

NATIONAL INFRASTRUCTURE COMMISSION

Response to the Consultation by the Campaign to Protect Rural England

March 2016

Introduction

1. The Campaign to Protect Rural England (CPRE) welcomes this opportunity for early engagement with the National Infrastructure Commission ('the commission'). CPRE fights for a better future for the English countryside. We work locally and nationally to protect, shape and enhance a beautiful, thriving countryside for everyone to value and enjoy.

2. In our [2015 election manifesto](#), we called for 'the right infrastructure for the right reasons', stating that '[w]e need to make better use of existing transport and energy infrastructure and smarter decisions on new investment - to reduce demand rather than drive it.' To address challenges such as climate change and minimising land take for development, we recognise the importance of investing in infrastructure to deliver a major shift towards rail and electricity, away from private motor transport and fossil fuels.

3. In this context, we acknowledge the benefits of establishing the commission, so long as its remit and processes are well thought through.

Key issues

4. Although they are outside the scope of the current consultation we have three fundamental concerns with the proposals for the commission, relating to the lack of information on engagement, environmental remit and vision.

5. First, as the French have recognised through the establishment of the National Commission for Public Debate, establishing an evidence base is only half the story when it comes to making the case for infrastructure. There also needs to be a wider public conversation, bringing different interests, whether politicians, industry and civil society into one forum. The 2015 CBI/AECOM Infrastructure Survey highlighted how 96% of the infrastructure sector view better public engagement as important. We would certainly agree that how the commission engages the public will be critical and it is unfortunate that of the seventeen consultation questions, not a single one relates to this.

6. Second, the environment remit for the commission should be explicitly defined in legislation. The environmental costs of infrastructure can be very significant. They are carried by society and should be considered alongside the cost to infrastructure users and the taxpayer. Defra has estimated the cost to society of road noise in urban areas to be as high as £10bn per year, for example. It would be wrong to consider the environment remit solely in financial terms: monetisation of carbon impacts of transport projects has failed to change transport priorities, leading to emissions to be predicted to rise from the sector by the 2030s. In addition different environmental impacts are not commensurable and

there needs to be wider consideration of environmental limits, whether carbon budgets or impact on designated landscapes, at the strategic level.

7. Thirdly, it is difficult to assess infrastructure needs in the abstract without having any national vision or spatial plan. The alternative is simply to follow the market but, as the political consensus around the need to rebalance regional growth through the Northern Powerhouse demonstrates, political interventions are sometimes necessary. How transparently the commission engages with choices and values will be critical to its credibility, for example, whether it acknowledges the limits of modelling and quantitative decision-making. In this context, HM Treasury guidance, which is designed for specific policies, programmes and projects will not be adequate for much of the wider appraisal and recommendations that the commission will need to undertake.

Consultation questions

1 Do you agree that the National Infrastructure Commission should be established as a non-departmental public body via primary legislation?

8. Yes. Adopting the same model used for the Committee on Carbon Change would give the commission the permanence and independence necessary to be a credible voice on long-term planning.

2 Do you agree that the commission's National Infrastructure Assessments should be laid before Parliament and that the government must respond within a specific timeframe? What would an appropriate timeframe be?

9. Yes. Nowadays laying documents before Parliament does not have any practical significance beyond ensuring a reference is made in the formal legal record of Parliament. Given the scale and range of the National Infrastructure Assessment, a significant amount of time is likely to be needed to respond. Initially this should be a maximum of six months.

3 Do you agree that it should not be mandatory for the government to lay the recommendations from specific studies before Parliament, but that the government should have discretion to do so where necessary?

10. Yes, though as noted in our answer to question 2, this does not appear to be of any practical importance.

4 Do you agree that economic regulators should 'have regard' to Endorsed Recommendations?

11. Yes. By nature of the endorsement from a government, it should be treated as a material consideration.

5 Do you agree that government should legislate to oblige the commission to produce National Infrastructure Assessments once in every Parliament?

12. Yes, so long as special provision is made for exemptions when a General Election is held fewer than five years since the last one.

6 Do you agree that that the precise timing of reports and interim publications should be a matter for the commission in consultation with relevant departments?

13. Yes. There may be opportunities to retime the production of statutory transport strategies, namely the Cycling and Walking Investment Strategy, the Road Investment Strategy and the High Level Output Strategy, so as to align the processes better.

7 Do you agree that a GDP envelope would provide the most effective fiscal remit for the commission?

14. No. While the simplicity of a GDP envelope may be initially attractive, there are a number of potential disadvantages, as it could:

- Be treated a target rather a limit, like when people driving at the speed limit even in inappropriate conditions;
- Lead to a prioritisation of supply side solutions over demand management;
- Lead to investment in local infrastructure being squeezed by the priority given to national infrastructure.

15. We would prefer the hybrid approach suggested that considers scenarios.

8 Do you agree that a transparency requirement should be placed on the commission with regard to its economic remit?

16. Yes. There should also be transparency about the wider costs imposed by infrastructure, not simply on users but more widely. Transparency is required in relation to indirect costs, in other words externalities, as well as direct costs. As noted above, the annual cost to society of road noise in urban areas to be as high as £10 billion per annum.

17. In recognition of the scale of the externalities, section 12 of the Infrastructure Act 2015, which sets the role of the Highways Monitor (the Office of Rail and Road), requires the Monitor to consider wider environmental impacts as well as the interests of highway users. A similar provision will be required in the legislation setting up the commission.

9 Do you think that any additional constraints are necessary to deliver the commission's anticipated benefits to consumers?

18. Yes. While we assume that the commission as a public body will be subject to the Public Sector Equality Duty, this only relates to those groups with a protected characteristic, such as ethnicity or gender.

19. There are other factors that should be considered in relation to equitable distribution of the costs and benefits of new infrastructure. Lower income groups and those living in rural areas may have to pay disproportionately more for services, such as heating, connections to high speed broadband, for public transport and, at least in the largely rural south west, for sewerage charges. The legislation should include a power to make regulations or for the publication of statutory guidance to assist the commission address these types of issues.

10 Do you agree that the remit should be set by a letter from the Chancellor, on behalf of the government?

20. No. Besides fatally damaging the perception of the commission as an independent body, an issue as critical to business as it is to civil society, having the remit reset every

few years by the Chancellor risks prioritising short-term political considerations over long-term thinking.

21. The approach taken through the Infrastructure Act 2015 to set the direction of Highways England is a better one, involving:

- Primary legislation to set out general duties: to have regard when exercising its functions to, for example, the need to improve safety of highway users and environmental outcomes;
- An operating licence: setting out requirements as to how the general duties are to be complied with, for example setting up a design panel;
- Particular requirements for each Road Investment Strategy.

22. There would need to be some differences - the licence would be the remit, while a new Government could feed some input into the commission's business plan for each five year period. Nonetheless the basic approach of the commission's direction being separated into three elements, with only the most detailed being changed each Parliament, seems a far better one.

23. One particularly troubling aspects of the draft National Infrastructure Bill published following the Armit Review was the power proposed for the Treasury to give guidance to the commission in secret (clause 3(5)). We very much hope that there is no intention to copy that approach in the legislation now under consideration.

11 Do you agree that the commission's working assumption should be to only review those areas of infrastructure that are the responsibility of the UK government?

24. No. While this could be a working assumption to start with, it will be difficult to keep to in practice. Other definitions include a formalistic set of thresholds in the Planning Act 2008 for Nationally Significant Infrastructure Projects at one extreme and the vague Australian definition of anything that increases national productivity.

25. The challenge of identifying the scope of the commission is demonstrated by new the evolution of thinking around different types of infrastructure. Increased understanding about the need to manage water run-off has challenged conventional thinking about managing water that focuses on flood defences, while the emergence of the concept of 'Mobility as a Service', for example, is breaking down existing demarcations of transport infrastructure.

26. A better approach would be for the commission to focus on national issues and those that engage more than one type of infrastructure, so as to break down silos. Focusing on a 'systems of systems' approach¹ to infrastructure is likely to be essential if the commission is to add value in a fast changing world, whether in terms of technology or devolution.

27. The focus on only intervening where there is a well-functioning market is also problematic as it might mean avoiding sectors that take short-term perspectives and avoid long-term challenges and uncertainty. The system of systems approach would entail using new methodologies to cope with future uncertainty.

¹ [The Future of National Infrastructure: a Systems of Systems Approach](#), (CUP, 2016)

12 Do you agree that the decision of whether to accept or reject the commission's recommendations should rest with the responsible government?

28. Broadly speaking, yes. The challenge is how this might fit with the bespoke nature of devolution in England. How could Westminster accept, for example, the commission's recommendations in relation to a subject which it had devolved power, in varying degrees, to some but not all combined authorities? This will require further consideration as devolution policy and practice becomes more settled.

13 Should departments be obliged to accede to the commission's requests for analysis?

29. We have no strong views either way; the most important issues would be likely to be dealt with within Memorandums of Understanding. We have some concerns that in some instances an overreliance on departmental analysis may call into question the commission's independence from government.

14 Do you agree that the legislation used to create the commission should place obligations on the relevant regulators and public bodies to share information with the commission?

30. Yes. Although legislation would rarely need to be relied upon, it would smooth the process of information exchange.

31. There should however be a broader move to a requirement on infrastructure operators and developers, in the private as well as the public sector, to publish linked open data. A great deal of useful information is contained in planning applications but because it is buried in Environmental Statements and large PDFs, a file format that only scores one out of five possible open data stars, is very difficult to extract (or 'scrape') and aggregate.

32. Highways England has, for example, been aggregating planning permission for major housing development as well as site allocations in local plans, in order that it can assess future demand on the Strategic Road Network. This data would be easier to collect and update if open data standards were applied consistently across the country. There would also be benefits if other public bodies and private developers could access easily the dataset created by Highways England.

15 Should legislation also place obligations on the relevant regulators and public bodies to provide analysis for the commission?

33. No. These bodies may be smaller and have fewer resources, for example statutory environmental bodies and authorities in rural areas, such that requests could entail a disproportionate burden upon them.

16 Do you agree that the government should specify a timetable to review or replace a National Policy Statement when endorsing recommendations?

34. No. It could set out an intention as to when a replacement draft National Policy Statement (NPS) could be published but to go further beyond that could frustrate the right of the House of Commons to reject amendments to an NPS. The timetable could be padded to build in delay for this but that could then lead to momentum being lost.

17 Do you agree that, while additional consultation may be necessary, consultation undertaken by the commission should not be repeated by the Secretary of State when preparing a National Policy Statement?

35. No. In practice, the adoption of an Endorsed Recommendation into a NPS may well have wider ramifications. In relation to the scoping stage of SEA, for example, the boundaries of investigation and assumptions required may well be different when an Endorsed Recommendation is being considered for inclusion into an NPS to the initial context when the commission considers it. In addition there may be knock-on impacts for the wider NPS from adoption of a specific scheme or policy as an Endorsed Recommendation within it, which should be assessed and consulted on.

CPRE

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