

Transport Committee

Oral evidence: [National Networks National Policy Statement](#), HC 903

Wednesday 28 June 2023

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Members present: Iain Stewart (Chair); Mr Ben Bradshaw; Ruth Cadbury; Karl McCartney; Gavin Newlands; Greg Smith.

Questions 40–63

Witnesses

[II](#): Colin Black, Head of Growth and Future Mobility, AECOM; Keith Buchan, Skills Director, Transport Planning Association; Mustafa Latif-Aramesh, Legal Director, BDB Pitmans; and Robbie Owen, Board Secretary and Director, National Infrastructure Planning Association.

Written evidence from witnesses:

- [BDB Pitmans](#)
- [National Infrastructure Planning Association](#)

Examination of witnesses

Witnesses: Colin Black, Keith Buchan, Mustafa Latif-Aramesh and Robbie Owen.

Q40 **Chair:** Welcome to our second panel. Could I ask you to state your name and organisation, please?

Colin Black: Good morning. I am Colin Black and I represent a company called AECOM.

Keith Buchan: I am Keith Buchan. I am the skills director of the Transport Planning Society, whom I represent today.

Mustafa Latif-Aramesh: I am Mustafa Latif-Aramesh, a partner and solicitor at BDB Pitmans.

Robbie Owen: Good morning. I am Robbie Owen, board director and secretary of the National Infrastructure Planning Association.

Q41 **Chair:** Starting with the same general question I asked of the previous panel, what are the main differences and improvements between the current NNNPS and the draft revised document that we are scrutinising?

Colin Black: To expand, rather than reiterate points previously made, what we see here is an evolution of an existing document that, perhaps, does not go far enough in addressing the uncertainty between whether we are moving towards a vision and validate approach or still maintaining our focus on predict and provide. Perhaps, in my perspective, it introduces more confusion than it does clarity.

Keith Buchan: Yes, I would echo that. Frankly, there are a lot of new words in the NNNPS, which refer to a different approach, a sustainable approach, an integrated approach. In fact, there is some quite comprehensive listing of those ideas in it. But the old basic document is still there and unchanged and unmoved. It is a split document; it is a self-contradictory document. In that sense, the changes that have been made do not cut the mustard in terms of reforming the original.

Mustafa Latif-Aramesh: It is worth saying, as we said in our written submission, that the document contains some helpful confirmations around policy. A lot of the challenges that you referenced earlier are around the uncertainties in the existing designated NNNPS. To the extent that it affirms the Government's position on particular sectors, it is welcomed. I am sure we will get on to this, but we also agree that there are some missed opportunities in giving greater certainty and allowing the scope for a reduction in legal challenges.

Robbie Owen: The current NPS was designated almost nine years ago. It worked very effectively initially. Of course, it was designated before we had concepts such as, particularly, net zero. We think, therefore, in so far as the revised draft deals comprehensively with these contemporary issues of transport decarbonisation, biodiversity, net gain and



environmental enhancement, it is very helpful in setting out clear policy on those areas, which has been lacking. That has directly caused all number of difficulties in the planning process, delay decisions and judicial reviews. We think it is helpful in tackling those new issues.

Q42 Chair: We will certainly turn to some of the wider issues and ambitions that we have covered in the previous session. Let us assume the draft NNNPS is not amended in any way and is introduced as it is written. What practical impact will that have, if any?

Keith Buchan: I am tempted to say not a lot, frankly. While it retains the inherent contradictions within it, it will not be a useful document. One of the reasons we made a submission on this particular topic is that we want to see a practical, usable document come forward. The old one was out of date, it needed reform, and so we welcomed that. There have been some improvements in the text, but we want clarity so that people can go through the DCO process and achieve proper scrutiny across the board. I am sure we will come to details of that later. But scrutiny is important and, at the moment, that is not happening. We, quite frankly, say that the courts are not the best place to decide this; we want better scrutiny in the first place. That links back to things like alternatives and integration, which are two key themes missing from the NNNPS.

Mustafa Latif-Aramesh: I would add that, given that the fundamental purpose of the national policy statement is to provide a front-loaded policy presumption in favour of particular types of development, the fact that there will be a new designated national policy statement confirming that, if it is in its current form, is helpful.

There are other aspects which could be clearer. I would not go as far as saying it would not make that much of a difference, because the chief mischief that is being undone by the national policy statements would be confirmed, which is to confirm what the Government's policy is on development within particular sectors, and that is a helpful confirmation.

Robbie Owen: I would certainly agree with that. If it went forward with no changes at all, it would be a distinct improvement on the current position where we find, day in, day out, in examinations and in decisions, that what Government policy is on these key areas is unclear. The draft, if it proceeds, would provide much-needed clarity and provides a very good basis—in every case, which is what has to be done—for weighing up the need for the project and the presumption in favour of it with the impacts, and for dealing with issues such as decarbonisation and biodiversity net gain. The draft provides a much better basis, we think, for balanced decision making than the current designated NPS does.

Colin Black: I have a very different perspective. The clarity that we need in order to make and expedite decisions on infrastructure investment could be provided in a much more succinct manner by a revised NNNPS. I do not think, at the moment, it helps provide that clarity to the extent that it would be a marked difference from the current version.



Q43 Chair: I think all of you were in the audience listening to the previous panel and looking at the suggestions that this is a missed opportunity to have a more radical overhaul of the NPS process. If you had a blank sheet of paper, what other changes would you be looking to make?

Robbie Owen: Two or three come to mind immediately. In our submission, we made the point that something is lost by continuing to try to deal with rail and rail freight and highway development together. The National Infrastructure Planning Association has said before that a new approach needs to be taken to the overall national policy statement system. We have now had support for that from the National Infrastructure Commission, which in its report in April of this year makes some similar recommendations. In trying to deal with highways and rail together, the need for that development is not as sharply focused and expressed as it might be if they were dealt with in separate NPSs, in the way that we have separate NPSs for ports and airports.

The other missed opportunity is that the draft talks in quite vague terms of reviews every five to 10 years, or as appropriate, which is quite wishy-washy. As we see now, eight and a half years has been a huge amount of time, and the current NPS is very yellowed around the edges. That has caused all sorts of problems with project decision making and delivery. The NPS needs to be much clearer about regular reviews. We think every five years or thereabouts is much more like it. That was the original intention of the architects of the Planning Act regime back in 2007 and 2008. Five-yearly reviews, perhaps pegged to external events like road investment strategy in relation to highway development, would make sense.

Those are two examples where we think there have been some missed opportunities.

Q44 Chair: Before turning to the other members of the panel, could I probe a little further on your point about having separate roads and rail NPSs? Do you not think that would run the risk of not looking at connectivity more holistically? There could be a package of measures, some rail, some road that would, for example, increase the resilience of the supply chain of components coming into a container port, getting to, say, an industrial cluster in the Midlands.

Robbie Owen: There is that risk; I can see that. I think that is capable of being dealt with by making sure that the different NPSs, first, talk to each other and make it clear that you should not just look at one NPS in isolation. If a scheme is relevant to more than one NPS, then you should look at it together in that way. That is a risk but I do not think it is insurmountable.

Q45 Chair: Do any of the other panel members want to comment on that particular point, if you wish, but more generally on missed opportunities?

Keith Buchan: The blank sheet is a very tempting prospect for any transport planner. Being practical, to focus on a couple of items, there



needs to be an emphasis on integration—not just between the modes but with local, regional and sub-regional policies—because it is only in that context that some of these major schemes will make sense. That is underestimated in the current revised draft. There needs to be a much greater emphasis. It is mentioned but it needs to be there. In fact, it should be a condition of these national projects that they do fully meet the local objectives in terms of both local transport plans and the emerging regional and sub-regional plans. That would put the whole thing in a different context. I am slightly in disagreement with Robbie and in agreement with the idea of having them together.

The example of freight also is very interesting because we have a freight plan. What we do not really have is a passenger plan, which would be very handy if you were trying to judge a nationally significant transport project.

If we were looking at a blank sheet, integration is one. That plays straight in to the idea of the proper consideration of alternatives and, in particular, alternatives which have a demand management content. Without that, frankly, we are not going to be building extra road capacity. It will be of the wrong type in the wrong place, it will be unmanaged and poor value for money. We will not be building the right sorts of roads in the right places. We need to see that as part of a strategy. Most of these road projects, from the National Highways for example, have major local and regional effects. It is exactly the same with a lot of the rail schemes and the strategic rail centres.

Q46 **Chair:** Do you have anything to add?

Mustafa Latif-Aramesh: On the suggestion of having separate sector sub-national policy statements, I do not have a strong view but I would make two points. First, the National Infrastructure Commission has recommended a particular modularisation of some parts of policy so that they can be updated more quickly. On that aspect, it is worth looking at other documents outside the NNNPS that could fulfil that function. Under the Infrastructure Act, there is an established need to create road investment strategies; there are integrated rail plans. It is worth looking at those. There is a high degree of consistency in the policies applicable across the sectors. If it is to be anything but a structural change, you would have to look at those other documents to see what they could do before you went through the bother of moving different parts of the existing NPS into separate documents.

On your original question, which was the blank piece of paper, there are three missed opportunities that come to mind. In our written submission, we made the distinction between what we consider to be new impediments and missed opportunities. These all fall into the category of missed opportunities.

The first relates to playing back what the courts are saying on carbon assessments and cumulative impacts. We have heard today, rightly,



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about the changes in wider policy relating to decarbonisation. It is also worth the NPS explicitly playing back what the courts are saying. In a consistent line of cases—Bristol airport, Manston airport, the A428, various court challenges—the Government’s position on, “How do you carry out carbon assessments? Is it a rational way of doing so?” has withstood scrutiny. On that basis, to give increased certainty, it is worth confirming what seemingly the Secretary of State is doing on multiple infrastructure projects across different sectors and which the courts have confirmed is an acceptable approach in order to allow for a reduction in legal challenges, assuming that is the Government’s position, which for all intents and purposes it is.

The second thing I would mention as a missed opportunity is that the other legal challenges often focus on the issue of alternatives. The Government have very helpfully confirmed that where, for example, some level of assessment has been carried out in a road investment strategy you need to give less consideration to the alternatives to a particular scheme. What would be even more helpful is confirming this issue around exceptional circumstances, where you go outside that and you give a heightened level of scrutiny to alternatives. The Government could give an illustrative list of examples of unexceptional or exceptional circumstances. Again, even if they are just illustrations, it would prevent examinations being bogged down by, “Is this an exceptional circumstance? Is it not an exceptional circumstance?”

The third and last point to mention, and I have said this in other proceedings before, is that the Department for Transport has established a very effective, efficient and independent case unit team to deal with discharges for DCOs for the strategic road network. That unit operates, as I said, very effectively, but it has also become highly specialised. It has an immense amount of knowledge, which allows it to operate as effectively as it does. Again, I am stating no more than what the Secretary of State has said in multiple decisions. This case unit should be responsible for the discharge of the equivalent of planning conditions for DCOs. Examinations are bogged down by this question, notwithstanding the consistent and uniform practice of the Secretary of State when it comes to strategic road network DCOs. There are very sound reasons for this. It assists with the appropriate use of public funds, using that case unit and that specialised knowledge. It would just be helpful to confirm that in the NPS, given that it is seemingly consistent Government practice.

Keith Buchan: Could I come on to a practical matter to do with DCOs? We need to be frank and honest about this. The consideration of alternatives, which is done at a very early stage in most schemes, is done internally. It is unscrutinised. It does not have its own internal champion. It is not done properly.

For that reason, if we were able to bring the consideration of alternatives into the scrutinisable area within the NSIPs, that would be a tremendous



way forward for public confidence in the system. Frankly, if you go to a DCO and see the way they are conducted, public confidence in them is very low. It is because they feel, if you like, that there has not been proper scrutiny of the bit they are most interested in, which is, "Is there a different way of doing it?" That is crucial to the NSIP and the whole NSIP reform.

Colin Black: To build on that, at the moment we rule out the alternatives far too quickly. If there is a highway congestion issue, we might look at four different highway alignments, pick the alignment and move forward as part of that options appraisal. What we do not tend to do is take a more integrated approach and see whether we could cater for the demand or we could satisfy the requirements and the objectives of that project in a different way, using a more integrated approach, working with the local authorities and working across a region.

What is needed is guidance on what the examining authorities should do to the extent that a satisfactory options appraisal has not been undertaken. It is lacking at the moment from the draft NNNPS. It would also be much more helpful if there was a clear requirement to provide the full business case. At the moment, the business case is partial; it is part of the economic case. But the full business case is not put on the table for the examining authority to review in the same way as a Secretary of State might.

It has been mentioned previously how whole-life carbon assessment is taken into account. There is a missed opportunity to provide clarity in the policy document, particularly on the relationship with decarbonisation trajectories, which indicate the need for a 20% reduction in traffic. Professor Greg Marsden's work "Reverse Gear", looking at the statistics, the analysis, behind the decarbonisation strategy, has been quite instrumental in informing that understanding.

Finally, we could fundamentally change the nature of the draft NNNPS, as has previously been mentioned, by changing the presumption in favour of the applicant. It is a major point. If a local authority or a group of local authorities strongly believes that there is an alternative that is not highway, but is a more integrated scheme, and they wished to bring that forward, at the moment the system is loaded very heavily against them in that they have to invest local taxpayer money to build a compelling counterfactual to challenge that scheme. It is extremely resource-hungry and does not always necessarily lead to the most optimal outcome for people's wellbeing, liveability and achieving the scheme objectives.

Q47 **Chair:** Thank you. Before turning to colleagues, I would like to ask you a supplementary on the point you made about appraising the wider business case. What currently gets taken into consideration and what should be? If you are looking at the impact that transport investment will have, whether that is road or rail, you can look at the narrow BCR, but then you could look at the wider economic impact: the housing



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development that might take place; the impact—if it is road—on moving traffic away from an urban area, to outside; and the benefits of air quality and the health benefits that might have. Hypothetically, if you were looking to construct a carbon capture and storage scheme, it could be how you build and operate that. Where do you draw the boundaries of what is considered in the business case?

Colin Black: There is a very clear methodology on what is covered in the business case and a number of elements of that. The fact is we are given only partial sight of that through the DCO process. It would be helpful to have a better understanding of the full business case to make a more informed judgment.

For example, in some areas where a local scheme, a highway scheme, may be being brought forward, most of these larger highway schemes are predicated on their ability to deliver a substantial wider economic benefit and there is a methodology around that, but we find that the wider economic benefit hides the fact that there is a substantial local disbenefit. The actual net impact locally could be to the extent that it might level down an area that is effectively identified in the levelling up strategy as a priority for levelling up. So these anomalies occur by not having a transparent discussion about the impact on local economics.

Keith Buchan: These documents are prepared. They are there; they are just not supplied.

Chair: I understand.

Robbie Owen: Chair, may I come in on a couple of those points? Regarding local impact, the reality of many examinations of highway schemes, for example, is that local impact is always examined; it is always an issue. Local authorities submit local impact reports. Those have to be taken into account as a legal requirement by the Secretary of State in coming to a decision on the application.

In relation to alternatives, my view and my experience from countless examinations differs from other colleagues in that there is plenty of opportunity and discussion about alternatives to the scheme in question. I have just returned from a six-month examination of the A66 Northern trans-Pennine scheme, a very large scheme. There was a lot of discussion of alternatives in a number of hearings. All the previous work done by National Highways on alternatives was considered. Even before the application is submitted, that is considered in consultation. This view that alternatives are not considered, I am afraid, is not borne out by my experience.

The missed opportunity is that the NPS, in paragraph 4.19, tries to update the current paragraph on alternatives to take into account decisions made by Secretaries of State and decisions of the courts, particularly in the Stonehenge case, in setting out the reference to exceptional circumstances. As my colleague on my right says, it does not



really go far enough. It does not provide the much-needed clarity for all concerned—applicants, local authorities, residents—as to what is up for grabs regarding alternatives in an examination. It could be much clearer and needs to be clearer so that it sets clear parameters for what issues should not be reopened, because they have been dealt with in road investment strategies and other policy documents, and which issues are able to be examined. It is not clear enough.

Mustafa Latif-Aramesh: I completely agree with those comments. To add to the specific point about full business cases, the current draft says that you have to include a certain degree of economic appraisal. It is really important to make the distinction between what is necessary to make a planning decision and what is necessary to make an investment decision. Those things should not be conflated.

A BCR is one of the things that is helpful but it is not the determinative test that you use to decide whether a project gets consent or not. The level of information that is currently provided, I would say, is proportionate. Moving away from that would be another significant impediment to the delivery of infrastructure projects.

Chair: Ben, you have been patiently waiting.

Q48 **Mr Bradshaw:** Mr Owen and Mr Latif-Aramesh, you both work for organisations that have a vested interest in big infrastructure projects, including roads. Do you reject out of hand the concerns we heard from the first panel, your fellow panellists here and the Government's own Climate Change Committee, that we also need to manage demand if we are going to have any hope of meeting our carbon reduction targets?

Robbie Owen: I represent the National Infrastructure Planning Association, which represents all those concerned with national infrastructure, not just applicants or promoters, but local authorities, non-governmental organisations, anyone concerned. We do not take just one approach; we are interested in clarity in the process and wanting to make clear that, as under this NPS, the policy tests are clear and there has to be that balancing. We quite understand. We support the retention of the presumption, but that does not mean that schemes will always be approved because of the other very clear policy tests now set out in relation to carbon and biodiversity and net gain, which are a distinct improvement. As for striking that balance, we think the revised draft is an improvement and recognises those other factors you have mentioned.

Mustafa Latif-Aramesh: I again agree with the comments. You are right to say that my firm acts for National Highways as well as East West Rail and other road and rail construction organisations. I am here in my own capacity. What I would say on the fundamental question that you ask is that what we desire is clarity. We think that clarity has been provided by the courts. The national policy statement should make a clear statement about the form that carbon assessments and other environmental assessments should take so that everyone in the process—



local authorities, promoters, as well as Government—can make these decisions without legal challenges arising.

Colin Black: Although I am here in a personal capacity today, I also work for an organisation that is heavily invested in delivering future infrastructure. I fundamentally disagree with my colleagues here that this is an improvement. I am working on major DCOs—well, my company does. There is a unique opportunity to set out a very clear and different vision and drive efficiencies in working here that have not been picked up by this draft NNNPS. It is a missed opportunity.

Mr Bradshaw: Thank you.

Q49 **Ruth Cadbury:** Keeping on this theme, Robbie, you think that the current draft is likely to be more effective than its predecessor. In what way will it be more effective: in delivering infrastructure or in delivering carbon savings?

Robbie Owen: It will be more effective in reaching decisions on applications for development consent orders in a timely way and avoiding or certainly reducing the number of legal challenges that we have seen, certainly in recent years. That is what we mean by “effective”.

We are concerned to make sure that it is a very clear framework. That is what national policy statements are; they are policy frameworks within and against which applications should be judged. The current NPS no longer serves its purpose. Arguably, it has not done so for a while. It needs updating. It is not perfect, and we have put forward some changes, but we think that the revised draft goes a long way towards getting back to what the original NPS did in providing policy clarity and certainty, which is for the benefit of all users of the system. It is for the benefit of applicants and promoters. It is for the benefit of local authorities and affected communities and landowners.

The NIC’s report from April contains some useful statistics about the huge increase in judicial reviews in the last five years. The problems at the moment are because the NPS is outdated and, therefore, not clear on important contemporary issues, if I can call them that. That produces delays to decision making. It has not delayed or prolonged examinations, but it has delayed decision making by the Department for Transport, because it has to consult further once it receives the report, and it has produced all number of judicial reviews. It is in the interests of everyone concerned, whether you are for or against a project, for it to be dealt with in a timely, efficient way that does not involve delays and legal challenges, which are costly. That is what we mean.

Q50 **Ruth Cadbury:** Others have said that several clauses could invite legal challenge. Mustafa, you highlighted the “missed opportunity” to affirm the established position on emissions for NSIPs. Can you explain your position?



Mustafa Latif-Aramesh: At paragraph 5.31, the draft NPS very helpfully says that the carbon impacts will not necessarily be a reason for development consent not being granted. That is a positive affirmation. However, it does not go as far as to restate what the courts have said on this particular topic—bearing in mind that it is not the case that this methodology has to be followed in all cases—which is that this particular methodology is an acceptable form of doing so.

For example, in the Bristol airport case, which was about carbon assessments and the cumulative impact, they very specifically said that it is perfectly acceptable “to look at the scale of” the “emissions relative to a national target and to reach a judgment, which may...be of a generalised nature, about the likelihood of the proposal harming the achievement of” the overall 2050 target. That statement does not appear. It would provide much clearer certainty about what the Government are doing across their DCO application decisions, as well as what the courts are now seemingly consistently finding.

Q51 **Ruth Cadbury:** Robbie, you expressed concern about allowing the approval of schemes with residual carbon emissions. Do you want to expand on that?

Robbie Owen: We actually welcomed the recognition that some schemes will have residual carbon emissions and that that is unavoidable, but we said that the NPS contains a number of measures—for example, the requirement to have a greenhouse gas reduction strategy—that help to make the position as good as it can be.

What I would say in that respect and in similar respects is that we cannot expect the NPS to do everything. There is a role here for much-improved guidance from the Department as well, to go alongside the NPS. For example, in relation to the greenhouse gas reduction strategy, it begs all sorts of questions as to how that should be achieved and what it should contain. As we set out in our submission, we think that that is a prime candidate for improved guidance alongside the NPS.

Q52 **Ruth Cadbury:** Does anybody else have anything to add about how, in future, legal challenges can be avoided and what further amendments could be made to the draft?

Keith Buchan: There is a distinction to be made—it is made once, I think, in the new draft—between residual carbon, because of course there will be residual carbon, and an increase in carbon in a national or sub-national context. In paragraph 5.37, there is a move from saying, “There is residual carbon, but we will accept an increase from individual schemes.” It seems to me that, potentially, that is incredibly dangerous. It has been the source of legal argument and, I think, will be again, because the distinction between “residual” and “increase” is the area that there will be argument over.



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The other thing is that, if you clarify the policy statement, the legal cases will get a lot simpler. The legal cases have findings in the context of the current guidance. If you have sufficiently clear guidance, hopefully you will be able to avoid some of those cases.

However, the main point is this. If you have a very large-scale programme of public investment in the road network, should that be part of a policy, for example, to control carbon or to control congestion—to manage demand? Should it be part of that policy? The answer is, “Of course it should, because it is public money and otherwise it will be wasted.” If that is the case, you need to integrate. Any road scheme must be part of a broader package to address these issues, otherwise you will go off and have individual schemes increasing carbon, against the policy, on the basis of this document, which is what has been happening. We need to really intervene and get a much more sensible and clear approach from what I hope will be a revised version of NNNPS.

Colin Black: We are increasingly going to find the sub-national transport bodies, such as Transport for the North, and parts of the UK like Wales having a very different approach from England. This approach, as it sits at the moment, does not provide clarity on where the balance of the decision should lie if an area, region, group of local authorities or metropolitan area wishes to adopt a vision and validate approach and to reduce traffic in an area, and there is a highway scheme that is seeking to increase traffic substantially. Should it be with National Highways, based on the methodology here, which fundamentally remains predict and provide, or with the requirements of the local area, which very clearly voted for a very different approach? There is a missed opportunity here to provide that clarity in how this will tackle those very clear contradictions that are starting to emerge across the country.

Q53 **Chair:** To pick up on the point about how this national policy statement potentially fits with the STBs, mayoral combined authorities and devolved Administrations, do we need to have a hierarchy of priority expressed more clearly, or will that just open up another area of legal dispute?

Colin Black: What is particularly interesting is that, when we get to a border, the policies change, but people do not recognise that those policies change as they cross a border. You are a consumer of mobility when you are travelling. I think that it just gets rather confused if we do not have that consistency across the UK, or at least acknowledge how this is consistent with other areas or what to do in the instance that that consistency may be challenged.

Q54 **Chair:** This is a purely hypothetical example, I hasten to add. Let us say that there is a proposal to build a new motorway linking Greater London to Birmingham and the east midlands. If central Government set that as their preferred policy but the West Midlands Combined Authority says, “No, we don’t want to do that,” or someone else says no, how will those tensions be reconciled?



Keith Buchan: The first thing is to take an evidence-based approach, because that is the only way to mediate, in a sense, some of these policy tensions. Obviously, there are policy tensions. Indeed, within the draft, there are quite clearly different policy views. That is one of the problems with it—that it is not sufficiently consistent internally.

But it seems to me that you can make sense of this new proposed motorway from London to Birmingham if you analyse it correctly. If you produce the evidence, you will find at least some areas of agreement that you did not expect. You will find enlightenment from taking an evidence-based approach that you will not otherwise have. In those contexts, you will reach a decision that is transparent and that people will broadly understand. Even if they do not like it, they will accept that the process was a valid and evidence-based one. That is what we are actually proposing. That is what we put in our submission to you. I think that that is a very important base one.

I mention that because there are places in this document where we consider that misleading statements are made—in particular, about the generation of traffic—and we want those to be clarified and corrected. We sincerely hope that this Committee will be able to extract from the Department exactly what it means and to go through with the Department its slight misquoting, in our view, of the reference on generated traffic.

I understand that I have gone slightly left field from your question, but our approach is always to look at the facts, to be open about them and to do it at the right moment—to do it at an earlier stage and not leave it until it is too late. That will get to better decisions. This draft does not really point us in that direction in its entirety.

Colin Black: It is really important to be clear that this is not anti-roads in any way. It is about thinking about what those roads are for—what are we using them for and how will we manage them? The missing bit here is how we are going to manage those roads and how we are going to ensure that they are optimised to provide best value.

Robbie Owen: On hierarchy and your question, under the current system it is entirely clear that, in your example, the national policy statement relating to national networks that has effect at the time would be at the top of the tree. Decisions on DCOs must, as a legal requirement, be taken in accordance with the NPS or NPSs having effect in relation to that application. Other matters, like the west midlands policy that you mentioned, would be seen as being important and relevant, and could therefore also be taken into account in the decision, but top of the tree in the hierarchy is the NPS.

Whatever the NPS says, we would say that that is important. Let us not forget that the origin of this regime in 2008 was to produce certainty for all concerned about decision making on nationally significant infrastructure. It is important, therefore, that the NPS plays a crucial role



in providing that degree of policy certainty, against which schemes are then tested.

Mustafa Latif-Aramesh: I would like to emphasise that point. I think that the approach of moving away from what Mr Owen describes as front-loaded policy would be dangerous. As alluded to earlier, the Planning Act already accounts for local authority views. There are local impact reports. There are compulsory statutory consultations with local authorities. There are opportunities for local authorities to take part in the process. It is an ongoing system of engagement. Moving away from the hierarchy of national policy would create significant uncertainties in infrastructure delivery.

Q55 **Chair:** I have a couple of further specific questions. Ruth and Gavin will then conclude the session. First, on forecasting future network needs, do you think that the draft statement of needs considers a wide enough range of future scenarios?

Keith Buchan: Can I pick up on the point about the DFT's base traffic forecasting scenarios, which speaks to this and was mentioned by Professor Goodwin previously? Obviously, as transport planners, we are only too aware of the national transport model. There is the old adage that the results from the model depend on the inputs that you put into it.

In this particular case, the DFT has made terrific progress in moving towards scenario forecasting. It is widely recognised that there has been progress in this area. What it has not done is produce a wide enough range of scenarios and tested them all. That is what we would like to see in this context. Without that, any DCO or national policy will be under-informed. That is the point of what we say.

People like our members and Colin's organisation do lots of work all the time on producing sustainable solutions, managing demand and, indeed, looking at the design of road schemes. They have that panoply within them. I think that it is important that we bring it all into a common purpose. That should be the role of the NNNPS. It is not fulfilling that role at the moment.

Q56 **Chair:** Do the other panellists concur with that?

Colin Black: I refer the Committee to Professor Greg Marsden's enlightening work in this regard. He looked at the difference between the high and low-level pathways in terms of demand, which is huge. The low ambition exceeds the high by 47%, or 2 trillion vehicle miles. We are currently assessing a huge range of scenarios.

It is about having clarity on what we are trying to achieve in decarbonisation and through delivering our transport system. It is about getting that connection. This is why you hear the debate and the criticism levelled recently by the Climate Change Committee about that disconnect. We need to know what it is that we are seeking to deliver for the future. Which version of roads are we looking to take forward? It is



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really important that that is reflected in the scenarios and that we understand what we are expected to model when we are taking forward schemes to DCO.

Q57 Chair: My final question is on biodiversity. Do you think that concerns about the environmental impact of the draft NNNPS on biodiversity have been adequately addressed by the appraisal of sustainability?

Colin Black: Our understanding of nature-based solutions and the ability to provide that balance on schemes is evolving all the time. There needs to be an opportunity to embed that in future versions and to take cognisance of the latest advice around developing nature-based solutions. From that aspect, I do not think that it is strong enough, but I recognise the fact that the guidance is evolving as we speak.

Keith Buchan: We get very excited about technological developments changing all the time. The question of nature-based solutions is something that is also evolving quite quickly, and very interestingly. I would support that.

The other caveat is that too often we are looking at details here. They would be changed radically by the type of forecasts that we produced. In other words, we need to look in the round at the impact on nature not just of schemes but of whole transport planning packages. They will be changed by the way in which the NSIP says that forecasting should be considered and looked at. In my view, the question of induced traffic was something that made a lot of transport planners very angry. That is all that I am going to say.

Mustafa Latif-Aramesh: I will make one brief point. Paragraph 5.56 of the draft NPS relates to impacts on sites of special scientific interest. That paragraph substantially replicates what is in paragraph 5.29 of the existing NPS, but, importantly, the final sentence of that has been omitted. I do not think that that has been done deliberately and that there is a change in policy here, but the effect of that might be used in future to argue that you cannot mitigate or compensate for impacts on SSSIs. Clearly, that cannot be the intention, so one of our recommendations in our written submission is that that is reinstated.

Chair: That is a very useful point of detail. We come to the final questions, first from Ruth and then from Gavin.

Q58 Ruth Cadbury: We have had suggestions that the scope of the NNNPS should be expanded to support major projects that are currently consented through the Transport and Works Act. Do you agree with that? I will start with Colin.

Colin Black: It is obviously not fit for that purpose at present, so it is not possible with this version. However, in theory, the concept is a very valid one. It would stop us operating a two-tier system where we have local projects that may be of substantial and significant size go through a



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different level of rigour from the NPS. I see that there are some merits in taking that approach forward.

Q59 **Ruth Cadbury:** Does anybody want to say anything different?

Robbie Owen: This suggestion came from us. The key point here is that most rail schemes to date have been consented not through development consent orders but through the Transport and Works Act regime, but there is no overarching policy document that applies to decisions taken by the Minister under the TWA regime.

We think that this is a missed opportunity to be much clearer that this NPS is capable of being a very material consideration when it comes to deciding applications for TWAOs. It cannot be any more than that because NPSs are unique to the DCO regime. But, given that they are statements of clear Government policy on rail schemes, we think that it would be really helpful to guide all concerned, not just applicants, if the NPS were clearer on the extent to which it applies to non-DCO rail projects.

Mustafa Latif-Aramesh: The other side of the coin of what Mr Owen has said is that there are some projects that are not in the Planning Act 2008 regime but are directed in through a section 35 direction. The draft NPS says that the "NPS is likely to be the primary policy for...decision making on" those projects. The words "is likely" are unhelpful. It should have effect in relation to projects directed into the Planning Act regime.

Robbie Owen: I absolutely agree with that.

Q60 **Ruth Cadbury:** Do you think that ancillaries to major infrastructure projects—things like driver rest areas, refuelling stations, adequate charging infrastructure and, on rail, mobile connectivity along the network, which we heard about last week—should be incorporated into the NNNPS and the core consideration of those schemes?

Robbie Owen: There are limits beyond which you cannot go in terms of adding into a DCO what you call ancillary measures. Technically, it is called associated development. I think that the Department could usefully update the guidance for highway, rail and rail freight schemes what would normally be seen to be properly associated. The NPS could then make sure that it addresses those classic areas of associated development. It is important for that to be done.

Colin Black: At the moment, ancillary aspects are stripped out in order to minimise the cost of a scheme being brought forward and to improve the business case. That creates more confusion down the line as to who is responsible for them, who is going to deliver them, how you are going fund them and how you are going to get planning permission. In terms of efficiency and achieving policy objectives, it would be much more helpful if they were incorporated as a requirement within the scheme, rather than our having to deal with them separately. It takes years after a



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major scheme has been approved to provide all the ancillary infrastructure that is required to support it.

Keith Buchan: I agree 100%.

Mustafa Latif-Aramesh: In addition to the limitation around what can be included in a DCO, there is a question about whether it is better to deliver some things through national strategies than on a project-by-project basis. There is also the important question of whether the relevant promoters have the powers to deliver all aspects of what you are referring to. At one extreme, there is a motorway service area. I suspect that the DFT and highway authorities would not necessarily want to get involved in the operation of motorway service areas, but that question is much better dealt with at a national level than on a project-by-project basis.

Robbie Owen: The key point is that a judgment always has to be made by a project promoter as to what it will include in the application by way of ancillary or associated development. The point is that if a decision is taken to include in a DCO certain ancillary development, the NPS should provide clarity on the policies, just as it does in relation to the main component of the scheme—the highway itself. That would be very helpful.

Q61 **Ruth Cadbury:** Driving along a French motorway, where there is some kind of facility every 10 km, shows the difference in approach.

Colin Black: We used to have a requirement for a motorway service area every 15 km, but it was removed.

Chair: Gavin, do you have any last questions?

Q62 **Gavin Newlands:** Yes. It is similar to the question about putting more into the current strategy and whatnot. I do not know whether you heard the question that I put to the first panel about how much knowledge you have about the difference in approach to strategic planning with regard to transport infrastructure in Scotland versus the DFT's current model. For instance, in Scotland there is the infrastructure investment plan, which feeds into the overall national transport strategy. Then we have the STPR2, which is essentially the delivery model for the national transport strategy. It looks at all modes of transport that the Scottish Government have responsibility for in one holistic document, in terms of how best to integrate that network and get modal shift. Would it be beneficial to change to something more akin to that, or are you quite happy with the current NNNPS approach?

Colin Black: I am slightly biased, because my company was heavily involved in producing STPR2.

Q63 **Gavin Newlands:** I thought that you might be.



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Colin Black: I think that the findings from working on that have been enlightening. There is some really compelling good practice that is there to be shared with the rest of the UK.

Keith Buchan: I very much agree with that and will add to it. In Scotland, there has also been an emphasis on developing the right transport planning skills to deliver it, which look across modes and link up to transport planning. Of course, I would say that, because I am the skills director of TPS, but it is a very important area. To an extent, Scotland has been a beacon in that regard—recognising professional qualifications and making them part of your approach. I think that you are seeing the benefits, frankly, because you are seeing a much more open-minded, problem-solving approach at a national level, which is quite interesting and well worth people's regard.

Mustafa Latif-Aramesh: I would just echo my earlier remarks, and those of other members of the panel, on the concept of modularisation of policies relating to particular sectors, which is probably the way to address that. I would say that the NNNPS should be the decision-making tool that is used for the projects. It cannot be used to address all the problems and all the strategies that are required in order to allow schemes to come forward.

Robbie Owen: I agree with that. There are two different concepts here. There is whether England should—like Scotland, for example—have an overarching national transport strategy. That is one issue, which is really what your question is about.

The term used for this and the other national policy statements is a slight misnomer, really. They are national planning policy statements. They are not national policy statements as such. It is crucial to recognise that difference. Given the framework within which NPSs sit, to provide tools for decision making on infrastructure consenting in an infrastructure consenting system, the current focus of the NPS is correct, but that is a very different issue from the broader question of whether England should do what they do in Scotland, for example, and have an overarching strategy.

Gavin Newlands: We have just got to an interesting point, at 11.32. Sadly, we will have to come back to that at another point.

Chair: I thank you all for your time and evidence this morning. It will be very helpful in shaping our scrutiny of the NNNPS.