



Industry and Regulators Committee

Corrected oral evidence: UK regulators

Tuesday 12 December 2023

10.30 am

Watch the meeting

Members present: Lord Hollick (The Chair); Lord Agnew of Oulton; Baroness Bowles of Berkhamsted; Lord Burns; Lord Clement-Jones; Lord Cromwell; Lord Gilbert of Panteg; Baroness O'Grady of Upper Holloway; Lord Reay; Baroness Taylor of Bolton.

Evidence Session No. 9

Heard in Public

Questions 86 – 106

Witnesses

[I](#): Sir John Armitt CBE, Chair, National Infrastructure Commission; James Heath, Chief Executive, National Infrastructure Commission.

Examination of witnesses

Sir John Armitt and James Heath.

Q86 The Chair: Good morning, and welcome to the Industry and Regulators Committee. This is the last public session in our current inquiry into UK regulators. One factor that has cropped up throughout the three-year journey through various regulators is the importance of infrastructure investment: controlling it, overseeing it, monitoring it, commenting on it, and generally getting as much information as we can about independent verification of the projects themselves. Obviously, the National Infrastructure Commission plays a very important role in that.

Perhaps I can ask you, Sir John Armitt, chairman, and you, James Heath, chief executive, our two witnesses today, to take us through the work that you do. In doing so, it would be helpful if you could comment on the role played by the Infrastructure and Projects Authority, which has £650 billion of public infrastructure under its eagle eye. How does that fit in with your work?

Sir John Armitt: Our role is to identify the infrastructure requirements of the country 25 to 30 years ahead, and we have to make an assessment every five years. We did the first one in 2018, and we recently published the second one. We are an agency of the Treasury, which gives us guidance on the key criteria for carrying out that assessment.

One criterion is having the infrastructure in place to enable economic growth across the whole country. The second is doing that in a way that enables the country to meet its net zero obligations. The third is to ensure that the infrastructure is resilient to climate change. The last is to improve the quality of life generally across the nation.

In between assessments, the Government ask us to do short-term pieces of work. Most recently, we were asked to do a review of surface water flooding following the significant flooding a year or 18 months ago, looking at how that was dealt with and whether the existing infrastructure was appropriate to meet the increasing frequency of significant flooding, particularly, in this case, surface water as opposed to river or sea inundation.

The Government are required to respond within 12 months to the recommendations we make to them. In the case of the 2018 assessment, it was two years before the Government formally responded, but they did so with the UK's first national infrastructure strategy. You could argue that it was worth waiting for, because it was a substantive response.

Generally speaking, 80% of all the recommendations we have made over the last seven years have been accepted in principle by the Government. Turning that acceptance in principle into a delivery programme or into action is a bigger challenge, which is increasingly the problem; it is all very well having policy and ambition, but if you cannot turn it into a delivery programme, it is not worth much.

The Infrastructure and Projects Authority's role is to ensure that projects are delivered as efficiently as possible. We are very distinct. Ours is a strategic role. We have nothing to do with the nature and intricacies of project delivery. That is the role of the IPA, which is there to advise primarily government departments on how investments that are being made by government are best made effectively and efficiently, particularly getting into forms of contract, how the projects are set up, and possibly how projects might be financially supported.

James Heath: There is a policy versus project split. The NIC is there to advise the Government on policy and infrastructure strategy, the IPA is there to advise the Government on how to deliver projects, and the Treasury ultimately decides what gets funded, so there is a triangle of institutions in the infrastructure space.

The Chair: Are you satisfied with the notice taken of your work and the resulting action by the Government or relevant department?

Sir John Armitt: Getting 80% of our recommendations accepted in principle is pretty good. My concern would be the follow-on from that in turning that acceptance potentially into legislation that may be required to effect a change, or into policy.

The point I did not cover in my introduction is that our other remit from the Treasury is that what we recommend for infrastructure, which it will be for the Government to pay for—fundamentally roads and railways, together with flood defence—is 1.3% maximum of GDP. Everything else—our telecoms, our water, our energy, our waste—is funded by the private sector, so policy is critical to their willingness to invest and their belief in the need to invest, which they may need to do more quickly than they might think, depending on whose view you take about future demand.

Policy and stability of policy are critical. One of the real challenges all the time is getting stability of policy, because we are so dependent on at least 50%, and potentially more looking forward, coming from the private sector rather than the public sector. That is where the regulator fits in, because he is the bridge in a sense between those government policies and the private sector, and agreeing with the private sector the rate of investment that it will put in and the impact that will have on the cost to the consumer.

The Chair: As an organisation, do you consider those policies and comment on whether you think they are adequate for the task and are being followed to the letter?

Sir John Armitt: We are required every year to publish a progress report on what progress has been made by government on the policies it has accepted, so where government has accepted a recommendation, we are required every 12 months to produce a report card on what progress has been made by government on fulfilling the recommendations it has accepted.

The Chair: Do the Government take due notice of that, and can you see action as a result?

Q87 **Lord Agnew of Oulton:** Big smile. Could I put that question in a slightly different way? You mentioned that 80% of your recommendations have been accepted. How many of those have been implemented?

Sir John Armitt: I would have to come back to you with a detailed analysis of that. Do you have a figure off the top of your head, James?

James Heath: It would certainly be less than 80%. We would have to come back to you with a precise number in the translation from government endorsing a recommendation and turning it into policy, and then seeing that policy leading to change on the ground. Trying to go across that chain is quite important.

Lord Agnew of Oulton: I work on the basis that the road to hell is paved with good intentions. You do an incredible job, but I am worried that you do not cut through enough to actual delivery of your recommendations. That is not your fault, but I would like to see the evidence.

James Heath: Whenever we publish a study or a national infrastructure assessment, government is formally required to respond within the time period John set out. When we publish our annual performance review and our actual monitoring report, government is not technically required to respond to that, so that is a "gap" in our regime.

Q88 **The Chair:** One area that we looked at as a committee when two of your colleagues joined us as witnesses is the significant underinvestment in the water infrastructure. They were able to give their thoughts and comments on that, but they did not have the power—maybe this is a point we will come to later—to intervene and say, "They got the balance wrong between keeping bills down and investing to repair a 150 year-old system". That seems to be a decision—you might say that it is a policy decision—which the Government accepted over quite a long period of time, and, as a result, there has been very significant underinvestment. Is that the sort of policy issue and shortfall in necessary investment that you have the power to look into and comment upon?

Sir John Armitt: Yes. When we report, we tend to have three columns: whether progress has been made in taking forward the necessary policy changes; whether that policy change has been turned into real targets that have been placed on for example the regulator or the industry; and what physical progress has been made. We traffic light it in that way so you can see the stages, which James has described, that you need to go through to turn from a recommendation into something physically being built on the ground. You can say, "Government's making good progress here", or, "It's made no progress there", and we mark each one accordingly.

Q89 **Lord Cromwell:** Good morning. Do you at any point recommend the kind of financial structuring that would be suitable for projects, or is that

outside your bailiwick?

Sir John Armitt: No, we do not go into the detail of the particular financial structure that may be chosen, particularly by the private sector or, indeed, between the regulator and the private sector. We quantify the scale of the investment in annual SLUGs and set that out across the next 25 to 30 years. The most recent one showed a very significant increase being required, particularly in the 2030s, of the level of investment from the private sector in particular, which could be up to—£70 billion, is it?

James Heath: In total, it is around £80 billion per year investment across public and private, going up from an average of around £50 billion public and private over the last decade. So it is a significant increase in investment to deal with the challenges that John set out.

Lord Cromwell: When you do your reports, do you cover the financial structuring that has been used? I touch on that because, in the water industry, clearly the regulator was not sufficiently acute as to the financial engineering being used by the private sector, so I am just wondering whether you touch on that or not.

Sir John Armitt: No.

James Heath: On the investment side, we both set out the investment need and are very clear about what conditions we think will attract that private investment into the UK. So we are very clear on policy stability, stable and predictable regulation, and the business models to attract in the private investment, particularly in energy and new technologies but also in the planning system, in order to build things more quickly to bring down the cost of capital. So we are very clear about what conditions are needed to inject that level of investment into the UK economy and infrastructure, and the way in which the reforms that need to be made across each of those areas needs to take place.

Lord Cromwell: That is very helpful. Thank you.

Q90 **Lord Clement-Jones:** Given what you say about government delivering your recommendations, I slightly hesitate to add to your burdens, but I am going to suggest that it might be possible for you to take a step further in your role. Do you think the commission could play a greater role in overseeing regulatory activities relating to delivering infrastructure? Would it, for instance, be possible and valuable for the commission to report annually on the regulator's role in delivering key infrastructure? If so, what changes do you think would help you to enable that? Would that go with the warp and weft of what you do without significantly adding to the burden?

Sir John Armitt: Strictly speaking, I do not think it does go with what we do, because the regulators are statutory bodies that are overseen by the NAO and Select Committees, so their fundamental reporting line is through those systems. If we were to start overseeing them as well, that would simply add another group of people who were overseeing their work. It would require different resources, which we do not have.

To be fair to the regulators, they go through a pretty complex process, particularly in the nature of understanding or developing with the private sector the way in which returns will be made to the investors. So, for us, as a non-statutory body, starting to oversee a statutory body would be somewhat contradictory.

Lord Clement-Jones: I take your point about the word “oversee”. What about providing information on performance to those Select Committees about the achievement of infrastructure objectives?

Sir John Armitt: The Select Committee could always call us to give evidence on what we might feel. In a recent example, James wrote to the chief executive of Ofwat, pointing out where we thought there could be improvements in the way for example the water companies take a view on their future maintenance obligations. Talking to the water companies, we found that some took a backward view as to what they had spent and what the consequences were, and simply projected that forward. Others were trying to understand the future risks that they faced and determine what they needed to invest in maintenance and renewals on the basis of that future challenge.

So there are two different approaches. You would think that, at the end of the day, there probably should be a single approach, so we raised that with the regulator as something that might need looking at.

Lord Clement-Jones: You are a resource to be tapped, in that sense. If a Select Committee thought, “We would like to take a view”, but it is not something that happens automatically, do you have the resource to do that?

James Heath: We certainly have resource to engage with Select Committees, and we certainly have an indirect role in looking at regulation, in the sense that we look at the extent to which the performance of regulation is meeting the investment requirements and infrastructure. If it is not, we make recommendations to government as to how it could change the regulatory model.

So we definitely play an indirect role, but that is different from the NIC playing a formal role in overseeing the performance of regulators against the objectives they have been set and the impacts they have made. We definitely look indirectly at the extent to which the regulatory systems in the UK are sufficient to bring in investment to deliver infrastructure. If they are not, we point out how changes could be made in a number of areas.

Lord Clement-Jones: That is really useful. So do you think you could play a bigger role in, say, looking at the model and the policy more explicitly, in that sense?

James Heath: Certainly in the work that is set for us by government. Back in 2019, the Government asked us to look at the regulatory system. Most of the studies that we have done since, whether on surface water

flooding or other things, have had a dimension where we have commented on the extent to which the regulatory model is fit to deliver the investment outcomes. So we certainly play in that space.

As I said, we could also offer Select Committees advice as requested on particular subjects, but it feels to me that that is a different model from something that is more a holistic approach, with the NIC taking on an oversight role of regulatory performance, which is not our remit and we do not have the resources to do.

Lord Clement-Jones: But in respect of infrastructure, it sounds as though you can take a view about the model, and it is a medium-term view and not just annual view. It looks at the landscape as well.

James Heath: We do that to a degree in the studies commissioned by government. We also made recommendations on regulatory change in the national infrastructure assessment.

Lord Clement-Jones: So do you feel that at the moment you are not lacking the wherewithal to do that and that you can fulfil your role with a regulator in exactly the way you have described.

James Heath: I would caution against that being expanded without consideration of remit or resource.

Q91 **Baroness Taylor of Bolton:** I am wondering how independent you really feel you are from government. You set out your five-year plan there, but you said earlier that you are given short-term projects to do by government, so how proactive do you feel you can be in discussing or suggesting to government what those plans should be?

I hear what you have been saying about how you could be used as a resource. When we were talking about water, we got lots of answers from our witnesses from the commission, but I asked them if they felt frustrated, because they were coming up with the answers but without the mechanisms to make sure that the right kind of infrastructure planning took place. Do you feel constrained in terms of being proactive? There is a problem there, you can see it, but you do not have the powers, and nobody in government has asked you to deal with it. Is that not a bit of a difficulty for you?

Sir John Armitt: We have the ability to say, "This is something we feel needs to be looked at", where there is clearly a debate going on out there and people are concerned about it. A classic example recently has been the whole business of HS2 and the costs of infrastructure in the UK.

Before I came here this morning, I talked to a couple of members of our team who were just kicking off a project that we have initiated to understand international comparators and the cost drivers in major infrastructure projects. At the moment, they are interviewing each of the commissioners to get their take on this before they put their final specification together for the work that they will be doing together.

At the same time, the Treasury has asked us to do a couple of pieces of work since our five-year forecast, and we will be getting on with those. Whenever Treasury asks us to do something, we probably spend a couple of months sitting down with officials, agreeing what the output should be from the work we are going to do, making sure that they understand what we think they are asking, and agreeing precisely what we are going to be examining.

At the end of the day, any work that we do James will put past his opposite numbers in Treasury and say, "Look, we're thinking of doing this". To us, it seems pretty pointless doing a piece of work to which, when we pass it across, we get the reaction, "Why on earth have you looked at that? We didn't ask you to look at that", and it almost immediately gets dismissed.

In that sense, it is sensible for us to always be rolling a wicket with government and saying, "This is something we think needs to be looked at. Do you recognise the importance of that? Can we agree the nature of the work we're going to do?" and so on. Treasury is not backward in coming forward with ideas, so in a sense the volume of work that we can undertake at any particular point in time is quite likely to be dominated by particular questions that government has asked us to look into.

Baroness Taylor of Bolton: We were all struck by the evidence on the water industry as to how long-term planning had totally slipped through the net in terms of the priorities put forward by the regulator. If people who had that infrastructure approach were listened to more or were more involved, we might have had a better outcome.

James Heath: I potentially make a distinction between water resources and wastewater resources in the water sector. This was before my time, but the commission did work on a drier future, which set out a more strategic approach to dealing with drought risks involving water infrastructure, water transfers, reducing leakage, and reducing demand. That framework was effectively adopted by the regulator and the water industry, which led to their regional planning of water resources.

The regional planning and strategic planning of wastewater resources is clearly a significant way behind that, and the outcomes we are seeing now in environmental pollution may be linked to that. There has clearly been a flat real pricing of water bills over the last 10 years. The interesting question is why that happened. Did it happen due to pressure on water bills remaining low? Did it happen because of the regulator's natural scepticism about investment plans and trying to guard against overinvestment? Or did it arise through the fact that water companies did not put forward sufficiently compelling cases for the investment?

As to which one of those it was, we have not looked in detail at that, but only one is to do with short-term "political pressure". The other two are about the incentives placed on regulators or the quality of work done by the companies. It throws up some interesting questions about the regulatory model.

Q92 **Baroness Taylor of Bolton:** Following on from what you were talking about earlier regarding statutory bodies, do you think it would help you to be on the statutory footing?

Sir John Armitt: Probably. We came about with George Osborne, shortly after the election in May 2015, and we were established in October 2015. I had been asked to write a report prior to that on infrastructure planning, which led to the recommendation of an infrastructure commission. That report recommended that it should be on a statutory basis, and that it should report to Parliament, not to government. We do not have those two latter things today.

To be fair, we are probably not statutory, because it would have required parliamentary time for an Act of Parliament to create us on a statutory basis. Which Bill would you put it into? It was going to complicate the planning Bill, which was going through at the time, so we said, "Let's get this show on the road. Let's set it up as an agency of Treasury".

Pragmatically, my view has been that, whether we are statutory or not, what is more important is the quality of the work we do and whether it holds up with stakeholders and is seen as being valid comment. You can be statutory and produce rubbish, so there is no point in being statutory. It is more important to produce good-quality work. On the other hand, I have always been slightly jealous of the Climate Change Committee. It gets more column inches than us, and reporting directly to Parliament raises its profile and gives it more opportunity to be heard or listened to. So, on balance, if it were possible, the advantages of being statutory certainly outweigh any disadvantages.

Q93 **Lord Agnew of Oulton:** Do you think the UK regulators have a clear set of consistent objectives? To put it into context, one of the written evidence documents we have had is from the Global Infrastructure Investor Association, which has just produced a report saying that the investment sentiment for infrastructure investment in this country by the private sector has now turned negative, and it lists regulatory muddle as one of the reasons. I would be interested to hear your views.

Sir John Armitt: The quick answer would be yes and no. The challenge for the regulators is that the world becomes more complex every day, and naturally there has always been a disposition for them to be working on behalf of the consumer, because originally they were there to protect against very large, sometimes monopolistic organisations. So the pressure has always been on trying to keep costs down. If you want to keep costs down and you are still trying to make a return, it is difficult to make too much investment. Recently, particularly because of the recognition of climate change, we have seen government shifting the emphasis towards the regulators about the importance of climate change, and, in the case of Ofgem, particularly the need to recognise the importance of net zero. That requirement was not placed on Ofgem before, so that is a more recent change.

Our view has been quite clear that we think it is very important that government gives the regulator very clear direction on what is strategically important, because without that there is a risk the regulator is asked to make these fundamental strategic policy decisions, and that cannot be right either. Notwithstanding their independence, they should not be deciding on those clear policy decisions, which can be made only by government because they are being made on behalf of the citizen, who ultimately is going to pay. Nobody else pays. The only person who is going to pay for any of this at the end of the day is the consumer, who pays it either through general taxation or through bills from the utility companies.

That is why it is very much the Government's responsibility to set out in very clear terms to the regulator what the outcomes are. They should not be telling it what the detail is or getting involved in independent, individual regulatory decisions which the regulator may make in its independent role, because he also has to have some ability to stand up to government as well as the private sector. Without that clear direction, you are putting the regulator in an impossible position, because he is the man in the middle.

Lord Agnew of Oulton: Is it happening enough?

Sir John Armitt: It could happen more, and we have made points on occasion where we feel that particular direction needs to be given.

James Heath: A good example that has worked well—I must declare that I was involved in it when I worked in central government—is the framework for telecoms and the relationship between the department and Ofcom as telecoms regulator. We have seen the UK play catch-up from a very poor position on fast gigabit-capable broadband, going from about 5% penetration in 2018 to about 70% penetration now.

One of the reasons for that was alignment between policy goals and regulation on how that market was set up, and one of the devices used was a statement of strategic priorities. That went with the grain of where the regulator already was in seeing competition as the right model, seeing long-term pricing flexibility as the right model, and creating certainty and stability for regulators, which has led to a massive amount of investment into this space in a short period of time.

That, for me, is a good example of policy and regulation working together, with government being clear on outcomes and there being alignment between government and the regulator in the view of market models and how that will be executed.

Lord Agnew of Oulton: Was that not largely because the Government had put a substantial subsidy behind getting broadband to remote areas?

James Heath: I am talking about the 90% of the country that has been subject to private investment. You are absolutely right; we put in £5 billion for areas where commercial broadband may not be viable. That is

a programme in the UK. There has been a massive injection of private investment into the market, which, as I say, has led to about 70% penetration of gigabit and over 50% penetration of fibre in the space of five years, virtually all through private investment. One reason why that was sucked in was regulatory alignment and regulatory stability led by Ofcom.

Sir John Armitt: We recommended back in 2018 that the Government's investment should be made early, and that the system should be developed on an outside-in principle—you dealt with the outlying parts of the country and made sure that they got connected, because the cities were going to look after themselves, as we have seen; you fall over yourself in the city, because everybody wants to dig a trench to put fibreoptic down, but they do not want to dig a trench out in Scotland.

That has not happened. The development has been led largely in the towns and cities, and the Government have been relatively slow in coming forward with their subsidy support for the more difficult areas where, frankly, there is no commercial or business case for putting the cable in.

Q94 **Lord Cromwell:** Clear and consistent objectives—what is not to like? The problem is that the regulators sit in a no man's land between the industry and government, and there is a tension there that will depend on the willingness to speak truth to power and the willingness to listen, both of which come back to people in the end.

You have touched on this, but am I right to understand that you feel regulators have, at times, had put in their lap political and distributional decisions that really belonged in government? I am thinking particularly of affordability versus investment, which James touched on earlier, and that the strategic guidance they get could be better—or is too much or too little? What is your flavour on that?

Sir John Armitt: Strategic guidance could be a lot better. For a long time, there was a natural tendency to believe that the consumer cost was the most important factor. As James said, it is difficult for the regulator sometimes, because if the investor is able to put investments on the regulated asset base, which is going to give him a guaranteed return, why not have more on the RAB? I used to do that at Network Rail. You should always try to get it on the RAB. So it is quite right for the regulator to be watching out for that and to be naturally suspicious.

The other issue is competition. We have said to the Government, "It is very important that there be more competition, and you should not just rely on that one entity to be delivering that infrastructure. If you've introduced competition, you might be able to get better costs and prices". We have even suggested to sometimes separate very large infrastructure investments from the settlement of the price, so you separate the price review from the investment and deal with the investment separately. Tideway is a classic example.

This clearly should be a debate between the Government and the regulator at the end of the day, where the regulator says, "I'm not very clear about what you want me to do here. Can I have a bit more direction, please? What do you really regard as important here? Unless I understand that, I'm not going to be able to be effective in my role as the regulator".

I have often said that one of the challenges for the regulator, and one of the difficulties for the private sector, is the regulator can be seen as a policeman. Once you have the public believing that there is a bunch of commercial ne'er-do-wells out there who have to be overseen by the policeman, that is not helpful to the wider discourse and the wider debate about the importance of infrastructure and the need for the private sector to be able to invest and, in investing, to be able to make a return.

I have often argued that the regulatory role should be more of a facilitatory role, facilitating the process between the Government's strategic objectives and the ability of the private sector to meet that. The role of the regulator is, as I say, the person in the middle who can facilitate those objectives and try to represent the best interests of the consumer. But the best interests of the consumer are not necessarily cheap prices today. Maybe he will be very unhappy in 10 years' time, because there is no water when he turns the tap, and, even worse, there is no electricity.

So it is unfair to assume the regulator should be the person who judges these, because they are very political judgments that need to be made, and the only people who can make them are government.

Lord Cromwell: It is that long-term, short-term trade-off.

Sir John Armitt: It is, and that is the challenge for government all the time.

Lord Cromwell: This may be an unfair question. Tell me if it is. Do you that feel regulators firmly speak truth to power often enough, or are they anxious of what might happen if they do that?

Sir John Armitt: It would be unfair of me to comment. I have not been in the room when those conversations have taken place.

Q95 **Lord Burns:** I would like to press a bit further this whole question of the independence of regulators and strategic guidance. You tried to draw a line, I thought quite effectively, between might be thought of as issues over which the regulators should have independence and other issues that you see as political issues, and therefore where they need to seek strategic guidance.

One worry I have is that these two things are not always as clear-cut as that; that one morphs into the other. For example, when we were looking at the Office for Students, we wondered whether some of the Government's interventions were not so much strategic direction as getting involved in what might be called operational issues.

How far can we go with that distinction? It is quite an important part in making sure that we do not get too much political influence, but, at the same time, we do not leave the regulators short of strategic guidance, which you worry about. Can we pin this down further? We keep talking about independent regulators, yet quite a lot of the discussion also morphs into whether they are getting sufficient strategic guidance.

James Heath: This is really complicated, and this tension between affordability and investment is there in a number of regulators' duties, whether it is Ofcom balancing citizens and consumers, or Ofgem and Ofwat balancing future or current consumers. They sit within their statutory remits, and regulators will have to make difficult decisions that inevitably involve trade-offs. It is partly the regulator's job to make these balances and to explain them and where it has resolved potential conflicts in duties. For me, that is a basic principle of independent regulation.

At the same time, those decisions have clearly been made in a strategic context, so it is appropriate for government sparingly to provide strategic guidance to regulators on the priorities and outcomes they want to see long term, or how they may see the balance between those questions. We need to do it sparingly—in other words, once a Parliament in strategic policy statements. If this moves from that sparing strategic guidance and priorities and outcomes to getting involved in prescription, in the how, or in more numerous interventions, that is quite dangerous to the principle of independent economic regulation, which is fundamental to creating stability and market confidence.

You are right to call out how complicated this issue is, because regulators have duties. A statement of strategic priorities is not a substitute for statute. It is there to supplement and complement, and it has to be used strategically and sparingly on a clear set of issues to do with outcomes and priorities and how those trade-offs may be made. You have to start fundamentally with the duties of regulators, because regulators are creatures of statute, and we have to make sure that we are not layering on additional devices that get into conflict with that basic underpinning of regulations. This is a really quite complicated area.

Lord Burns: There is one clear distinction to me, which John referred to earlier: we do not want Governments interfering in the treatment of particular companies. I had some experience as the chairman of Welsh Water for 10 years, and you get satisfaction that it is the regulator who does the plans for each of the water companies.

A question that you put your finger on is: what about the overall approach to the collection of companies as a whole when it comes to things like the trade-off between investment and prices? Everyone wants independence when it comes to the treatment of individual companies, but I am looking for some way in which one can try to define where government steps in. I can see that at an industry level it has a role. We had the issue to do with broadband, and I was on the other end of the rolling out of it, which James described.

At the moment, it does seem that there is rather too much uncertainty about where the independence begins and ends in several of the regulatory bodies. Any help that you can give us in clearing that up and finding a way of defining it would be helpful.

James Heath: We need to be really clear on that division of responsibilities and what the statement of strategic priorities is designed to do, the type of things they should and should not be covering, and the frequency with which they should be introduced. We also need to avoid overprescription in guidance notes to regulators.

There is a potentially bigger thing going on at the moment with regulation. In some ways, we saw it with Ofcom: much more interventionism in how you shape the market. In broadband, it is easier, because you have a number of tools and it is a much more competitive market. We moved broadband away from a monopoly wholesale market to a competitive market through Ofcom flexing a number of tools to change that model, and in a way perhaps Ofgem and Ofwat have had much more limited tools for price control.

As I see it, we look to be moving to a much more spatial strategic planning model in both energy and water. In effect, through some of the ideas that one of our commissioners, Nick Winser, put forward and which government accepted, we are looking to have much more strategic top-down planning of how much infrastructure there should be, where infrastructure goes, and what bodies should be delivering that infrastructure. The regulator is modelled for much more streamlined regulatory approval, looking at the efficient price of that infrastructure.

That, to me, seems a quite different model from the one we have been operating for quite some time, which has been much more bottom-up, with infrastructure operators designing strategy and putting that to the regulator to determine price. We seem to be moving to a much more strategic, top-down model, which gets to your point, Lord Burns, about how you look at cross-sector, cross-industry outcomes in a perhaps more holistic way.

Lord Burns: This is really, then, about guiding government on how it should deal with its side of the bargain, so to speak: how it sets out its strategic advice and how its commissions work, as you described—the difference between the clean water and dirty water with Ofwat and how it does its job in relation to that. Maybe insufficient thought has been given to that so far. I know you have been pressing this as a commission, but it seems that it has not yet sorted out the job of how to define it and make sure that it is not seen to be stepping on the toes of the regulator's responsibilities.

Sir John Armitt: Water is particularly complex, because there is more than one regulator. The Department for Environment, Food and Rural Affairs and the Drinking Water Inspectorate both have a finger in the pie in terms of measuring and understanding the quality of what is being delivered by the water industry, as well as the regulator clearly having to

take on board what it is pointing out and its concerns. You have three agencies working, hopefully as collaboratively as possible, and dealing with those challenges.

Q96 Lord Burns: Do you see any signs of progress in government giving greater clarity to regulators about their strategic plan?

James Heath: If you look at the three sectors, the position in telecoms with the strategic policy statement to Ofcom was, overall, a helpful device. In retrospect, it was probably at the prescriptive end of that advice note; it was very clear on outcomes and priorities and created the alignment that I talked about. We have had a strategic policy statement for the water sector that sets out the objectives for enhancement investment in relation to drought and environmental protection, which will shape and are shaping the current price review in water.

We have not had a final designated statement of strategic priorities for the energy section. We have a draft statement of strategic priorities but are still waiting for the final designated version. We welcome the introduction of a new net zero duty for Ofgem in terms of the investment incentive; we think that was very important. But an area for further development would be much clearer guidance in the energy, water and telecoms sectors.

Q97 Baroness Bowles of Berkhamsted: I want to explore this long-term/short-term dilemma a little further. One argument about independent regulators is for them to take the long-term decisions separately from the electoral cycle, and we can see that very clearly if you look at something like the Bank of England, which could have a very dramatic effect, so the whole independence issue there works.

Do you feel that the UK infrastructure regulators have that ability to take long-term decisions when there might be unpopular short-term effects? We have already gone into that in previous questions, and you seemed to imply that sometimes it was unfair for the regulators to have to take these decisions because they relate more to policy. Have I got that correct?

Sir John Armitt: I think that is fair. One of the things we have recommended to government is that strategic policy statements enable guidance to the regulators and are very important. Without any doubt, the most complex sector of all is energy. Water is relatively straightforward compared with energy. Therefore, the Government giving clear policy statements that are valid for at least five years and then updated every five years is essential in such a fast-moving sector where you might believe that this is the right strategy this year, but in five years' time you may have reason to recognise that technological change is influencing a different view. That is a challenge for regulation, government and, equally, the private sector.

As James said, we have not had a strategic policy statement on energy since 2013—so for 10 years. There is a draft one out at the moment. I read it; it emphasises more projects of national significance and the

importance of those rather more than in the past, but we seem to have finished up with an even longer document than the last one, which runs the risk of confusing some of the strategic directions.

We need an updated, regular, clear statement of what is nationally strategically important, which only the Government can set out, and which provides the base guidance to the regulator. It clearly requires us, the government departments and so on to be constantly reviewing and understanding the nature of the opportunities and challenges that are out there, and listening to all the stakeholders, particularly the private sector. I sympathise with government Ministers at times. If you take something like hydrogen, which is quite contentious at the moment, you will get totally different views in each year, and you are expected to decide. Hopefully, that is where we can bring some independence of analysis to support Ministers in making those decisions. I do not pretend for a moment that it is easy.

An interesting approach has been taken on the long-term funding required for such a major project as Tideway. In fact, it was recognised and accepted by government and the regulator that the private sector should be allowed to charge for the new utility before it is built, so the consumer is paying costs towards Tideway while it is being constructed. That is rather different from what one might have traditionally expected, but it was clearly regarded as being part of the financial structure that needed to be put together for such a significant project to enable the private sector to feel that there was sufficient opportunity of return.

At the end of the day, we cannot expect the private sector to invest if it is not seeing a reasonable opportunity. That measure of reasonableness is in part what the regulator's skills are there to discern by making cross-industry and cross-investment comparators, and by understanding what a sensible rate of return or a sensible price to the consumer is.

Baroness Bowles of Berkhamsted: I understand part of your argument about government having a role, and there can be a long-term role if you establish that you can start to charge before something is constructed, but we have a conflict here. You are saying that you cannot escape the electoral cycle and that you would like to have guidance every five years, but I cannot see how that will help when you are looking at long-term projects where the build is in excess of that. As has happened with HS2, does that not expose us to the risk of it getting cancelled when a certain expenditure level is reached, and then a long-term strategy is destroyed? How can you square that, or is it just a pipedream to suggest that we can have policy stability if it is going to be reviewed every five years and potentially changed?

Sir John Armitt: In my rather more negative moments, I say to myself that long-term infrastructure planning is an impossibility in a democracy. However, having set that as being the task, clearly the objective is to find ways to overcome that, recognising the very nature of elections and short-term political decisions that will inevitably be made. I come back in part to my earlier remarks about reporting to Parliament rather than to

government. If something is essentially decided upon by an Act of Parliament, you should not be able to reverse that decision without going back and having that debate again in Parliament. It discourages Governments from having to make parliamentary time to reverse something that was decided by Parliament five years previously.

As an organisation, we work as best we can in trying to get cross-party consensus on our ideas. We will we talk to all the parties about what we are considering and thinking and try to get their input. Quite naturally, you will tend to get more input from the Government than from the Opposition, but that does not remove the need to try to build that consensus. One of the biggest challenges at the moment, and which both political parties have now grasped, is the difficulty of the planning system and how it feeds very importantly into this need for long-term decisions and long-term investment. One thing I am sure you have heard and that others talk about constantly is the planning system itself is acting as a handicap to the UK in attracting the nature of investment that we require, because it takes so long from concept to being able to build stuff out compared with other countries. Both the Government and the Opposition have talked a lot recently about wanting to get to grips with that.

Baroness Bowles of Berkhamsted: That is a point well made. So in a sense you are saying that, absent a commitment that is nevertheless updated, say, every five years, there is not really an entitlement to make long-term plans. Is that fair?

Sir John Armitt: Arguably, as a Government, you will be criticised equally for not making long-term plans, so you are damned if you do and damned if you do not. The five years that we have are not necessarily related to the parliamentary cycle. We are choosing five years simply as a sensible timeframe in which to have another look at the last time you published your national policy statement. That could be in the middle of a Parliament so that you do not republish it as soon as there is an election.

Baroness Bowles of Berkhamsted: That would be a good idea. You also mentioned having legislation that hopefully pins things in place, but the way we do legislation we seem to vote the plan but not the money. Do you think there needs to be a fix there? With things like HS2, the phases and the future money goes through the whole parliamentary process again.

Sir John Armitt: The difficulty with a project the scale of HS2 is that nobody will have done the work on day one that enables you to determine what the price will be for the full project, unless you are prepared to spend quite a few years doing all the necessary investigations. The hybrid Bill process itself put 8,000 extra requirements on HS2. You do not know what you will be required to do that provides or requires extra resource as part of the hybrid Bill, but it is impossible to estimate with total accuracy a project of £50 billion or whatever in advance. You have to do your best and use indicative previous prices for the cost of work of that nature. If you are then required through the planning process to double the amount of tunnelling on a railway, for

example, that will add very considerably to the cost of the project. If you go through an inflationary period, as has happened recently, that will impact another 15% or 20% on the cost of construction, so you can rapidly see a build-up where you can double the price.

Naturally, you can see the concern of the scale of the increase on HS2, and we have made our own views clear on the nature of the cancellation of phase 2, which we do not entirely agree with, but that is a separate issue. It is not easy to forecast the outturn cost on very large projects anywhere in the world.

James Heath: I certainly agree with John that you cannot and should not try to take politics out of infrastructure, given that infrastructure is effectively a means to various ends, but you can try to build more incentives for long-term planning into the system.

We talked earlier about the Climate Change Committee. The NIC version of the Climate Change Committee would effectively be the commission advising government on infrastructure via its assessments on a statutory basis. Government would then be required to publish a national infrastructure strategy in response that took account of the assessment and was approved potentially by Parliament. Annual reviews of progress against government strategy would be done in line with that, and, as you said, you could also align the funding to the strategy. There were some very interesting ideas in a paper from the Resolution Foundation last week about how you could set longer-term public infrastructure investment on a multiyear basis that is set alongside strategy.

There are different ways of trying to put greater grit in the system around long-termism and trying to reduce policy churn, while accepting that in a democratic society you cannot take policy outside of infrastructure. You can certainly put incentives, mechanisms and institutional structures in place to try to create that bias towards long-termism.

Q98 **Lord Gilbert of Panteg:** Sir John, you recognised that there are several sectors with multiple regulators, and that must lead to the risk of overlap and duplication between regulators in and across sectors. How successfully do you think regulators co-operate on matters of mutual interest, and, specifically, have you seen any progress on the recommendation you made that UK Regulators Network should have a stronger co-ordination role across regulated activity?

Sir John Armitt: I do not think we have seen quite as strong an action as we suggested. By the very nature of today's infrastructure, we are seeing more understanding of one another's challenges. Most infrastructure these days is totally dependent on the digital world, so what Ofcom is doing or not doing with its companies will have good or bad influences on other sectors and their ability to be efficient and effective for themselves.

There are increasingly areas where, particularly because of climate change, they can look at these issues on a common basis. They do talk to one another. People have talked about the need for a super-regulator that oversees a high level of regulation. My personal view of those sorts of things is that all you do is finish up with a whole series of divisions anyway, so, if you are not careful, all you will do is simply increase the amount of overhead being carried.

The regulators we know have always attempted to get together. What we proposed was that this needed to be on a more formal basis with an independent chair, who had more authority to pull them together and expect them to come together, but I am not aware that that has developed.

James Heath: I do not think it has developed in terms of independent share, but the UK Regulators Network has done some quite interesting work looking at how it can align methodologies for cost of capital across the sectors. In our regulation study, we called for a duty of co-operation across regulators to deal with this question. That need for co-operation will only increase once you start looking at questions of land use and spatial planning, resilience and interconnectedness between systems and cascade risks, the interconnection between electricity and transport, and how we use digital assets.

In future, there will be a set of cross-cutting linkages and adjacencies between regulators that will require more co-operation, not less. That was the original idea behind our recommendation. The UK Regulators Network is an effective vehicle, but the point we were making was wherever it was necessary, not sufficient.

Lord Gilbert of Panteg: This point about an independent chair is quite interesting. Across the digital regulation sector, there is the Digital Regulation Cooperation Forum, which is a number of regulators coming together. It does not have an independent chair. It seems to me that it goes part of the way, but it does not have that independent pulling together, bringing together what people are doing and interrogating a little whether they are co-operating as effectively. Do you think the independent chair of the co-operation process is an important part of effective co-operation?

Sir John Armitt: Inevitably, if everyone recognises that they are sitting around the table with an independent chair who has a duty to bring people together to share and exchange their knowledge and understanding of different ways in which financial structures can be put together, that can only be beneficial. That independent chair could also be required to report to Select Committees, which again makes sure that he is seeking to be as independent as possible so that he can defend that role, but equally that he can be required to demonstrate that he is being effective in fulfilling that role and that it is creating some benefits and change, otherwise there is no point.

Q99 **Lord Gilbert of Panteg:** Where is the value? You touched on the digital

environment in which we now operate. Data is at the heart of everything that regulators do. They collect vast amounts through the investigatory process, but they are also constantly gathering information. Are they effective at sharing that data and building it together to create an overarching picture?

Sir John Armitt: The quick answer is no, but that might be unfair.

James Heath: I do not have the necessary level of insight to make a judgment. You are right that taking a whole custom review is important, particularly for vulnerable customers across water and energy, as is co-operation between individual companies regionally in looking at data sharing. There is certainly activity going on, but I am not in a position to say how much, and how effectively, regulators share data.

Q100 **Lord Reay:** Before I get to my main question about transparency and metrics, I would like to ask you a question, Sir John, following on from your answer to Baroness Bowles of Berkhamsted about HS2. A report was covered in the *Telegraph* a few months ago said the rail and road projects in the UK cost eight to 10 times more than in Europe. I can understand that planning is part of that, but would you like to give us your insight on what is causing this vast differential?

Sir John Armitt: I do not think it is 8 to 10 times. At the moment, Spain is delivering high-speed rail at the lowest cost in Europe. It is about 25%, a quarter, of what we are delivering it at. Having said that, Spain has had the opportunity to deliver its high-speed network fundamentally over the last 20 years. It now has more high-speed rail than France, so it has been a massive, continuous programme. Clearly, if you have a massive continuous programme, whether of power stations, road or rail, the skills you build up, the continuity that enables within the supply chain, and the opportunity that creates for people to think, "There's a sector I'd like to go into and want to be trained in", and that, in itself, creates that demand for training. All of that plays to the opportunity for lower costs.

Another factor within that is that, both in France and Spain, there has been a tendency to focus on the new network, the new high-speed line between cities, but not necessarily carry it into the city centre, so you go on to the conventional network. You only have to go on the Eurostar from St Pancras to the Gare du Nord to see that the last five miles of the journey into Gare du Nord are pretty ramshackle. You are on the old network, sharing that network with other operators. That is not the case here; you come straight into the platform at St Pancras on the high-speed rail.

We have invested more in bringing our lines into the city centre so that we do not interfere with the capacity that is already probably strained on the existing network. You have to compare apples with apples and make sure that you have taken all the different factors into account.

Going back to the beginning, that is an issue that I was discussing with colleagues this morning, because we are about to do some work on this to try to understand the differences and the root causes. There are other

factors. I have always struggled to accept the UK approach of separating design from construction or, to put it into a broader context, design from manufacture. No other industry apart from infrastructure separates design from manufacture. You have consulting engineers who design things and you have contractors who build them. They are not in the same organisation, they are not integrated in the way they would be in a French or Spanish company, where they exist in the same organisation so that you have that total understanding of the requirements of both, and the need to design effectively but to make it cost-effective when it comes to construction. All these elements need to be taken into account.

People have a natural tendency to be optimistic at the outset, so HM Treasury applies its optimism bias to any estimate it is given, which is understandable. But in a cynical world people would say, "If you don't pitch it low at the beginning, you probably won't get it approved at all". So everybody has to be on the lookout to make sure that you are not being unrealistic in your initial assessments.

Fundamentally, you need to spend quite a lot of money at the front end and be willing to spend money on preparing the design and understanding the constraints. A classic example is this building. You could spend five years trying to understand what is underneath the floor and behind the panel in order to have a more accurate estimate of what it will cost to upgrade the building, or you just take some indicative figures from other projects, plug those in, cross your fingers, and away you go. Then, when you take down the first panel, it's, "Oh", and away you go. We have all experienced this in our homes, and it is no different on a large scale. Clients very often do not want to spend more money at the front end, because they are not sure and they do not necessarily see the value in the short term for that work being expended. There are a lot of reasons.

Other countries have their tragic projects. Berlin Tegel Airport was donkeys' years late, and the Big Dig in Boston was another classic example of it going very wrong for the Americans. We only talk about our failures. We do not talk about our successes, and a lot of our projects do go well. Understandably, it is always the failures that get the headlines, and, as I say, the work that we are about to start is seeking to get underneath the lid of that and understand it better.

Q101 Lord Reay: It is a fascinating subject, but I had better get on to my main question. How transparent are the regulators you engage with about their performance? How easy does the NIC find it to measure and judge their performance, and to what extent can metrics be used to do so in addition to qualitative evidence?

Sir John Armitt: I will ask James to deal with this in a moment, but I suspect that when putting our reports together we will inevitably talk to the regulators. The impression I have always had is that they have been pretty co-operative in coming forward to us with their understanding of the data and information they have. In many ways, I see the regulators as being the people most likely to have the most data, simply by the

nature of their work; they need to have a lot of data and a lot of understanding of what is going on in their sectors in order to be able to regulate them properly.

Lord Reay: Do they provide it in a transparent way to consumers and businesses?

Sir John Armitt: I would not like to comment on that. The nature of the data would be quite difficult to put across to the public. One of our challenges all the time with infrastructure is how to have better communication with the public about the infrastructure challenges that we face, the consequences and the impact of not doing anything today and putting it off, and the consequences of different cost structures and different approaches to distributional costs.

These are all difficult issues to take out of the technical environment in which they are held, but they do need to be taken out and expressed in much plainer language to enable the public, who are the ultimate customers and the people who pay for this, to understand in a more effective way. It is about finding the right way to be transparent. It is one thing for regulators' staff to be transparent with the other economists who are working for the National Infrastructure Commission and to explain the data they have. It is another thing entirely to explain that to a member of the public who is not an economist and should not need to understand the complex details.

James Heath: Our engagement with the regulators on projects and studies that we are asked to do is positive when it comes to sharing information with us. John referenced the point about looking at asset maintenance and management in the water industry. Ofwat gave us access to its view of replacement rates on assets so that we could take a view on whether they were appropriate in terms of our infrastructure assessment. I think their co-operation with us on studies is appropriate.

There is a question about the extent to which regulators make sufficient information available to the public for them to make judgments. Given my previous role in government, the regulator I probably know most about is Ofcom. Ofcom makes a large amount of information on consumer attitudes available in trying to help consumers understand infrastructure on Ofcom's website.

However, there is a different dimension to this, which is the level of information and the performance framework made available for regulators to be held accountable by Parliament. In other words, are the regulators setting clear, timed, measurable targets and outcomes? Do we regularly look at the performance measures of regulators, and the impact and outcomes that regulators are having in their sectors given the level of investment? Do we do post hoc evaluations of the impact of regulatory decisions?

Those sorts of questions are legitimate. Some areas do it better than others, but that is the sort of information that you will need if Parliament,

whether through Select Committees or the National Audit Office, will hold regulators to account on their performance. As I said at the beginning, it is not really the role of the NIC, but it clearly should be done for effective accountability.

Q102 **Baroness O'Grady of Upper Holloway:** I should probably declare my interest as a commissioner of the report by the Resolution Foundation, the Bank of England and the TUC, which James referenced earlier. Do you feel that the regulators that you are familiar with have the necessary resources and skills to carry out their functions? Have you noticed any difficulty in recruiting and retaining staff within the current pay scales?

Sir John Armitt: I will ask James to respond, as he used to work for DCMS and was involved with Ofcom.

James Heath: The regulator I am most familiar with is Ofcom. It is an extremely good regulator, and one reason why it was able to establish itself as a very good regulator and attract highly competent, professional people was probably its flexible terms and conditions. As with some financial services regulators, being able to attract high-quality staff who understand economics and the technical side but also how those markets work is very important, as is being able to bring in secondees on the appropriate terms, without conflict of interest, from sectors that understand what the impact of regulation will be and how workable regulation can be, so that companies have those insights alongside your continuous staffing.

Certainly the regulator I know best from past experience has that professional core of technical skills and market understanding that enables it to regulate effectively the sectors that it is regulating. It has a big challenge now in taking on additional powers relating to online harms and digital networks, but it had the necessary expertise and skills to do the job effectively in the areas I was familiar with: telecoms, broadband and media.

Baroness O'Grady of Upper Holloway: Do you think that regulators should be more open to sharing staff where skills are potentially scarce or expensive, precisely like the areas you have identified of digital AI and new developing areas?

James Heath: The principle of being able to bring people in on a temporary, secondee, basis who have insight into how those industries work and can offer advice on the workability of regulatory solutions in order to complement existing staff could be a useful mechanism. Clearly, how to do that in a way that avoids conflict of interest needs to be properly looked at, but that principle of fluidity between industry and regulators is often critiqued. The strength of that fluidity is common understanding and having the skills and insights so that regulators can understand the impact of regulation and what is workable in regulatory terms. That is important, as long as it is done within a proper conflict of interest framework.

Baroness O'Grady of Upper Holloway: And between regulators?

James Heath: And potentially between regulators. Regulators face common challenges. We have talked about net zero, resilience, and data. Having potential flow between regulatory bodies to aid co-operation and collaboration would also be helpful.

Q103 **The Chair:** John, if the NIC was put on to a statutory basis and reported to Parliament—clearly, an increased workflow would come from Select Committees and others seeking advice on particular projects in water, rail or whatever—would that involve a significant increase in the headcount of the National Infrastructure Commission?

Sir John Armitt: I guess it would depend on the scale of what was required. At the moment, we peak at about 45 staff during our five-yearly exercise. Inevitably, after everybody has worked their socks off for two years, they want to go on to something else anyway, so we get a drop off. After the publication of the NIA, it probably dropped down to 30 or 35. We are a pretty young organisation, not speaking personally. The average age of James' team is probably 30ish. A lot of them are aspiring civil servants who want to move between departments, so they will typically come in with a particular expertise and do a project for us for a year or 18 months, and then look to move on to something else.

That is not necessarily much of a problem as we are a project-based organisation. The more senior people tend to stay a bit longer. However, if, instead of doing two or three small projects at once, we were doing six, clearly we would need more. Our total annual cost is circa £5 million. That is something that we agree with Treasury, and we have always managed to operate within that constraint. Like all government departments, we cannot roll the money over, but it is fundamentally staff costs and some office costs.

The Chair: How difficult would it be to recruit people like civil engineers and cost accountants with the requisite skills?

Sir John Armitt: When I spoke about the £5 million being largely staff costs, I did not mention that there is also a large chunk of consultancy. We will go out to specialist consultants to provide us with particular expert reports. The challenge there is that, if it is going to cost more than £20,000, it has to go to competition, which can be a bit frustrating if you know the right consultant to get the advice from but you have to go through a procurement exercise for £25,000.

We have always managed to get the skills that we need. We also take advantage of people's willingness to want to help us. James' team put together expert panels of up to 20 people made up of academics, consultants, and people from private companies, and they will have meetings with those people. We always start by testing the questions we are asking. Before we do a piece of work, we will go out to stakeholders and say, "Are we asking the right questions here? Are there things we have missed?" That is the first stage. Then, gradually, through the

process, the conclusions will be tested with those expert panels, and with the commissioners themselves.

The whole process is largely bottom-up. The commissioners do not decide the detail of a study that should be undertaken. That is done by the team, which then comes back to the commissioners and says, "These are the things we think we should be understanding. Do you have any comments? Do you think we have missed anything?" It is a very iterative process. As I say, we are able to call upon the support of many people who want to be involved, who want to help us, particularly in the academic community. Very often, they have put together a lot of data and done a lot of studies, which all can be good grist to the mill.

Q104 The Chair: You have touched on private sector financing being a core component. We published a report a couple of years ago on the journey to net zero, and we called upon the Government to prioritise and explain the landscape but then talk about how they were going to encourage the private sector to get its chequebook out and encourage it to do that, which goes back to a point Lord Agnew made. There have been some quite serious setbacks recently, such as in North Sea wind, where the pricing level offered in the contract for difference was way away from the market. What skills base do you have to evaluate the financial liability, the instability, of the many projects that will be needed to achieve net zero?

James Heath: We can systematically look at the needs in the energy sector in order to deliver the goals the Government have set and to understand that value chain from generation through to transmission networks, looking at power flexibility and understanding which bits of those may be publicly funded or privately funded. When we are looking at private investment, we need to look at the scale and the conditions that need to be in place to secure it—policy, stability, regulation, planning and business models—and, in the space around business models, to understand what types of business models they should be in order to leverage in that investment.

You mentioned the CfD model in wind, and the RAB model obviously works across transmission and distribution networks and increasingly nuclear. What other mechanisms might there be to support power flexibility or new networks? We can certainly get into identifying where the need for private investment and for business models to stabilise the regulation is. What we do not do then is get into the detailed design of what that business model should be. The Government or the regulator would do that work.

The Chair: On an issue like the recent CfD issue with wind, for instance, does the Treasury come to you and say, "What's your view? What is the likely pricing level that we should be aiming for here?"

Sir John Armitt: They certainly did not. That is fundamentally work that is done by the officials in DESNZ. They, of course, would have been having a dialogue—this, again, is a good example of the tension and

difficulty in that case, in that they are almost a regulator—saying, “This is what I’m hearing from the private sector. To what extent do I believe this is genuine? Am I being given deliberately high numbers in order for me to set the benchmark at a higher level?” On that occasion, the bluff was called by the private sector saying, “Sorry, at that level, you’re not getting any bids from us”. The Government have rapidly reset it from £47 to £75, so it has gone up very considerably and we have lost six months as a consequence. I do not want to be overcritical, but there is a tension all the time; it is a fast-moving situation, particularly with the recent inflation.

The Chair: Your organisation seems to be in an ideal position to provide some very interesting analysis of this, so that you can keep you very much in touch with the industry and see what is happening to prices and inflation, so I would have thought you would have been the first port of call to get an independent view.

Sir John Armitt: That would be for others to decide.

James Heath: In the second national infrastructure assessment published in October, we called out the principle of the CfD auctions being more cost-reflective, the principle that needs to be in place to leverage the finance in, but, as John said, we were not consulted on that particular auction.

Sir John Armitt: We have been more specific in the public sector. For example, for the decarbonisation of domestic heat, which some people would say is politically the biggest challenge of all, we have been quite strong in calling on the Government to provide a lot more support to the social housing sector and those on low incomes to enable them to make the necessary changes. In fact, we have called for 100% support to the cost. That is quite a significant call, but our view is that it will not happen at the required pace without that level of intervention on a financial basis by the Government.

Q105 **Baroness Taylor of Bolton:** You have talked about your relationship with HM Treasury, which is clearly very significant. Where does the NAO fit into this, and, indeed, the Public Accounts Committee, because there is a very retrospective look at some of the projects that we have been talking about? Do you have an ongoing relationship there?

Sir John Armitt: The relationship we have with the NAO is it audits our ability to control our own costs.

Baroness Taylor of Bolton: But you have the expertise it needs.

James Heath: We talk to the NAO to get its insights. As you say, the NAO is more interested in the execution and delivery of projects on time and to budget rather than necessarily the policy and strategy. On the project John talked about, looking at cost escalation in UK infrastructure projects, we will obviously speak to the NAO to understand its insights. It has done lots of work on individual projects and across projects looking at why costs are escalating.

The challenge for us is trying to understand what is big and small. Is it a set of factors around productivity of the construction industry and repeatability of business that John talked about? Is it a set of factors around how the UK runs projects? Or is it a set of factors around political economy, the planning rules and the regulatory models? Which of those categories is driving higher costs in the UK and in Europe on average, particularly in transport, where the data is clear? We have not seen that systematic analysis of those different drivers, but we will certainly talk to the NAO, because it has lots of insights in each one of those, but we will give it a broader policy perspective.

Baroness Taylor of Bolton: But you seem to be in a better position to provide that systematic analysis than most other bodies, despite your small staff and smaller budget.

Sir John Armitt: Yes, subject to the resource that we have available.

Q106 **Lord Cromwell:** I hope you are not leaving this meeting saying to each other, "My goodness, we've just tripled our workload". I would like to take John back to his rather wry comment about long-term planning being difficult in a democracy. As you said it, you knew that was going to return to haunt you. Planning is part of that process, and there is a cyclical move between decentralising everything to where power should be, then we do not like it and we bring it back in again, and it goes back and forth.

Neighbourhood planning and the encouragement of communities to get involved in the detail of the planning process locally, which one might think is a good thing, is presumably an impediment to progress in some senses. Do we need a firmer hand from the centre—dirigisme is a French word, and I do not know how they do this in France and Spain—or do we just have to accept that it takes longer and is more expensive in the UK because that is the way we do things?

Sir John Armitt: We have made some clear recommendations on this, one of which was to say that more consideration should be given to the impact on local communities of nationally important projects, and that there should be more willingness to compensate those who are directly affected. A typical example is to lower the energy bills for people living underneath power lines. We do it all the time with Section 106 at a small scale within local authorities, so it is not an unusual concept, whether that compensation goes to individuals through their bills or whether it goes to the wider community in providing better facilities, which provides them with some offset for the inconvenience. The biggest inconvenience is probably during the construction period rather than the actual completed project.

You are right. As an organisation, we have advocated more fiscal devolution to cities to enable them to plan the infrastructure changes they require in their cities in the long term to generate more economic growth and so forth, and have said, "Whitehall's not best placed to design and control the projects". We do not like the degree of competition placed

on these bids that have to be made by towns and cities, using precious resource that they probably do not have anyway, and they have to get consultants to do it for them. The city is almost treated on a regulated basis, where there are five-yearly settlements and they know the money they will get, which they can decide which infrastructure they can best spend it on.

I accept that there is a real tension. As somebody who likes to see the right infrastructure being built at the right time, I have a tendency towards the more directive approach to this. I have said that a key thing for government in this whole review of planning is to be willing to determine that which is of national significance, because if we do not build what is of national significance, which enables the right economic changes, growth and employment opportunities to take place, we will go backwards. So it is directive, but competent.

I go back to my earlier comment about the need to have a bigger community discussion and a bigger debate within society about what we are trying to do. However, at the end of the day, to my mind, we have to be very careful that we do not allow the local to prevent what is critical for the national. That is the challenge, and I am not saying it is an easy one. You could argue that is what politics is. An MP said to me the other day, "This is really difficult for local government, because they get it in the neck all day, every day. The pressure is on them", so it is easier almost to be standing aloof from that here, without feeling that local pressure. That local pressure can only be dealt with through dialogue and persuasion, but then occasionally through, "Sorry, this is in the national interest. We're going to have to do this".

The Chair: Gentlemen, thank you very much for a most helpful and constructive session. It went a little over time, but I hope you will forgive us for that. If you have any further thoughts on the topics we have discussed, please let us know so that we can reflect your thoughts accurately in the report.