwood, a Dibden Bay port would be a permanent nightmare of disturbance, disruption and perpetual traffic congestion.

TO SUM UP

Dibden Bay could not be located in a worse position, as a potential container port, from the point of view of each of the four criteria set out above. Its foreshore has been granted the most stringent protected status, which can be overridden only when there is absolutely no alternative. It is next door to one of the most beautiful landscapes in England, which it would irreparably degrade. It is serviced by utterly inadequate road and rail connections, which would be choked by container traffic. Finally, to add to the general misery, it is sandwiched between the communities of Marchwood and Hythe, where a natural gap would be replaced by an overpowering, intrusive and very noisy neighbour.

IS THERE ANY ALTERNATIVE?

In my two presentations to the Dibden Terminal Inquiry, on 29 November 2001 and 4 December 2002, I set out in detail the history of the various arguments put to me by ABP over the previous three to four years. The full text of these presentations is available in the Dibden Bay section of my website, www.julianlewis.net. At the time of the 2001–02 Inquiry, it is no exaggeration to say that the entire community was united against the development of Dibden Bay as a port. This was not just parochialism by the people most immediately affected; it was also the considered view of democratically elected District and County Councils covering areas far afield but, nevertheless, unanimous that Dibden Bay was an unsuitable site for port development. I was particularly impressed, during a visit to Hampshire County Council, at the extent to which members representing wards far removed from the New Forest had conscientiously visited Dibden Bay, examined the issues and firmly concluded that the scheme was inappropriate.

Many organisations which campaign on environmental and natural habitat issues were adamantly opposed to the port scheme, and no one could understand why ABP was so committed to it given the availability of alternatives such as Shell Haven (now London Gateway), Bathside Bay (at Harwich), and Felixstowe.

As I explained to the Inquiry, ABP’s initial argument was that the small number of really large container firms would want a single port of entry into the United Kingdom, for reasons of financial economy. Thus, ABP argued, if it did not expand into Dibden Bay, the port of Southampton will begin to die as container firms took all their trade elsewhere. Yet, once it became clear that other ports were going to be built or expanded in the South East, ABP completely changed its tune, arguing that—regardless of what they had been saying about a single port of entry—there would still be enough container trade to justify building
Dibden Bay. All this convinced me that ABP was fixated on developing Dibden Bay and the arguments it used were simply excuses for a preconceived decision that, as it owned the land, one way or another it was determined to develop it.

The combination of top-level environmental protection and the existence of alternative container sites in the South East which were capable of expansion, proved decisive. The Dibden Terminal Inquiry recommended rejection of the scheme; the Government agreed, and a great weight of anxiety was lifted from the shoulders of the community when this result became known in April 2004. This was only five years ago, and so another question arises.

Why is Dibden Bay Back on the Agenda?

As recently as September 2006 it still appeared that ABP’s Dibden Bay port aspirations were out of the question. What was described as a “Huge Dock Expansion” at the Southampton Container Terminal was prominently reported in the local press, and our local daily newspaper—which had backed the port proposal—was honest enough to admit that this alternative method of expanding port capacity was a belated vindication of the arguments put forward by such people as Paul Vickers, Residents Against Dibden Bay Port and me.

At the ABP exhibition concerning the Master Plan in September this year, I met Mr Patrick Walters, the Commercial Director, and asked him if ABP had completed the expansion scheme in the existing docks publicised three years earlier. He informed me that, in view of the world economic situation, the planned expansion had only partly taken place—though he confirmed in a subsequent letter that ABP “fully intend to undertake that expansion subject to market demand”. This hardly suggests a pressing need, now, in the immediate future, or even in the medium term, for expansion into Dibden Bay.

I was puzzled, therefore, why the Dibden Bay port proposal should have reared its ugly head again—much to the dismay of so many of my constituents who live in Totton and on the Waterside, in particular. There seemed to be two possible explanations.

The first explanation was that given by Mr Walters when I met him at the exhibition and in his subsequent letter. He indicated that major firms, like ABP, involved in the transport industry have been strongly encouraged by the Government to prepare long-term Master Plans. Because such a lengthy forward period has to be considered, ABP naturally felt it necessary to bring up Dibden Bay now, even though in the normal course of events, it might not have done so for some time to come. On the other hand, I see from the Master Plan Pre-consultation Draft (pp 74–75) that ABP predicts needing to expand “beyond the operational port estate” some time between “2021 and 2027”. Since it is thought “prudent to adopt a lead-in time of nine years”, this suggests that the issue of Dibden Bay might well have re-emerged as early as 2012, irrespective of the need to produce a long-term Master Plan.

The alternative explanation for ABP re-opening the issue now is, frankly, more sinister. Normally, after a year-long Public Inquiry and a hugely detailed report rejecting an application, one would not expect to try again for a very long time. However, there has been one major change. A new system has been introduced by the Government in what may prove to be its final months in office. This is the so-called “Infrastructure Planning Commission” (IPC) which came into existence on 1 October 2009. It is meant to introduce what is described as “a fairer, faster and more inclusive system for making decisions about nationally significant infrastructure projects”.

Ever since this new, faster system was proposed in a Green Paper in April 2002, I have feared that it could make it easier for projects like the Dibden Bay port scheme to be approved. However, when I raised this with the relevant Cabinet Minister, Ruth Kelly, she assured me that it would simply be a question of identifying the key factors sooner, with the result that “the [Dibden Bay] proposal would either have been accepted or [would] never have got off the ground”.

Nevertheless, I remain suspicious that ABP sees the new IPC as offering it a better prospect of gaining approval for a port at Dibden Bay than existed under the previous Planning Inquiry arrangements.

Given the possibility of a change of government in a few months’ time, I must therefore draw your attention to a letter by my Parliamentary colleague, Bob Neill MP, the Conservative Shadow Planning Minister, in yesterday’s Sunday Telegraph. He states that the IPC “will have the ability to ride roughshod over public opinion and impose major projects . . . on local communities”. He criticises the IPC as being designed to “base its decisions on national policy statements issued by ministers as diktats with no substantive vote in Parliament”, thus exposing its decisions to possible challenge in the European Courts.

I am pleased to see that he concludes by committing a new Government to “abolish the Infrastructure Planning Commission and put democratic accountability back at the heart of planning”.

Conclusion

There seems to be no more reason for expecting permission to be granted for a port at Dibden Bay than there was when it was rightly refused in 2004, following the long Inquiry in 2001–02. The foreshore is as environmentally sensitive and heavily protected as it ever was. The New Forest remains next door to the proposed port. The roads are no wider and the railway is no more capacious than before. Just as the
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transport horrors are undiminished, so the quality of life for Waterside residents would be gravely undermined. Even now, some fear that “planning blight” is descending on their properties in the villages near Dibden Bay.

All the organisations, interest groups and elected local authorities which opposed the Dibden Bay port scheme last time, resolutely oppose it now—and so do I as the local MP. It is a mystery why ABP thinks that its prospects of success will be any better in the midst of an economic recession than they were in more prosperous times past. The Infrastructure Planning Commission, on which ABP is probably relying, will not survive a change of government. This scheme has caused great anguish and anxiety in years gone by: there is no justification for reviving it now.

Memorandum from the CBI (NPS 48)

1. The CBI welcomes the opportunity to comment on the Department for Transport’s (DfT) draft National Policy Statement (NPS) for Ports. The CBI was a strong supporter of the 2008 Planning Act which we hope will deliver a more certain, transparent and efficient planning process for determining nationally significant infrastructure projects, such as ports.

2. The CBI has discussed the draft Ports NPS with its membership, which includes port operators, users of transport networks, the shipping industry, and the legal profession. These discussions have taken place alongside our consideration of the suite of draft energy NPSs published by the Department for Energy and Climate Change (DECC).

3. The CBI believes that the draft NPS is a good start for developing a framework of planning policy that, subject to the comments below, can improve both the efficiency and transparency of the planning system for encouraging investment in nationally significant infrastructure projects. We will continue to discuss the draft with our membership and may make further representations to both Parliament and the Government.

4. Our conclusions and suggestions are divided into two groups: the first pertaining to sector specific issues; and the second pertaining to the Government’s overall approach for developing a coherent and legally robust framework of NPSs for all sectors.

5. This consultation response argues that, in the context of the draft Ports NPS:

   — The demand assumptions point to a compelling need for additional port capacity development between now and 2030;

   — The draft should reference other Government policy documents to underline the strategic importance of international gateways;

   — The draft may under some interpretations undermine the free market approach for planning port capacity in England and Wales;

   — The draft provides appropriate guidance for managing greenhouse gas emissions arising from new port development; and

   — Master-plans that port operators are encouraged to develop in consultation with local people and businesses should be referenced.

This consultation response also argues that, in the context of the Government’s overall approach for developing a coherent and legally robust framework of NPSs for all sectors:

   — The guidance for identifying and assessing alternative proposals and sites for nationally significant infrastructure projects needs to be made coherent across sectors;

   — Greater clarity is necessary on how designated, and draft NPSs are weighted in other development consent regimes; and

   — Clarity is required on which decision-makers are able to determine amendments to extant development consent orders for nationally significant infrastructure projects.

The demand assumptions point to a compelling need for additional port capacity development between now and 2030

6. The CBI supports the Government’s conclusion that in light of global economic trends there is a strong need for port expansion over the coming twenty years. The prime long-term economic drivers for port expansion are: global economic and population growth; increased globalisation and trade intensities; and lower trade barriers.

7. Historic economic data shows a clear growth in UK trade of goods. In 1999 the UK traded around £150 billion in goods with non-EU trading countries (where shipping is the primary mode of transport). By 2008 this had risen to £273 billion. The significance of this trend is underscored by the fact that as a percentage of UK GDP, trade in goods with non-EU countries has risen from 16.2% to 18.9% in the same period.
8. Whilst the effect of the current recession on the demand forecasts undertaken by the Government in 2006 and 2007 cannot be overlooked, the CBI supports the Government’s approach to continue to plan for port expansion in line with these forecasts. This is a reasonable approach, as after the falls in levels of UK GDP and international trade during 2008 and 2009, sustained future growth in economic activity and trade will push both of these closer to forecast levels, however the precise timing is likely to have been altered.

9. The CBI does not feel it appropriate therefore to delay the designation of the Ports NPS to re-run the demand forecasts in light of the recent recession, for the following reasons:

   - As discussed, whilst annual actual traffic volumes may be lower than forecasted up to 2030—the aggregate volume of traffic growth can be expected to materialise in the years following 2030 (in light of the long-term economic trends discussed above);
   - Were demand to fall short of the demand forecasts it would not undermine the operational efficiency of the sector—excess capacity exists within an efficient and competitive ports sector to accommodate shifts in demand and changes in customer needs; and
   - The private management and ownership of many UK ports means that commercial considerations provide a natural check on the development of an excessive supply of port capacity.

The draft should reference other Government policy documents to underline the strategic importance of international gateways

10. The compelling need for port expansion detailed in the draft Ports NPS should be enhanced through references to the conclusions of other Government policy documents, in particular Department for Transport’s Delivering a Sustainable Transport Strategy (DaSTS) and other NPSs.

11. DaSTS was the culmination of detailed consultation exercise following the 2006 Eddington Transport Study which examined how end-to-end journey experiences could be improved through focusing on the development of key strategic transport centres and corridors. The importance of the UK’s international gateways, such as ports, was underscored by DaSTS with seven out of the fourteen identified “core strategic corridors” linking a major UK port. The CBI supports the DaSTS approach to focus on the strategic management and development of these corridors to improve the integration of UK transport networks.

12. The planning system should reflect the conclusions of DaSTS and the strategic need to plan and invest in enhancements on an integrated basis. In line with DaSTS the draft NPS should therefore reference how important ports are for improving UK connectivity. The National Networks NPS (which the CBI understands will be published in shortly) should also draw upon the conclusions of DaSTS so that collectively NPSs provide a clear statement of need for delivering greater capacity and improved connectivity across UK transport networks.

The draft may under some interpretations undermine the free market approach for planning port capacity in England and Wales

13. The CBI welcomes the reaffirmation of Government’s commitment to the commercial ownership and management of UK ports industry, which follows on from the 2006 Ports Policy Review, and the subsequent 2007 Interim Ports Policy Review. The UK has benefitted from a market-led ports industry, where expansion is driven by the commercial considerations of investors. The sector has accommodated strong growth in all forms of traffic over the past decades, whilst delivering further improvements in productivity.

14. We are concerned however with wording of key sections of the draft Ports NPS that we believe may enable a decision-maker to consider commercial competition issues as a legitimate planning matter when determining a planning application for a major ports project. The key sections are 2.7 to 2.8.1 inclusive.

15. Section 2.7 entitled “Commercial impacts” states that “The decision maker may need to make judgements as to whether possible adverse impacts would arise from the impact of the development on other commercial operators.” Whilst section 2.7.2 identifies “increased traffic” as a possible adverse impact, it is unclear whether this is referring to road and rail container/freight inland traffic, or shipping traffic. Moreover this is just one example, which implies that there are other commercial “adverse impacts”.

16. Increased strain on inland transport links arising from a major new port development is a legitimate planning issue. This is directly referred to in section 2.8.1 entitled “Competition”, and the subsequent section 2.17 on Transport. Outside of the need to mitigate these adverse impacts, CBI members cannot conceive of any other commercial impacts that could be considered legitimate planning considerations.

17. Negative impacts that arise from anti-competitive behaviour should be dealt with under the 1998 Competition Act through the work of the Office of Fair Trading—not through the planning system.

18. The CBI would support the redrafting of sections 2.7 to 2.8.1 to make clear that decision-makers may only consider the adverse impacts of increased inland traffic on the ability of established commercial port operators to compete effectively when determining applications for major new port developments. Indeed, the NPS should be clearer in defining what organisations may be classed as “commercial operators” by clarifying whether it includes only port operators, or any other affected businesses or organisations.
The draft provides appropriate guidance for managing greenhouse gas emissions arising from new port development

19. The CBI recognises that a reduction in absolute greenhouse gas emissions across the economy by 80% is necessary by 2050, and that businesses from all sectors will play an important role for meeting this target. Greenhouse gas emissions from shipping operations are growing, and will need to be managed if shipping is to play its part.

20. The draft NPS is right to state that the environmental impacts of increased greenhouse gas emissions from shipping operations at proposed port developments are to be dealt through other regulatory mechanisms, and are not therefore a planning consideration. The CBI supports the development of a global carbon trading mechanism for international shipping (and aviation). The development of a global price for carbon will be the most effective way for driving low-carbon innovation and energy efficiency, and rationing the supply of relatively carbon intensive activities.

21. The CBI supports the guidance in section 2.13 for decision-makers to ensure applicants have considered, and where possible adopted reasonable options to design new port development to limit operational greenhouse gas emissions.

22. However the wording of section 2.13.9 seems anomalous where it outlines the possible need for decision-makers to consider the development of inter-tidal habitats for “offsetting” carbon emissions (presumably as a “carbon-sink”). Currently there is no requirement in the planning system for port applicants to develop “offsetting” strategies and we therefore would welcome clarity regarding the Government’s intention behind this section. As discussed, where realistic opportunities exist to provide “carbon sinks” applicants should undertake such schemes.

Master-plans that port operators are encouraged to develop in consultation with local people and businesses should be referenced.

23. Following the 2007 Interim Ports Policy review, all major port operators in England and Wales have been encouraged to develop master plans in consultation with local people and business about the operational use, and future development of their port. This is an important undertaking, which whilst resource intensive does enable constructive dialogue between port operators, local people and businesses about existing and possible future operations.

24. The CBI believes that the outcomes of this process should be a consideration for decision-makers, and would support a reference to the master plans in the Ports NPS. Where an application for the major expansion of a port is consistent with the vision outlined in a port operator’s master plan, weight should be given to application based on the consultation that has already been undertaken on the master plan.

The guidance for identifying and assessing alternative proposals and sites for nationally significant infrastructure project needs to be made coherent across sectors;

25. The consideration of alternative locations of major development proposals is an important aspect of the planning system. Assessing alternatives is an important process to ensure developments are designed to take advantage of reasonable opportunities to limit the impacts of development on the environment, and local people and businesses. The need to consider alternatives arises across various consent regimes, however is most stringent where an application is required to undertake an appropriate assessment under the Habitats Directive.

26. The process for identifying and assessing alternatives is resource intensive and has placed disproportionate burdens on applicants promoting infrastructure projects in the UK. The CBI therefore welcomes the Government’s decision to introduce new guidance to decision-makers (and applicants) through the draft NPSs—for Ports and Energy—to provide more certainty to applicants, and remove the scope for unnecessary burdens being placed on them.

27. The guidance in the draft NPSs for Ports (see section 2.3) and Energy (see Overarching Energy NPS [EN 1] section 4.4) on this issue are however different. Both approaches appear to have been developed to provide more clarity, but have different styles and in places different wording. The CBI would question the appropriateness of adopting separate approaches for guiding decision-makers on how to consider alternatives: it would undermine the need to provide applicants with more certainty about their responsibilities; and may expose future applications and the activities of decision-makers to legal challenge.

28. The CBI would therefore support the development of a coherent body of text on how alternatives are identified and assessed across all sectors, based upon the following considerations (which are broadly identified in both the Ports and Energy NPSs, albeit in different styles):

— Alternatives need not be assessed where a project does not have any significant local adverse effects.
— Alternatives should only be considered that have a realistic prospect of delivering an identified compelling need for infrastructure, in terms of them being physically and/or commercially viable.
— Alternatives must be in accordance with the policies of relevant NPSs.
— Alternatives presented by third parties should not be “vague or inchoate”, with an onus on third parties to present evidence for why it should be considered a realistic alternative.
Greater clarity is necessary on how designated and draft NPSs are weighted in other development consent regimes.

29. NPS policies are a consideration for other development consent regimes which may determine infrastructure schemes that fall below the thresholds established in the 2008 Planning Act. Most notable these are the town and country planning regime, and the marine licensing regime established in the 2009 Marine and Coastal Access Act.

30. The department for Communities and Local Government (CLG) published a letter in the name of the Chief Planner that it sent to all local authority chief planning officers on the 9 November. This outlined the Government’s view that local authorities should take account of policies included in NPSs when determining planning applications for infrastructure projects that do not exceed the qualifying thresholds in the 2008 Planning Act. The weight to be given to draft policies is however less clear, and the letter does not have any statutory weight in the planning process (the CBI understands that this letter constitutes the “further information” to be published by CLG on this issue, referred to in section 1.3.3 of the Overarching Energy NPS).

31. The CBI would support the inclusion of a coherent body of text for NPSs across each sector clarifying the weight of policies in both draft and designated NPSs for projects that fall below the thresholds included in the 2008 Planning Act. This would provide statutory weight to the Government’s view that NPS policies are a material consideration for other development consent regimes, and provide more certainty for applicants.

Clarity is required on which decision-makers are able to determine amendments to extant development consent orders for nationally significant infrastructure projects.

32. It is possible that in some circumstances aspects of nationally significant infrastructure schemes may need changing after they have gained a development consider order under the 2008 Planning Act.

33. The CBI is currently unclear whether such alterations are possible, and whether they would necessarily have to be determined by the IPC or by a local planning authority or another decision-making body (this may require legislative change, or the use of the powers under section 14 (3)(b) of the 2008 Planning Act, which grants the Secretary of State power to make further provision about the types of projects to be determined by the IPC). If the latter, then further guidance is needed about the weight of the NPS for such applications (as discussed above).

34. The CBI would support clarity about the process, and application of NPSs policies for determining applications to amend extant development consent orders for nationally significant infrastructure projects. Such clarity could be provided through the redrafting of the draft Ports and Energy NPSs.

January 2010

Memorandum from the Campaign to Protect Rural England (CPRE) (NPS 49)

SUMMARY

— The central principle in the draft Ports National Policy Statement (NPS) seems to be that we cannot predict the future so that it is important to provide as much capacity as possible to provide flexibility (para 1.11.8).

— CPRE believes this can hardly be described as a “compelling case” for new capacity, particularly as the draft NPS concedes that there is sufficient consented capacity for predicted demand over the next twenty years (1.11.7).

— The environmental and sustainability criteria are seriously lacking in the draft NPS. The requirement to consider alternative ways of providing more capacity ought, for example, to be strengthened to include making better use of existing infrastructure.

— Without a requirement for applicants to show there has been consideration of a wide range of alternative options, which is lacking in section 2.3, there will be a conflict with sustainability tests as well as the principles of the DfT’s Delivering a Sustainable Transport Strategy (DaSTS). This would create a disjointed approach to integrating planning for transport infrastructure on land and at ports.

— There is a fundamental incompatibility between the draft NPS and the principles of the Climate Change Act 2008. By ignoring intermediate carbon budgets and instead focusing on the headline target of “at least 80%” reductions in emissions by 2050, well beyond the currency of the draft NPS, the Appraisal of Sustainability appears seek to sweep carbon under the carpet.

— In the light of the failure at the COP15 negotiations at Copenhagen to reach any international agreement on trading of shipping emissions, which are growing faster than any other sector, the requirement for decision makers to disregard carbon emissions from shipping (2.13.3) is untenable.
The draft NPS could plan to focus increases in shipping at ports best able to cater for increased traffic other than by road. Instead, it is extremely weak on reducing the modal share of freight carried by road.

Many of the costs and benefits of developing port infrastructure are incommensurable and fall on different sections of society. In this context, we fear that local interests are likely to be outweighed by presumed benefits to developers and the economy.

The draft NPS is based on ports policy from 2007 and the consultation gives the impression it is simply about the best way to set this policy out in a new format. Yet, without a real chance to influence policy in this NPS, there will be little democratic legitimacy in the new fast-track planning process that takes away many of the opportunities of the public to challenge issues of need.

Given the lack of need in the near future for new port capacity and the serious problems with the draft Ports NPS outlined above, it is essential that we do not rush to meet an artificial political deadline in designating it. It needs fundamental redrafting followed by a fresh round of public consultation.

Introduction

1. We welcome the opportunity to submit evidence to the Transport Committee on the proposals for a Ports National Policy Statement (Ports NPS). As a leading environmental charity, the Campaign to Protect Rural England (CPRE) has worked to promote and protect the beauty, tranquillity and diversity of rural England by encouraging the sustainable use of land and other natural resources since our formation in 1926.

2. We see the planning system as an essential tool for protecting and enhancing the countryside. We are one of the leading voluntary organisations engaged in both shaping and operating the land use planning system at all levels. Through our network of local branches, which operate in every county, and our regional groups, we engage in the planning process on a daily basis. Our Essex branch was involved in planning inquiries into Shellhaven and Bathside Bay, and our Hampshire branch in relation to Dibden Bay, while the impacts of traffic from Dover and Felixstowe ports have been highlighted for many years by our Kent and East of England groups respectively.

3. Although CPRE raised significant concerns about the reforms recommended by the Planning White Paper (2007) and implemented by the Planning Act 2008, we have long supported the principle of having statements that set out national policy. NPSs will play a critical role in not just for individual decisions on long-term infrastructure (development control) but also for setting out the vision of future patterns of development (development management). In this context, getting them right, both in terms of content and process, is essential.

A Coherent and Practical Planning Framework

NPSs as planning policy documents

4. As Planning Policy Statement (PPS) 1: Delivering Sustainable Development highlights, sustainable development is the core principle underpinning planning. In order to fulfil this function in an integrated fashion, planning policies at local, regional and national level must operate to deliver the four aims of sustainable development set out in the Government’s Strategy for Sustainable Development (1999). These are:

— social progress which recognises the needs of everyone;
— effective protection of the environment;
— the prudent use of natural resources; and
— the maintenance of high and stable levels of economic growth and employment.

5. Moreover, section 10 of the Planning Act 2008 requires the Secretary of State, when designating a NPS, to do so “with the objective of contributing to the achievement of sustainable development”. Contrary to the sustainable development principles, the Ports NPS places growth in port development above other social and environmental issues.

6. The value of planning lies substantially in aligning, integrating, and ultimately reconciling competing interests within the framework of the long term public interest. The NPS place too much emphasis on a one-dimensional conception of need and fail to provide adequate guidance on, and show sufficient regard to, sustainability criteria. The draft documents also include too little information on how infrastructure should be located to minimise environmental impact and therefore should not be designated in their current form.

7. CPRE has supported the creation of NPSs in principle as a means to clarify national policy on major infrastructure projects in the past, but we do not believe that NPSs should override established planning policy as set out in Planning Policy Statements (PPSs) and Planning Policy Guidance (PPGs). The NPS has not been drafted in the context of PPS1 which sets an overarching framework of sustainable development for the planning system as a whole. If the PPS is intended to operate within the existing framework, we believe explicit reference should be made to PPS1, and the principles of sustainable development should be
Spatial planning for port infrastructure

9. CPRE has long advocated the benefits of a plan-led system. Compared with a simple development-control approach, developing long term plans within which decision-makers operate allows places to be shaped in a way which makes development coherent, and enables consideration of longer term benefits and drawbacks to different development options, with the result that development can be more beneficial to the wider environment. Development Plans are shaped by the views of communities who feed in through consultation exercises, but are also based on national policy and reasonable assessments of need and demand. Because the draft NPS is clear that it will prevail whenever conflict arises between a NPS and a development plan, and because it does not promote an effective spatial planning approach, we are concerned that it will undermine a plan-led approach to port development.

10. If it is to become effective strategic spatial planning documents, we believe they need to give a stronger steer to decision-makers about the optimum locations for new port infrastructure. They do not need to be site specific, but more detailed criteria should be included in the documents to ensure applications come forward for projects located in the most appropriate locations. Key spatial considerations for development will be to minimise transhipment distances across the UK, particularly through sensitive areas by road, and to maximise use of rail and water for onward transport.

11. If it is to be an effective strategic planning document, CPRE also believes that the NPS should give the IPC a steer on the broad port strategy the Government is trying to achieve. This should be legitimately within the scope of the NPSs as the Planning Act 2008 states that they may “set out … the amount, type or size of development … which is appropriate nationally or for a specified area” (section 5(5)(a)). Once the IPC has approved a number of schemes for a certain type of port infrastructure, it may be the case that approving further applications for new infrastructure of that type would not be appropriate.

Dealing with uncertainty

12. The growth forecasts that provide the foundation of the draft NPS are based on those drawn up in 2005 and updated, to take account of the impact of the recession but little else. Effectively this means pushing back existing predictions of demand by a few years. There appears to have been no assessment of fundamental changes to the economy likely due to climate change, both in terms of mitigation costs and also real costs, and the subsequent impact on economic growth rates. It is unclear to what extent changes to the world economy have been considered, for example the growth in China and the weakness in the pound making imports more expensive.

13. The increases in the price of oil towards the end of the last decade or so were not widely predicted and have been heralded as marking the end of cheap oil. One short-term result of the increases has been for many ship operators to slow down their fleet by as much as a fifth although further changes are likely over time. While much planning is based on using past trends to predict the future, this example shows the need to consider differing future scenarios so as to manage uncertainty.

14. Shipping is currently dependent on oil as fuel and so is likely to be affected not just by increases in the price of oil but also by measures taken to constrain carbon use, including possible inclusion within emission trading systems. Some research has suggested that increases in fuel costs would have significant macro-economic effects, in particular for low-value high bulk goods such as steel.54

15. Most ports would be likely to see an end in the growth of long distance shipping, though it has been suggested that some north eastern ports are likely to see an increase in some forms of freight as it would be come cheaper to use them rather than ports in the south east for freight aimed at the north. In terms of inland access, further increases of energy prices would make inland access by road far less competitive and so increases in domestic shipping whether going around the coast or on internal waterways plus rail use ought to be considered in long term planning.

16. Leaving uncertainty to the market to deal with could lead to port infrastructure that is of limited use in the medium term. Not only would there be unnecessary and irreversible damage to local environments, the construction of such infrastructure would eat into carbon budgets that will become increasingly limited over time. The failure to signal the need for a step change in the carbon trajectory through carbon pricing or other regulatory means that the market is ill placed to deal with the fundamental changes needed to our economy in future.

**Climate change**

17. The policy of the draft NPS stems from the *Interim Report* of the Ports Policy Review of 2007 (1.10.1) and so predates the Climate Change Act 2008. In particular, decision makers are instructed to give no consideration to carbon emissions from shipping (2.13.3) and limited weight to carbon emissions from port developments (2.13.6), though it is unclear to what extent this includes the embodied carbon in constructing or maintaining such as dredging.

18. Shipping freight offers lower emissions per tonne than other forms of transport at present but there may be greater scope to decarbonise rail freight by using renewable energy for electric trains than for finding alternatives to bunker fuel for ships. In any event, emissions from international shipping were growing faster than any other sector, until the credit crunch significantly reduced shipping movements.

19. Although much hope was placed in the COP15 summit at Copenhagen to produce an agreement to trade emissions from international shipping, there was little common understanding even as to the appropriate principles for dealing with such emissions. Given that the Climate Change Committee has to have regard to the trends in these international emissions when calculating domestic carbon budgets, ignoring these emissions would have significant impacts, requiring the tightening of domestic budgets.

20. The Appraisal of Sustainability only considers the headline “at least 80%” carbon reduction aspect of the Climate Change Act 2008 and not the carbon budgets in the mean time. As a result, the target is so distant beyond the end of the currency of the NPS that carbon reduction has not been taken seriously. CPRE believes the need to secure reductions in line with carbon emission reduction trajectories set by carbon budgets ought to be included in the NPS.

21. There may need to be advice to separate out trajectories for different sources, if the Government believes that, for example, emissions from international shipping should not be subject to the same reductions as domestic emissions. This could mean providing guidance on the different trajectories for: ships transiting to and from ports; freight leaving and arriving at ports other than by ship; construction, and port operations. Given the privileged status given to aviation emissions, meaning that domestic emissions are now needed to reduce by 90% not 80% by 2050, there is very limited scope for shipping emissions to be privileged as well without requiring domestic emissions to reach almost zero by 2050.

22. At the same time, although much of the justification for the creation of the IPC and NPS process relates to the urgent need to reduce carbon emissions, it does not seem that the IPC will be able to consider how the carbon impacts of new development might affect carbon budgets. CPRE is not advocating that the IPC take charge of delivery of carbon budgets but, as the IPC is the ultimate decision maker on the infrastructure that is likely to deliver the bulk of these targets, it seems paradoxical that it should have no regard to carbon budgets. We support the Environmental Audit Committee’s suggestion that a link be established between the Committee on Climate Change’s (CCC) carbon budgets and the IPC’s guidance.\(^{55}\)

**Balance between national need and local impacts**

23. As the 2007 Planning White Paper recognised the benefits of infrastructure are often widely dispersed and enjoyed by society generally, while the impacts of the projects are felt mainly by those in the immediate vicinity of the installation. Getting the balance between national need and local adverse impacts right will be one of the IPC’s biggest challenges. CPRE is disturbed at the relative lack of attention given to local impacts in the draft NPS.

24. Local Impact Reports (LIRs) should play an important role in enabling the IPC to understand the local impacts a local authority believes a proposed scheme will have. In light of this role, it is disappointing that the guidance for local authorities on developing them has still not been published. CPRE is very concerned that in some cases local authorities may not have sufficient resources to develop a LIR, or where they do they may not assess the full environmental, social and economic impacts on their area. In some cases it might be possible that a local authority would welcome the economic growth a proposed development would bring, so to encourage the IPC to approve the scheme may choose not to cover the full extent of the adverse impacts of a development or assess these fairly.

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Cost-effectiveness

25. The draft NPS relies on the concept of “cost-effectiveness” in many instances. This is undefined and it is unclear if it means cost effective for the developer, cost effective in terms of a Benefit Cost Ratio (BCR) or in terms of Value for Money with DfT’s New Approach To Transport Appraisal (NATA), which includes consideration of impacts that cannot be monetarised, for example damage to landscape, combined with BCR. Given that only port applications that are “likely to have a significant effect on inland transport” (2.17.4) are required to have a Transport Assessment, this suggests that it may be the first.

26. Although it states at 2.17.12 that “transport mitigation measures should accord with the Government’s broader policy objectives for sustainable development as described at section 1.10 above”, the policy in 1.10 refers to the objectives for “sustainable port development”, which seeks merely to minimise carbon emissions rather than secure the reductions necessary to meet carbon targets. This is very different to the concept of sustainable development set out in PPS1.

27. The issue of how benefits and costs of transport schemes are shared across society is a very important one, yet the DfT’s NATA refresh recognised that current appraisal methods barely cover this aspect. Although the draft NPS says that “the decision maker should not grant consent to schemes where the adverse impacts after mitigation outweigh the benefits” (2.17.11), disbenefits such as increased risks of road collisions and traffic intimidation or indeed carbon emissions, from increased HGV movements are likely to be swamped in financial terms by the predicted value of increased port traffic and benefits to developers.

28. Local impacts from port developments may be severe but by reducing them to a small element of overall “cost-effectiveness”, local interests are likely to be outweighed. This is likely to be a particular problem for transport NPSs, which rely on NATA, since relying on headline scores will take away any discretion from a decision-maker about how to weigh differing impacts on local areas. It is akin to “sentencing by numbers” in the penal sphere.

29. One area where the draft NPS does not seem to consider cost-effectiveness is the need to generate a wide range of options when considering whether a transport scheme represents value for money. This is a key element of the DfT’s DaSTS, which likewise post-dates the ports policy that the NPS follows.

Modal share

30. The impacts of HGV traffic accessing ports are felt far beyond ports. Unfortunately the guidance on this is particularly weak, for example: “Broadly speaking, rail and coastal or inland shipping should be encouraged over road transport” (2.17.17). This will make it difficult for decision makers to reject inappropriate port development based concerns about road traffic impacts.

31. The supplement to PPS1: Planning and Climate Change (2007) stresses the importance of “urgent action” to tackle climate change. “Policy 9 Key Planning Objectives” states that regional plans should:

(a) “…deliver patterns of urban growth and sustainable rural developments that help secure the fullest possible use of sustainable transport for moving freight, public transport, cycling and walking; and, which overall, reduce the need to travel, especially by car;”

32. The failure in the draft NPS to guide increases in shipping to ports that could best cater for freight movements by rail and inland waterways, as well as minimising transhipment distances, seems to fly in the face of the objective to “secure the fullest possible use of sustainable transport for moving freight…and…reduce the need to travel”.

33. There is significant scope for better planning to increase shipping to those ports that are close to the thresholds that would make upgrades to the rail network viable. The failure to recognise the positive aspects of better planning, for example in paragraph 2.17.18, is of great concern to CPRE. Rather than demonstrating why it is not considered feasible to use non-road modes for distribution (2.17.5), the applicant should be required to show why other locations with better non-road connections exist—or where they would be easier to secure—should not be preferred.

34. The draft NPS refers to “the ‘background’ growth in ‘third-party’ traffic”. Recent reports from statutory bodies have highlighted the likely incompatibility of continued traffic increases with current let alone future carbon budgets.\(^{56}\) Securing modal shift would reduce the growth in road congestion but unless the benefits are locked in, such benefits might only be temporary. CPRE believes he NPS should only propose co-funding by Government of non-road schemes to ensure that new port development decreases rather than increases the share of freight carried by road.

January 2010

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\(^{56}\) Meeting Carbon Budgets—The Need for a Step Change, the first report from the Committee on Climate Change to Parliament, in its central scenario (Transport Indicators—Table 3.4) assumed the need for car-km to remain stable, even with a very ambitious roll out of new technology. The Commission for Integrated Transport stated in Climate Change and Transport: Meeting the Challenge of Ambitious Carbon Reduction Targets (2009) that there needs to be “consideration of what follows for network needs after the trend of traffic growth is reversed. There should be no presumption of continual growth in traffic (hence congestion)” (para 54).
Memorandum from Netley Marsh Parish Council (NPS 50)

Councillors at Netley Marsh Parish Council living as they do on the edge of Southampton and the New Forest, fully understand the need for adequate port facilities in the UK. Also the need for suitable supporting infrastructure. They have however, asked me to express their concerns on the traffic implications of any port development on the west side of Southampton Water.

Ros Cooper
Clerk to Netley Marsh Parish Council
January 2010

Memorandum from Hull & Humber Chamber of Commerce (NPS 51)

1. BACKGROUND

1.1 Hull & Humber Chamber of Commerce is the collective “voice” of business in the Humber sub-region, representing over 1,500 companies. Membership includes 76% of the top 100 companies in the sub-region with over 250 employees. However, the majority of members are small and medium sized firms, with over 20% of all VAT registered companies with between 5–250 employees in the Humber in Chamber membership.

1.2 This response was produced after consulting members of the Chamber’s Shipping Committee, which is made up of shipping and freight transportation related businesses

2. RESPONSE TO CONSULTATION QUESTIONS

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

Yes. However when a need is identified as in the local, regional and national interest it should be the Government’s responsibility to ensure that the transport infrastructure is adequate to cope with the additional traffic without causing congestion through the towns, cities and regions around the port.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

Yes with the proviso above. Whilst Government claim to favour rail and inland waterways over road transport in reality the modal shift from road to inland waterways has been very small due to the bureaucracy surrounding start-up and the lack of facilities.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

No. Does not highlight sufficiently the positive economic impact of associated businesses serving the ships and the port. Does not mention added value of port clusters and hub ports.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

Yes.

Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

No. Whilst accepting coastal and inland shipping is mentioned the notes to question 5 provide more eloquent and persuasive guidance.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

No. For security reference should be made to the Aviation and Maritime Security Act 1990.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Yes.
Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?
   Yes. However some of our great historic ports have been in existence for over 150 years. The local population moved to be near the ports for employment.

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?
   Yes.

Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?
   Yes.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?
   Yes.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?
   Yes.

Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?
   Yes.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?
   Yes.

Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers
   a) The IPC for port applications over the NSIP threshold; and
   Reasonable providing note is made of previous answers.

   b) The future Marine Management Organisation for port applications under the NSIP threshold.
   As above and that the reduced scale and scope is recognised.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?
   Yes.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?
   Yes.

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?
   Yes.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?
   Reasonably appropriate.
Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

Yes.

3. ADDITIONAL COMMENTS

3.1 With reference to paragraph 1.11.8 of the Draft NPS, we would highlight the importance of the East Coast ports and in particular the Humber ports, which are the largest in the country.

January 2010

Memorandum from the Welsh Assembly Government (NPS 52)

I am responding to your consultation on developing a National Policy Statement for Ports on behalf of the Welsh Assembly Government.

CONTEXT TO OUR RESPONSE

The Welsh Assembly Government recognises that ports form a vital part of the economic and transport infrastructure of Wales. They act as economic drivers, attracting and supporting a wide range of business activity. Ports are also transport interchanges, providing a gateway to the worldwide distribution network in an increasingly globalised economy.

Wales is well endowed with ports, most of which are operating well below capacity. Whilst ports policy is not devolved, the Assembly Government sees its role as putting in place the right strategic framework to allow Welsh ports to realise their full potential. In particular we are conscious of the linkages between ports and the economy and this is reflected in our wider economic and transport policies.

COMMENTS ON THE DRAFT NATIONAL POLICY STATEMENT

In terms of our response to the draft National Policy Statement, we have one general point and two specific points that we would like to make.

The general point concerns the UK Government’s over-arching ports policy, which can be characterised as a market-led, commercially driven approach. This is articulated at paragraph 1.10.1 of the draft National Policy Statement, which makes it clear that the UK Government seeks to “allow judgements about when and where new developments might be proposed to be made on the basis of commercial factors by the port industry or port developers operating within a free market environment”. Similarly at paragraph 1.11.9 the National Policy Statement says “…the Government does not wish to dictate where port development should occur. Port development must be responsive to changing commercial demands, and the Government considers that the market is the best mechanism for getting this right, with developers bringing forward applications for port developments where it considers them to be commercially viable”.

In contrast, the Welsh Assembly Government recognises that ports in Wales are operating below capacity and that they face specific challenges which justify a more strategic approach to their development. We see our role as putting in place the right strategic framework to allow Welsh ports to realise their full potential. In recent years we have worked to put in place a strategic policy and planning framework which fully recognises that ports form a vital part of the economic and transport infrastructure in Wales. This includes a number of schemes that we are taking forward to improve surface access to ports.

As part of this approach, we believe that public investment in ports can be justified in certain circumstances. This reflects the role that ports can play in stimulating local and regional economies, as there are circumstances in which the public investment can be justified by the wider economic benefits. For example, many Welsh ports are relatively remote and investment in their facilities can often be the only realistic catalyst for regeneration in the neighbouring towns or for stimulating the local economy. Any such investment would need to be considered on a case-by-case basis and we fully recognise the need to avoid any distortion of competition and to take account of the state aid implications.

Apart from this point about our different perspectives on ports policy generally, we have only two detailed points on the draft National Policy Statement as follows:

— Our view is that the absence of any reference to port master plans is an omission from the National Policy Statement. We feel that it would be appropriate for the Infrastructure Planning Commission (and indeed the Marine Management Organisation) to take account of any relevant port master plans when making decisions on proposals for new port developments. As we understand it, the original intention was that the master plans would be drawn up largely for the benefit of regional and local planning bodies and local stakeholders, so it would seem strange if the IPC were not able to take account of them when making decisions on the most significant port development proposals. We fully accept that the IPC will need to take account of the fact that the master plans will set out a particular perspective on the strategic development of the ports, given that they will have been drawn up by the port operators themselves.
It would be helpful if paragraph 2.17.4, which refers to the need to undertake a transport assessment for port applications likely to have a significant effect on inland transport, could refer to the Welsh transport appraisal guidance (WelTAG), which is our equivalent of NATA/WebTAG. The simplest way to do this would be to expand footnote 45 by adding “The equivalent for Wales is WelTAG: http://wales.gov.uk/topics/transport/publications/weltag/?lang=en”

Finally, I would like to put on the record our appreciation of the open and constructive way in which you have worked with us to draw up the draft National Policy Statement. We were also grateful to you for holding one of the consultation events in Cardiff, which provided stakeholders in Wales with a valuable opportunity to learn more about the National Policy Statement and to feed their views into the process.

January 2010

Memorandum from Hull City Council (NPS 53)

Thank you for giving Hull City Council the opportunity to comment on the proposed National Policy Statement for Ports. Before answering the specific questions, there are a number of points that apply to the consultation in general and which should be borne in mind when considering the answers to the specific questions.

Hull City Council is unsure of the value of delegating the power to make decisions on such major projects to a non-elected body where no clear accountability exists.

As many of the different NPSs are inter-linked, it would be better for them to be designated at the same time. Given the relatively short timeframe during which they are all due to be designated, with most being due in 2010 and the rest by 2012, this should not prove too difficult.

Hull City Council notes that whilst the IPC will receive payment for the determination of applications, none of this is to be passed to the local authorities. Given the large resource implications for Local Authorities arising from this new process, it is considered that a percentage of the fees received should be available to local authorities or alternatively that alternative Government funding is provided. This will help to defray some of the costs that Local Authorities will incur as a result of the requirements for them to carry out pre-application work with developers, host examinations, the policing of conditions, production of Local Impact Reports etc.

Hull City Council welcomes the recognition the NPS gives to the need for market forces to remain as the drivers behind port development. It is considered essential that all applications determined by the IPC are linked to wider infrastructure provision and it is considered essential that where port development is directed the appropriate improvement to the transport network linking to the port is also funded by the development itself or through central government funding. In the case of Hull this link between the proposals to improve rail and road access to the port and regional transport board funding decisions is key. These decisions should be linked so as to ensure that development only occurs at locations where proposals for infrastructure improvements have been firmly established.

Our responses to the specific questions are as follows:

Q1: **Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?**

The document is not specific enough in terms of location or predicted future demand to be useful in guiding development, further detail is required on the role of Northern ports in helping to alleviate congestion from the greater south east ports especially where goods being landed are being distributed to the North of Britain.

Q2: **Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?**

The treatment of inland access is concentrated around the immediate Ports it should be broadened to reflect the wider National road and rail network inland waterways network connections.

Q3: **Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?**

Many ports are situated in or adjacent to protected areas. Whilst recognising the importance of economic activity, the presumption in favour of development and imperative reasons of over-riding public interest should not be allowed to routinely over-ride ecological, environmental and historical issues and concerns.

The document struggles to give any form of guidance on the relative priorities of economic, social and environmental issues in terms of future port development. Where ports are proposed in internationally protected areas reference to the Habitats Directive and need for appropriate assessment is required.
Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

The role of ports and transportation of goods has clear implications for climate change and the location of ports adjacent to seas also has implications for rising sea levels. The NPS needs to reflect this in greater detail and confirm that in reality port operations will be located in areas at risk of flooding due to operational requirements and the transportation of goods by sea rather than air has a less damaging impact on the environment.

Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

No comment.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

No comment.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Greater reference is required which demonstrates the need for port operators to invest in the local population around ports to ensure they are sufficiently skilled to work on the ports. Technological advancement in port operations over the last couple of decades has led to the work becoming less labour and more machine intensive. As a result the retraining of local people in these new skills is essential to ensure that the community feels associated with the port and jobs are occupied by local people.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

and

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

See Q3.

Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

See Q3.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

See Q3.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

and

Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

Paragraph 2.3.2 points out that under the Planning Act 2008, there is no requirement for the decision maker to establish whether the proposal represents the best option amongst various alternatives. This NPS could have given that direction. This would assist in achieving the aims and criteria of the NPS by ensuring the best option for sustainability, best option for the economy, best option in terms of design etc. were approved.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?

It is not clear how the cumulative and in-combination/synergistic impacts of port development will be considered. It is conceivable that over time a port operator could put forward a number of small schemes to avoid the development being over the threshold for an IPC decision. The links between the need for wider infrastructure improvements to accommodate port development should be considered in more detail.
Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers
a) The IPC for port applications over the NSIP threshold; and
b) The future Marine Management Organisation for port applications under the NSIP threshold.

Paragraph 1.2.1 of the draft NPS for Ports refers to non-ports associated development being considered on a case by case basis using appropriate assessment methods consistent with the NPS and with applicable official guidance. Hull City Council feel this is not sufficiently clear and request a more explicit definition be provided. The use of a simple table would enable the requisite clarity and could show what development falls within the remit of the IPC, MMO, local authorities and port authorities respectively. Such a table could be integrated with the one we suggest in question 16 relating to permitted development.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

There is little consideration of Trans European Network connections and issues. These need to be considered.

The document reflects closely on “new” port development but says little about the “permitted” development in existing ports—the latter might actually be much more significant than the former in terms of impact. It is essential a table is produced confirming what is permitted development and who the appropriate decision making body is for different types of applications proposed within the boundaries of the port.

Q17: Is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?
And

Q18: Is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

See Q13.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

Q21: Has the AoS considered all the relevant plans, policies and programmes?

Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?

Q24: Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?

Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?

Q28: Do you agree with the results of the assessment of alternatives?

Q29: To what extent do you think the approach used to identify and assess effects is appropriate?

Q30: To what extent do you think the assessment correctly identifies the sustainability effects of the draft NPS?

Q31: Do you agree with the recommendations proposed in the assessment?

Q32: Have any key findings from the AoS report not been taken account of properly in the NPS?

Q33: To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?

Q34: To what extent do you think the Appropriate Assessment is a suitable high-level assessment of the impact of port development on protected sites and species?

Q35: Do you agree with the analysis of costs and benefits set out in the Impact Assessment?

Q36: Are there any impacts of producing a National Policy Statement that have not been considered?

No comments to Q19 to Q36.

January 2010
Memorandum from the National Assembly for Wales’s Enterprise and Learning Committee (NPS 54)

I am writing on behalf of the National Assembly for Wales’s Enterprise and Learning Committee, which I chair.

We are publishing on Monday 25 January the report of our inquiry into the Future Rail Infrastructure in Wales (electronic copy attached).57

In relation to paragraphs 21–23 of your consultation paper, I would be grateful if you could take into account the section in our report on Freight, and in particular our comments and recommendation in paragraph 83, which states:

“The Wales Freight Strategy includes an action to identify port locations where new facilities could be developed, including rail transport terminals. The Welsh Affairs Committee’s report on Ports in Wales concludes that many Welsh ports are disadvantaged because of inadequate rail links and that a more integrated approach is needed to policy and planning. Rail Freight Group also told us that ports suffered because of the lack of rail gauge capability.”

“We recommend that the Welsh Government and Network Rail prepare an action plan to identify and connect appropriate ports in Wales to adequate rail infrastructure in order for rail to compete with road and to fit operationally and financially with industries’ logistics and distribution networks. We further recommend that the Welsh Government should ensure the Department for Transport’s current consultation on a national policy statement for ports in England and Wales reflects Welsh priorities.”

I would be grateful if you could incorporate the Committee’s comments into the summary of your consultation responses. Please do contact the Committee Clerk if you need any further information.

January 2010

Memorandum from the Countryside Council for Wales (NPS 55)

NATIONAL POLICY STATEMENT—PORTS
HABITATS REGULATIONS ASSESSMENT

Thank you for giving the Countryside Council for Wales the opportunity to comment on the Habitats Regulations Assessment for the National Policy Statement on Ports. Our comments are made in the context of our responsibilities under the Conservation (Natural Habitats & c) Regulations (as amended) and as advisors to the Welsh Assembly Government on the natural heritage of Wales and its coastal waters. In general, CCW welcomes the eorts made in undertaking this HRA process however, the HRA report raises a number of issues and concerns. Our specific comments on the HRA report are contained within Annex 1 to this letter. Our general comments follow below.

In respect of “compensatory measures”, the suggestions in this Section 37 of this Report in determining whether and what “compensatory habitat would be appropriate should conform fully to the requirements of Article 6(4) of the Habitats Directive and to relevant EC guidance on the matter. Sections 5.4.1, 5.4.2 and 5.4.3 of Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC” clearly indicates the nature of acceptable compensatory measures under Article 6(4) of the Habitats Directive. Proposals or suggestions for compensatory measures that do not conform to the Habitats Directive, to relevant EC guidance and to caselaw are not acceptable. CCW are particularly concerned by the suggestion that “equal value” measures may be acceptable, especially given the failure to indicate what those measures might be.

More clarity is required in respect of cancellation, avoidance and reduction measures in respect of potential adverse effects on European Sites and Ramsar Sites (which have not been included within this section). Reference should also be made to the precautionary principle, embedded within the Habitats Directive.

In order to clarify the HRA approach where there is uncertainty regard the nature/extent/location of potential adverse effects on European Sites when a Plan is implemented, and to ensure compliance with the Habitats Directive, it would be appropriate for a caveat to be imposed on the Ports NPS to state that any proposed development (project) that could have an adverse effect on the integrity of a European Site must be subject to all relevant assessment processes including HRA and EIA.

57 Not printed.
Annex 1

NATIONAL POLICY STATEMENT—PORTS
HABITATS REGULATIONS ASSESSMENT

INTRODUCTION

1: Clarification is required as to whether other transport sectors eg rail, will be the subject of National Policy Statements eg in the context of High Speed 2.

2: Clarification is required as to what is understood by a “sustainable” port development. CCW notes that the justifications for port developments within the NPS have been based solely on commercial grounds. It could be argued that port development proposals which fail to consider social and environmental issues on at least an equal basis might not be considered sustainable. Reference should be made to International obligations as well as to European Directives.

4: Reference should be made to International obligations as well as to European Directives.

5: More clarity is required in respect of cancellation, avoidance and reduction measures in respect of potential adverse effects on European Sites and Ramsar Sites (which have not been included within this section). Reference should also be made to the precautionary principle, embedded within the Habitats Directive.

The final sentence of this section refers to Directive(s). As far as CCW is aware, only one Directive under which appropriate assessments are required.

6: In order to clarify the HRA approach where there is uncertainty regard the nature/extent/location of potential adverse effects upon European Sites when a Plan is implemented, and to ensure compliance with the Habitats Directive, it would be appropriate for a caveat to be imposed on the Ports NPS to state that any proposed development (project) that could have an adverse effect on the integrity of a European Site must be subject to all relevant assessment processes including HRA and EIA.

Within the final sentence of this section, reference is made to “appropriate assessment” on “protected sites and species”. AA does not cover impacts on species, other than as features on protected sites.

7: Clarification would be welcomed regarding the “origin” of the HRA process described in this section. The process described does not enable any iteration within the HRA process and fails to include any consideration of “in combination” effects (with other plans and projects).

Stage 3: There is an obligation to consider alternative solutions (or indeed any of the Article 6(4) tests. Whether to consider a plan/programme or project under Article 6(4) is a decision to be taken by those concerned with a particular proposal.

Stage 4: The statement that “consideration should be given to whether the site hosts priority habitats or species” is misleading. Whether a site hosts a priority habitat/species is evident from the Site’s citation and is not a matter for consideration. The issue is not the presence of priority features on the Site(s) concerned but whether they would be adversely affected by the plan/project under scrutiny.

8: Clarification is required regarding the nature and veracity of the “evidence” referred to in this section.

9: Clarification is required as to whether new port developments (including changes in port capacity) will be subject to economic feasibility studies as well as to the required environmental assessments and whether economic feasibility will be taken into account by the IPC when determining applications for port developments.

10 and 11: See comments on 9 above. Reference must also be made to the likely need for ancillary development and to projected induced development resulting from port developments.

12: CCW notes the references to LNG and biomass with concern and would suggest that promotion of LNG facilities and the import of biomass somewhat contradicts National Policy Statements EN1-6 in respect of security of energy supply. CCW would further suggest the import of biomass (with resultant/associated transport emissions, requirement for infrastructure etc) does not constitute a sustainable option for energy production. It would not be appropriate for the UK to resolve its energy issues by deferring environmental problems (including greenhouse gas emissions) to other global environments.

13: Clarification is required regarding “permitted development” and the Habitats Regulations/Directive. Permitted development rights are not applicable where there may be likely significant effects on a European Site.

15: The maps provided are out of date. The Severn and Dee Estuaries are now designated SACs and the Liverpool Bay pSPA boundary is different to that shown. Maps should clearly indicate both pSPAs and cSACs where appropriate. Consideration should also be given to potential/proposed marine designations which may be affected by ancillary/induced developments promoted under this NPS. Consideration should also be given to the inclusion on these maps of European sites directly connected to coastal and estuary areas eg River SACs etc.
18: Consideration should be given to offshore/marine sites which will be “designated” further to the Marine Bill. Consideration should also be given to cumulative and in-combination effects of ports development with other plans and projects, including the whole suite of National Policy Statements (EN1-6; hazardous waste etc; waste water etc).

19: See comments on 6 above.

23: In respect of migratory species and “wide ranging” species associated with, but not necessarily restricted to, European designations, CCW would suggest that migratory fish species need to be specifically considered in addition to their associated habitats eg rivers SACs.

Given the degree of uncertainty regarding the location, nature and scale of potential developments, the high degree of uncertainty regarding the likelihood of effects, the “indicative” nature of habitats/species mentioned in this report and the failure for this HRA to consider “in combination effects”, CCW would disagree with the statement that “port developments are unlikely to affect any currently designated European priority habitats or species”.

Sections 20–23 have failed to give any consideration to sites/species protected and identified under the Ramsar Convention.

24: If avoidance or cancellation measures (mitigation) are proposed, they must be fully effective and certain to be delivered in the implementation of the Plan.

CCW would suggest that “early liaison with regulators and statutory nature conservation bodies” does not constitute a demonstrable mitigation measure.

In addition, and with respect to timing, this HRA report appears to only give consideration to the potential effects from construction activities and not to new port development operation.

26: Regarding avoidance and mitigation, CCW would suggest that the differences between avoidance, cancellation and reduction measures are not “academic”. If avoidance or cancellation measures are proposed, they must be fully effective and certain to be delivered in the implementation of the Plan.

27: CCW notes that the two areas identified as supporting IROPI, relate to economic growth and social progress. Given our comments on 2 and 8 of this response, CCW is unconvinced that IROPI is justified in this instance.

The concept of IROPI is not defined in the Habitats Directive however Article 6(4) mentions human health, public safety and beneficial consequences of primary importance for the environment as examples of IROPI. As regards the other IROPI of social and economic nature, it is clear from the wording that only public interests, promoted either by public or private bodies, can be balanced against the conservation aims of the Directive. Projects that lie entirely in the interests of companies and individuals would not be considered to be covered. Clarification is therefore needed regarding the economic basis for the proposed developments and whether the NPS promotes public interests.

In our comments on 23 (above), CCW disagreed with the statement that “port developments are unlikely to affect any currently designated European priority habitats or species”. This HRA and IROPI statement must therefore consider issues relating to and laid out in Article 6(4) of the Habitats Directive, second paragraph “where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised (in respect of IROPI) are those relating to human health or public safety, to beneficial consequences of primary importance for the environment, or, further to an opinion from the Commission, to other imperative reasons of overriding public interest”. As previously stated, CCW notes that the two areas identified as supporting IROPI for this NPS, relate to economic growth and social progress.

CCW would suggest, at the very least, that this section should state that IROPI for port developments are “likely to arise”, rather than “arises”, to avoid the accusation that this document prejudices the outcome of any future Article 6(4) assessment of specific proposals/projects.

28: This section again appears to prejudice the outcome of future Article 6(4) assessments of projects. CCW would suggest that “…would be…” in line two of this section should be replaced with “…are likely to include…”.

31: Consideration must be given to European sites associated with/directly linked to those sites identified within this section eg the Wye SAC, Usk SAC, Dee SAC etc/Consideration must also be given to cSACs and pSPAs, including Liverpool Bay pSPA and to potential cumulative and “in combination” effects.

32: In respect of potential developments in locations not currently occupied by ports, see comments on 9 above regarding feasibility. Wholly new port developments should only be considered where feasible and sustainable in the long term.

33: CCW would suggest that the likelihood of effects on European sites is not necessarily dependent on the scale of port development but on the location, scale etc of the development, the potential for in-combination effects and the sensitivity/vulnerability of the receiving environment (habitats and species).
35: See comments on 27 above. CCW remains unconvinced by this report that IROPI is justified in this instance and would suggest that this statement needs to be considered in the context of Article 6(4) of the Habitats Directive and relevant EC guidance including “Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC”.

36: See comments on 27 above. Reference should be made to Article 6(4) of the Habitats Directive and relevant EC guidance including “Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC”. Consideration also needs to be given to potential “in-combination” effects and to potential effects from induced and ancillary development.

37: In respect of “compensatory measures”, the suggestions in this section in determining whether and what “compensatory habitat would be appropriate should conform fully to the requirements of Article 6(4) of the Habitats Directive and to relevant EC guidance on the matter. Sections 5.4.1, 5.4.2 and 5.4.3 of Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC” clearly indicates the nature of acceptable compensatory measures under Article 6(4) of the Habitats Directive. Proposals or suggestions for compensatory measures that do not conform to the Habitats Directive, to relevant EC guidance and to caselaw are not acceptable. CCW are particularly concerned by the suggestion that “equal value” measures may be acceptable, especially given the failure to indicate what those measures might be.

38 and 39: CCW welcomes the sentiments behind these statements but would suggest they need to be worded more robustly and that the NPS itself must include a policy/caveat to state that any proposed development (project) that could have an adverse effect on the integrity of a European Site must be subject to all relevant assessment processes including HRA and EIA.

APPENDIX

Consideration must be given to European sites associated with/directly linked to those sites identified within this section eg the Wye SAC, Usk SAC, Dee SAC etc/Consideration must also be given to cSACs and pSPAs, including Liverpool Bay pSPA and to potential cumulative and “in combination” effects.

This Appendix has failed to give any consideration to sites/species protected and identified under the Ramsar Convention.

January 2010

Supplementary memorandum from the Department for Transport (NPS 56)

THE PROPOSAL FOR A NATIONAL POLICY STATEMENT ON PORTS: DISTRIBUTION OF PORT CARGO BY REGION

At the Committee’s evidence session on 27 January on our proposal for a NPS on ports (in response to Q370) I promised to write to clarify the evidence on the regional inland destinations of inbound cargo through ports.

The Department’s primary source is the Continuing Survey of Road Goods Transport (CSRGT)\(^{58}\) from which statistically robust inferences may be drawn about the overall distribution of traffic. A limitation is that it is a survey of vehicles registered in Great Britain only. This should be borne in mind, as it cannot be assumed that foreign-registered vehicles using ro-ro services have the same pattern of destinations.

This evidence shows that, overall, 67% of goods lifted by GB-registered vehicles have an origin and destination in the same region. That is the figure of around two thirds that I mentioned to the Committee. It is not limited to goods lifted from ports, but includes them.

Mr Leech cited a figure of 60% of freight that comes into South East ports having destinations north of Birmingham. On some definitions it may be possible to arrive at such a figure but it would give at best a partial snapshot of the overall pattern of distribution. Certainly a substantial proportion of freight arriving through the Greater South-East does go to northern destinations, but it is also true that significant traffic moves through major northern ports such as Liverpool and Teesport to destinations to their south.

Since the main focus of this part of our discussion was on lift-on lift-off containers, I enclose\(^ {59} \) a copy of the Department’s publication The container freight end-to-end journey, and would particularly draw the Committee’s attention to the map at Figure 50 and the analysis at Figure 51. This shows the district and regional distribution of destinations of container movements by road from all UK container ports, with Figure 51 showing also the proportions from the dominant ports in each case. It shows that a much lower proportion than 60% is bound for regions to the north of the Midlands.

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\(^{59}\) Also at: www.dft.gov.uk/about/strategy/transportstrategy/tasts/userexperience/containerfreight.pdf
Container traffic using rail or coastal shipping as opposed to road does tend to have more distant destinations so a significantly higher proportion of this traffic, which is not included in the figures referred to above, is likely to be heading north of the Midlands.

Bulk traffic is also not included in these figures. Here the picture is again diverse, with a mix that includes oil and petroleum products moving by pipeline as well as by tanker; coal moving largely by rail to inland power stations; and raw materials in many cases processed at or near the port (for example, liquefied natural gas at Milford Haven).

I hope this assists the Committee and demonstrates something of the complexity and diversity of goods distribution by region. This was why the thrust of my evidence was to argue that it is only after considering a comprehensive objective transport assessment, as described in section 2.17 of the draft NPS, that the decision-makers will be able to decide on the terms on which port development at a particular location should be allowed to proceed.

February 2010

Further supplementary memorandum from the Department for Transport (NPS 56a)*

1. Data on the distribution of cargo after arriving in port, including, the percentage of freight that is unloaded in SE ports is then transported to destinations north of Birmingham. (Q370)

Please see Paul Clark’s letter of 3 February (copy attached for ease of reference).

2. The ports NPS refers to “decision-makers” and specifically to the IPC and the MMO. But it does not explicitly refer to local authorities in relation to determining applications for sub-threshold port development applications that do not fall within the remit of the MMO. Can you clarify the role of local planning authorities with respect to these applications? What, if any, other bodies are likely to be decision-makers within the terms of the NPS?

While the NPS is primarily addressed to the IPC for the purposes of the Planning Act 2008, it is more generally intended to constitute a statement of Government policy which will be relevant to other planning decisions. It is for this reason that we adopted the more general references to decision maker in the document, except where provisions in the NPS are addressed specifically and exclusively to the IPC.

The Marine Management Organisation (MMO) will assume responsibility later this year for harbour revision and empowerment orders under sections 14–16 Harbours Act 1964. They will therefore be a relevant decision maker and should have regard to the NPS, insofar as it is relevant to the application before them.

Notwithstanding the establishment of the MMO, it will remain likely that there will continue to be some separate or parallel applications to local planning authorities (LPAs) for planning permission, under Town and Country Planning Act (TCPA) and related legislation, for land-side port-related development on or adjacent to port estate. In such cases, the LPAs in question should be regarded (and should regard themselves) as decision-makers within the terms of the NPS, in so far as it does relate to the application in question.

The Secretary of State will also potentially be a decision-maker within the terms of the NPS, in respect of (for example) those Harbours Act functions which shall be exercisable by either the MMO or the Secretary of State. Naturally, the Secretary of State will have regard to the NPS when exercising such functions also.

Even in relation to above-threshold applications, there could also be TCPA applications to LPAs which are associated with separate applications to the IPC for development consent, although the intention of the Planning Act is that such cases should normally be dealt with by the IPC as associated development.

Cases may arise where aspects of the policy set out in the NPS are relevant to other decision-makers—for example, the Welsh Assembly Government in dealing with inland development associated with a port application.

3. What details of the Ports NPS consultation events held in Leeds, Cardiff and London will be released, when and how?

We intend shortly to publish summary accounts of these events on the Department’s website. Copies of most of the presentation slides used at these events (already sent to the Committee) are also available on request.

* Printed as NPS 56.
4. Regarding the NPS for Airports, due in 2011, please provide a schedule of the main tasks and dates to be undertaken to prepare the draft NPS?

A provisional schedule of tasks is set out in the following table:

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appraisal of Sustainability (AoS)—scoping and assessment work</td>
<td>January to July 2010</td>
</tr>
<tr>
<td>NPS and AoS preparation</td>
<td>July to December 2010</td>
</tr>
<tr>
<td>Draft NPS and AoS published for consultation</td>
<td>Early 2011</td>
</tr>
<tr>
<td>Designation</td>
<td>Late 2011</td>
</tr>
</tbody>
</table>

DfT/Ports

February 2010

Memorandum from the Chartered Institute of Logistics and Transport (UK) (NPS 57)

Initial Summary

The Chartered Institute of Logistics and Transport (UK) is the professional body for individuals and organisations involved in all aspects of transport and logistics, and has some 18,500 members in numerous disciplines. It is not a lobbying organisation. This response has been prepared by the Institute’s Ports, Maritime and Freight Forwarding Rail Forum and has been approved by its Public Policies’ Committee.

CILT UK welcomes the initiative of a National Policy Statement (NPS) for Ports. Essentially, there are some merits in this approach, although we harbour certain reservations as to its practicality as defined in the Draft statement for national Policy. We believe that much work is still required to fully address and understand the issues at stake, and there are several prevailing factors of an economic and political nature affecting the nation and indeed the world at large which remain uncertain, and which could influence such a statement at a strategic level. We believe that in making this official response, there is firstly a need to clarify the definition of a port.

A port can be defined as: “A harbour area where marine terminal facilities are located for the purpose of transferring cargo and passengers between ships and other forms of transportation”.

Responses to Consultation Questions

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

Yes. However, when a need is identified as in the local, regional and national interest, it should be the responsibility of the national Government to ensure that the transport infrastructure is adequate to cope with the additional traffic without causing congestion through the towns, cities and regions around the port. The NPS on networks should link into the NPS on ports in order to ensure that this is taken into consideration. It is assumed that there will be an increase in various forms of traffic (eg containers, trailers), which could result in port saturation or at very least a strain on projected future port capacity.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

Yes with the proviso above. Whilst Government claim to favour rail and inland waterways over road transport in reality the modal shift from road to inland waterways has been very small due to the bureaucracy surrounding start up and the lack of facilities. Containers are increasing in size, although there is also a need for critical extrapolation, as it cannot be correctly or accurately predicted at present as to what extent the market will recover from the present recession.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

No. It does not highlight sufficiently the positive economic impact of associated businesses serving the ships and the port. It does not mention added value of port clusters and hub ports.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

Yes, but there is a need to qualify the assumptions concerning the alleged “climate change”, which may be open to question.
Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

No. Whilst accepting that coastal and inland shipping is mentioned the notes to question 5 provide more eloquent and persuasive guidance. There is a clear need for all concerned to understand both the definitions and the functions of coastal shipping, coastwise shipping and feeder shipping, as well as the importance of the synergy between international shipping and inland shipping. These must be included as major essential factors in the future of shipping in UK waters.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

No. For security, reference should be made to the Aviation and Maritime Security Act 1990. Maritime safety and security are major issues, and are part of the ISPS (International Ship & Port Security) Code initiative as defined by the International Maritime Organisation (IMO). Given US & Canadian security issues already in force, as well as present initiatives being addressed by the IMO, the emphasis on similar initiatives relating to cargo security is required for all major UK seaports. Furthermore, it is necessary to refer to Vessel Tracking Systems (VTS) and local port bye-laws. Consideration of the nature of the port is required, i.e. multi-purpose activities.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

Yes, as long as suitable training and awareness initiatives are also taken into consideration.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

Yes. However, some of our great historic ports have been in existence for over 150 years. The local populations moved to be near the ports for employment reasons.

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

Yes, to a certain extent, but it also must take into consideration the projected number of vessels using the port and the impact which they would have on the environment, e.g. bilge and ballast discharges.

Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

Yes.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

Yes. However, it also depends upon issues of national heritage, and how much the historic environment is to be compromised by the port infrastructure. Examples include the Albert Dock redevelopment at the Port of Liverpool and redevelopments at Hull Docks and Portsmouth.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

Yes, but it would benefit from a secure, accurate and timely statistical reference and monitoring system implemented as a legal requirement.

Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

No. There is no substantial breakdown of individual figures to support any argument for alternatives. London Gateway is an example. Huge investment is required for such a project, but with the present prevalent global economic uncertainties, there is no absolute guarantee at this stage of a substantial return on investment in terms of projected inward and outward container traffic.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?

Yes. If there was an understanding of the role of ports generally, and specifically the port in question.
Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers

Yes, as long as there is justification for the application, and economic trends concerning shipping movements and cargoes handled have been considered. Any planning application must take into account all logistics considerations, and this means that all relevant organisations, including the CILT, must be consulted from the very outset by the local or regional planning authority concerning these considerations before any application for port development or redevelopment is approved. Reference must also be made to previous port planning & development applications.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

Yes. However, particular attention must be paid to the infrastructural impact on the local community, and whether the national infrastructure is to be compromised as a result of the new development. Examples include London Gateway, the expansion of Teesport as part of the Northern Gateway project, and the Riverside complexes at the ports of Bristol and Liverpool. Emergency issues such as “Ports of Refuge” or “Safe Havens” may not have been considered. The SOSREP (Secretary of State’s Representative) can order a Harbour Authority to accept a stricken vessel where necessary.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

Yes.

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

Yes, to a certain extent. Design depends upon the requirements and specifications of each individual port. The Secretary of State must consult with all interested parties and authorities concerned with any design of port structure in order to ensure that all considerations have been taken when approving the particular design of the port. It depends therefore upon the design of the port and the motives behind such a design.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

Reasonably appropriate. However, there is no standard framework, as each port has developed according to its own position within the market, and each port handles different traffic. This must be taken into account in each case. Any port development must be considered on its individual merits, according to its location, function, size, potential for economic growth and development, and the environment which it serves, be it local, regional or national.

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

Yes.

Q21: Has the AoS considered all the relevant plans, policies and programmes?

No official response.

Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

Not necessarily, but extensive data analysis is required from all regions and from different sources in order to gain a representative answer.

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?

As per the lessons learned from the development from the St Lawrence Seaway and its environmental and economic impact of the Great Lakes, advance planning is required to account for all maritime developments.

Q24: Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?

No official response.

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?

No official response.
Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?

Yes. Alternatives such as specific projects relating to urgent or imminent economic and logistics needs should be addressed.

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?

The assessment of alternatives can only be carried out where such alternatives are considered from a short-term, medium-term and long-term viability approach.

Q28: Do you agree with the results of the assessment of alternatives?

No official response.

Q29: To what extent do you think the approach used to identify and assess effects is appropriate?

No official response.

Q30: To what extent do you think the assessment correctly identifies the sustainability effects of the draft NPS?

Judging by the comments from other parties, the assessment has not taken all aspects of the approach to port development into account, and needs significantly more preparatory work to be done before it can be full submitted.

Q31: Do you agree with the recommendations proposed in the assessment?

Yes.

Q32: Have any key findings from the AoS report not been taken account of properly in the NPS?

No official response, as there was insufficient time to fully assess the documentation.

Q33: To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?

No. Present provisions are too vague and insufficient. More detailed continuous analysis is required.

Q34: To what extent do you think the Appropriate Assessment is a suitable high-level assessment of the impact of port development on protected sites and species?

In general terms, it addresses the issues at stake. However, more detailed in-depth study of these issues is required.

Q35: Do you agree with the analysis of costs and benefits set out in the Impact Assessment?

The analysis does not account for future economic trends in global maritime traffic, and requires more work spent over a more prolonged period of time to more accurately assess these factors and trends. A significantly greater amount of calculated regression analysis and extrapolation of data is required.

Q36: Are there any impacts of producing a National Policy Statement that have not been considered?

No. However, the synergy with other forms of transport, ie Inland waterways, Road and Rail, is required, and such issues have not been emphasised sufficiently and in depth. Furthermore, National Policy Statements are also required in these areas in order to present a fuller and more accurate picture of how the whole framework of the port function should be viewed on a national level.

Final Comments

It should be noted that these responses have been compiled based on existing data and its interpretation. It should, however, be considered that many factors which influence these answers could change in the near future, and therefore more work should be carried out over a longer period of time to fully assess and review the NPS. It should also be noted that owing to the limited time which was available to the CILT to submit a formal response, some areas have not been addressed in absolute detail. The CILT does have certain reservations about the NPS, and it is believed that much more work is required on the part of government authorities to assess all relevant impacts and inferences before any further decisions are to be taken on port strategy by HM Government.

February 2010
Memorandum from the Law Society (NPS 58)

1. The Law Society is the representative body of over 100,000 solicitors in England and Wales. The Society negotiates on behalf of the profession and lobbies regulators, governments and others. This consultation response has been prepared by members of the Law Society’s Planning & Environmental Law Committee. The Committee comprises 20 practitioners expert in these areas of law from a cross section of the profession, both public and private sectors, and from across the UK nations.

2. The Committee’s principal concern is that the National Policy Statement for Ports (NPSP) lacks clear guidance for decision makers in the broadest sense, be it the Infrastructure Planning Commission (IPC), the Marine Management Organisation (MMO), local authorities or bodies such as Natural England and the Environment Agency. The guidance should require the IPC and MMO to consider whether a particular proposal fits with the key international gateways and strategic national corridors identified in the Department for Transport’s “Delivering a Sustainable Transport System” (November 2008). This is not to contradict the market-led approach set out in the draft NPSP but this document needs to be given substantial weight when considering any proposal for port development.

3. The expression of policy on planning runs to only 11 pages. It is limited in its coverage of issues and the decision maker is not given clear guidance to enable him to make a decision relying on the NPSP.

4. Examples of this are the paragraphs dealing with location of ports (1.11.8–1.11.10). If it is accepted that Government should not “dictate” where port development should occur (1.11.10), and this of itself is open to question, the policy should make clear that it supports existing ports. Ports in the south east and the west coast are situated there for very good reasons. They provide safe havens with deep water access, are well connected to existing national transport links and to international shipping lanes. Both in terms of economic growth and sustainability, the NPSP should make it clear that existing major ports should be encouraged and supported in upgrading existing landside infrastructure and where necessary, in expanding port related activity.

5. The NPSP sets out a summary of the potential adverse impact of port development. It does not balance this by setting out at length the importance of ports to the national and local economies. The creation of a new port or the substantial expansion of an existing port may well impact on the local environment and often bring in to play the Habitats Directives.

6. What is essential is that the NPSP should make clear that the decision maker must judge any new port development not only on its affect on the environment but in the light of the importance of ports to the national interest. It is noted that the Department of Transport policy “Delivering a Sustainable Transport System” at paragraph 4.10, designates 10 ports and seven airports that “collectively are critical to the functioning of the system as a whole and to the economic success of the nation”. It is surprising that the NPSP should not even refer to such an important policy on transport and the NPSP needs to be amended to take full account of this transport policy document.

7. There appears also to be a vacuum in the role that local planning authorities are to play in considering any major new port or substantial expansion of an existing port. There is a reference in paragraph 2.2.3 to the local impact paper which local authorities will submit in respect of port proposals. Local planning authorities will be a major stakeholder in respect of major port proposals and the NPSP should give guidance to local planning authorities on this matter. We set out in the Annex to this letter our responses to the questions raised in the consultation.

LAW SOCIETY RESPONSE TO CONSULTATION DOCUMENT QUESTIONS

Q1: \textit{Do you think the draft Ports NPS provides suitable guidance to decision makers on the question of what need there is for new port development infrastructure?}

The NPSP sets out in general terms the potential adverse impact of port development. Clearer guidelines shall be given to the decision-maker to balance this against the importance of ports to the national economy. As the policy “Delivering a Sustainable Transport System” states there are 10 ports which are “critical to the functioning of the system as a whole and to the economic success of the nation”. References to forecasts in government guidance that are already out of date are not just unhelpful but potentially misleading. These defects are likely to lead to serious difficulties before the IPC and other decision makers.

Q2: \textit{Do you think the draft Ports NPS provide suitable guidance to decision makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?}

It is not appropriate to use planning decisions to achieve modal split outcomes which go beyond what can be achieved commercially taking into consideration Government policies to influence modal choice. We believe that some reference to priority based upon an overall strategic approach would be of far more assistance.
Q3: Do you think the draft Ports NPS provides suitable guidance to decision makers on the economic impacts of port infrastructure?

As stated in our letter, the NPSP should refer in some detail to the DfT policy “Delivering a Sustainable Transport System” which emphasises the importance of ports to the national economy and in particular the key international gateways and strategic national corridors should be specifically referred to.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to mitigation of an adaptation to climate change. Do you think the draft Ports NPS adequately fulfils this requirement?

We query whether it would be helpful to address this issue in the core policy section as well as the assessment section—although we agree with the general content.

Q5: Do you think the draft Ports NPS provides suitable guidance to decision makers on the extent to which coastal and inland shipping should be considered?

There is not a great amount of detail in the NPS on coastal and inland shipping—in particular coastal shipping should be covered in greater detail.

Q6: Do you think the draft Ports NPS provides suitable guidance to decision makers on the safety, security and health impacts of port infrastructure?

Yes.

Q7: Do you think the draft Ports NPS provides suitable guidance to decision makers on the need to make equal access to jobs, services and social networks created by port infrastructure?

Yes.

Q8: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure to the local population?

Although not decision makers, if the proposed is going to the IPC, the local planning authorities need clearer guidance in the NPSP as to how to deal with major port development.

Q9: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure on the natural environment?

Yes.

Q10: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure and biodiversity?

Yes.

Q11: Do you think the draft Ports NPS provides suitable guidance to decision makers on the impacts of port infrastructure on the historic environment?

Yes.

Q12: Do you think the draft Ports NPS provides suitable guidance to the decision makers on key considerations to inform the assessment of future port development applications?

No. The guidance is couched in terms that are on occasion, unhelpfully generalised. The guidance fails to prioritise, nor does it draw upon related guidance. For example, the NPSP does not provide the decision makers with crucial guidance set out in “Delivering a Sustainable Transport System”.

Q13: Do you think the draft Ports NPS provides suitable guidance to decision makers on how they should consider alternatives when it comes to particular projects?

Probably not. It is written in very generalised terms and fails to make reference to matters such as commercial imperatives—part of the IROPI exercise—and competitor tactics. The advice in this section should be more practical.

Q14: Do you think the draft Ports NPS provides appropriate guidance on how the cumulative and incombination/synergistic impacts of port development should be considered by decision makers?

We are not convinced that para 2.2.10 sits comfortably in this section—in that whilst we do not disagree with the conclusion, the preceding text does not detail sufficiently the wide variety of potential cumulative impacts.
Q15: To what extent do you think the draft Port NPS as a whole provides suitable guidance to decision makers to help them make decisions about development consents applications for new port applications? Please consider this in relation to both potential decision makers, (a) the IPC for port applications over the NSIP threshold; and (b) the future Marine Management Organisation for port applications under the NSIP threshold.

We are concerned that clearer guidance is needed in relation to balancing the environmental impact of the economic importance of ports. We are not convinced by the balance of the information provided in the policy as opposed to the assessment sections and indeed do query whether the assessment sections of the NPS are over detailed to such an extent that they may in future prove to be a constraint rather than a tool designed to assist both potential developers and decision makers. For example, much of the guidance merely repeats requirements contained in other guidance and thereby lays itself open to conflicting duplication.

We also note a surprising lack of information regarding the future relationship between the principal decision makers, ie IPC and MMO and other principal parties, particularly local planning authorities, the Environment Agency and Natural England.

Q16: Do you think the draft Ports NPS considers all of the submitted and potential impacts of port development? If not, what do you think is missing and why?

See above.

Q17: It is a requirement of the Planning Act that the NPS must give reasons for the policy set out in each statement. Do you think the draft Port NPS fulfils this requirement?

Our concerns in relation to the policy section have been set out above. As currently drafted we believe there is a mismatch between the assessment and the policy section and whilst acknowledging that the Government has the difficult task of balancing the information provided when detailing the rationale for policy, we do believe that the assessment part of the NPS is likely to override the policy which appears slight by comparison.

Q18: It is a requirement of the Planning Act that the Secretary of State must serve regard to the desirability of achieving good design. Do you think the draft NPS fulfils this requirement?

In so far as it is able.

Q19: To what extent do you think the methodology used to assess the sustainability of draft Port NPS is appropriate?

It meets the requirements.

Q20: Do you agree that the environmental components of the Appraisal of Sustainability (AOS) constitutes an Strategic Environmental Assessment for the purposes of Directive 2001/42/EC? Has the AOS considered all relevant plans, policies and programmes?

Yes.

Q21: Has the AOS considered all relevant plans, policies and programmes?

No—no consideration of policy “Delivering a Sustainable Transport Policy”, and indeed, a general lack of cross reference.

Q22: Has the baseline analysis missed or misrepresented any environmental, social or economic data?

Not as far as we are aware.

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered by the AOS?

No.

Q24: Are the AOS objectives and sub-objectives as set out in the AOS framework appropriate?

Yes.

Q25: Are there any incompatibilities between the main NPS objectives and the AOS objectives which have not been identified in the AOS?

No.
Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?
   They are met.

Q27: To what extent do you think the approach taken to the assessment of the alternatives is suitable?
   They are met.

Q28: Do you agree with the results of the assessment of alternatives?
   Yes.

Q29: To what extent do you think the approach used to identify and assess affects is appropriate?
   They are met.

Q30: To what extent do you think the assessment directly identifies the sustainability effects of the draft NPS?
   They are met.

Q31: Do you agree with the recommendations proposed in the assessment?
   Yes.

Q32: Have any key findings from the AOS report not been taken account properly in the NPS?
   No.

Q33: To what extent do you think the approached monitoring is sufficient to monitor the sustainability effects of the NPS?
   They are met.

Q34: To what extent do you think the appropriate assessment is a suitable high level assessment of the impact of port development on protected sites and species?
   They are met.

Q35: Do you agree with the analysis of costs and benefits set out in the impact assessment?
   Yes.

Q36: Are there any impacts of producing a National Policy Statement that have not been considered?
   No.

February 2010

Memorandum from Desmond Swayne TD MP (NPS 59)

I write in support of the submission made by New Forest District Council regarding the Draft National Policy Statement on Ports. I am particularly concerned about the implications this may have for the New Forest National Park and the environmentally sensitive areas that surround it especially Dibden Bay.

All the elected representatives from MPs to parish councils to the district council and the county council were unanimous in opposing Associated British Port’s proposal for a container port at Dibden Bay. It was also thrown out after a public inquiry by the planning inspector. One of the principal arguments for defeating the proposal was the availability of alternative sites.

I enclose herewith a copy of the statement by New Forest District Council setting out their concerns regarding the draft policy statement with which I am in full agreement. I believe that it is very important indeed that the new fast track planning procedure will not be used to secure permission for developments that have been thrown out by the previous public inquiry system.

January 2010

60 Their submission is logged as NPS 24.