



# Feeling the Heat - Climate Change and Infrastructure Planning Policy

## Introduction

Private citizens, the indirect funders and end-users of the infrastructure projects we work on, are increasingly demanding climate action. This can be seen in polling, the activities of youth climate protestors, and the direct action of Extinction Rebellion. Against a background of a changing climate that brought record temperatures to Europe this June and July, this is changing the political landscape and the context for the planning of infrastructure projects. This may have significant ramifications for how projects gain consent, and more broadly their social licence to operate. This article explores some of these challenges and what could help to provide some certainty.

## The Challenge

In the UK, the requirement to consider climate change within the planning process was strengthened by the 2014 amendment to the EIA Directive (2014/52/EU), which has been transposed into UK law through the EIA Regulations 2017. The Directive requires:

*“A description of the likely significant effects of the [Proposed Development] on climate (for example the nature and magnitude of GHG emissions) and the vulnerability of the [Proposed Development] to climate change.”*

Consequently, infrastructure projects that are likely to result in a significant effect on the climate, must consider these effects as part of an Environmental Impact Assessment. In the UK, Projects can either be consented via the Town and Country Planning Act (1990), where local authorities are the determining authority, or in the case of Nationally Significant Infrastructure Projects (NSIPs), via a Development Consent Order (DCO), under the Planning Act (2008), where the determining authority is the relevant Secretary of State. This article focuses on NSIPs that are consented via DCO.

NSIPs must be determined in accordance with the National Policy Statements (NPS; which set out government’s policy in relation to the need and planning requirements), other considerations (in particular acts of parliament), and the UK’s international obligations.

For energy sector NSIPs, the National Policy Statement EN-1 (Overarching National Policy Statement for Energy) recognises that carbon emissions are a significant adverse impact from some types of energy infrastructure which cannot be totally avoided. EN-1 is technology agnostic, with Government having determined that carbon emissions are not a reason to prohibit the consenting of fossil fuel technologies. As the reduction of carbon emissions from large-scale electricity generation is regulated through the EU Emissions Trading System, the NPS advises that there is no need to assess individual applications in terms of carbon emissions, against the legally binding carbon budgets enshrined in the Climate Change Act (2008). Conversely, the NPS for road and rail networks requires applicants to provide evidence in EIA of the carbon impact of the project and an assessment against the Government’s carbon budgets.

Notwithstanding the above differences in policy approach to different types of infrastructure, Projects must also be assessed in terms of their potential to breach the climate change act (2008), which has recently been amended to commit the UK to reducing emissions to net zero by 2050, adding to uncertainty for developers.



Whilst the Climate Change Act (2008) sets budgets at the scale of the whole UK, there are sectoral scenarios in the Carbon Plan (2011), and published by the Climate Change Committee. However, these are non-binding scenarios rather than policy. This means that there are no targets against which performance can be assessed within any given infrastructure sector – and no targets at all for the aviation and shipping sectors.

The assessment of the significance of impacts, to comply with EIA Regulations, is also complex. This is because the impacts of climate change are global and cumulative in nature, and therefore it is not possible to connect a project's emissions with the effects on a specific 'receptor' (which is the approach used by most EIA topic area). Assessment of significance is inconclusively explored in guidance from IEMA on Assessing Greenhouse Gas Emissions and Evaluating their Significance. The position that IEMA adopts is that in the absence of any significance criteria or a defined threshold, it might be considered that *all* GHG emissions are significant and an EIA should identify mitigating action. Whilst it is clearly a just approach to explore mitigation for all projects, it leaves applicants and decision makers without a clear steer or evidence base against which to determine the scale of significance and therefore to weigh in the balance of consent.

The IEMA guidance also recommends that emissions should be placed in the context of the most appropriate carbon budget for the Project in-line with the other legislative requirements discussed above. However, this process provides limited information to inform judgements regarding the scale of significance, or to determine if an individual project could lead to the UK breaching the carbon budgets (or the net zero commitment). Given that current UK carbon budgets are at the national level, any individual project is likely to represent a very small proportion of the budgets. This means that it is possible to make the case that a project that emits large quantities of carbon emissions will not exceed the carbon budgets, as there could be emissions reductions in other areas of the economy. Meanwhile, it is also possible to make the case that projects that emit small quantities of carbon emissions, could result in the overall target being missed because on aggregate all projects and sectors together could result in emissions that exceed the budget.

### **Providing More Certainty in Infrastructure Planning**

In light of the Government's commitment to net zero carbon emissions by 2050, the difficulties inherent in assessing the significance of carbon emissions, and the challenges of appraising infrastructure projects against the UK carbon budgets, there is a clear need to provide more certainty for all.

First, more clarity is needed in the National Policy Statements on how projects should be appraised against carbon budgets. This may require a more strategic review of carbon budgets for each infrastructure sector following the net zero commitment, potentially resulting in sector budgets. Any review of policy should also consider the weight to be given to carbon emissions when balanced against other planning considerations and the need for infrastructure.

Secondly, there is a need for more guidance on the assessment of significance of carbon emissions from individual projects, so that a consistent and agreed approach can be taken by practitioners, giving more confidence to decision makers. This approach could be informed by benchmarked carbon rates sourced through industry collaboration.



Thirdly, although already key to the planning process, the lack of clarity requires DCO carbon assessments to have a robust approach, and clear and transparent communication, to mitigate risks regarding consent and program.

Finally, it's important to highlight that the infrastructure sector is responsible for over half of the UK carbon emissions. To reduce this contribution to climate change, a lead can be taken from organisations such as Anglian Water and HS2, where ambitious targets and best practice carbon management techniques have been deployed to reduce emissions. Whilst we may not have all the answers to the challenges of assessing and appraising projects, there is clear scope for improvement through additional clarity and carbon management best practice.

*If you need advice on navigating the DCO process and how to manage carbon emissions, our team of experienced environmental professionals at WSP are here to help. Contact [james.peet@wsp.com](mailto:james.peet@wsp.com)*