

# All-Encompassing Planning Legislation in the United Kingdom

By Mary Kay Peck, FAICP

How do you resolve a number of significant planning issues all at the same time? Take the sting out of LULUs—those “locally unwanted land uses”? Attain national infrastructure needs for the next generation? Meet goals for sustainability and carbon reduction? Ensure a competitive edge in a rapidly changing global economy with the necessary infrastructure?

The United Kingdom’s response wraps the answers to all those questions into a single piece of legislation - the 2008 Planning Act. It makes sweeping changes to the way planning is conducted and leads to the establishment of national policies on significant infrastructure. The 2008 Planning Act makes four significant changes to the planning approval process:

1. Establishes a simplified and single review process for nationally significant infrastructure.
2. Creates an independent review board, the Infrastructure Planning Commission (IPC), which will make all decisions on nationally significant infrastructure applications.
3. Sets forth a number of National Policy Statements (NPSs) that will be formulated to guide the IPC in its decision making.
4. Details requirements for infrastructure applications, including requiring applicants to obtain public input before submitting applications.

The most significant aspect of the act according to Gideon Amos, chief executive of the Town and Country Planning Association (TCPA) is that the “National Policy Statements will make national policy in this area explicit for the first time, replacing a reliance on past decisions one development at a time as the only expression of policy.”

The Act applies within England and Wales and to all major infrastructure projects, such as major energy generation, railways, ports, roads, airports and water and wastewater infrastructure (see sidebar). The goals of the 2008 Planning Act

are many:

- (a) Provide a one-stop review process for nationally significant infrastructure.
- (b) Balance national needs with local needs, while protecting the environment.
- (c) Meet the challenge of climate change and achieve England’s goal to reduce greenhouse gas emissions by 80% by the year 2050.
- (d) Replace aging electric generating plants by providing a diverse and secure energy supply that includes renewable energy as well as nuclear and fossil power plants that include carbon capture and storage.
- (e) Create a building block for future economic success.

## *The Application Procedure and the Role of the Infrastructure Planning Commission*

The Infrastructure Planning Commission (IPC) was established in the 2008 Planning Act to provide a streamlined review process for nationally significant infrastructure and to shorten the review period to one year. Previously, eight separate reviews were required for infrastructure projects, with the process lasting as long as seven years.

As is the case for many U.S. local governments, a pre-application process is specified. Before submitting an application to the IPC, the applicant is required to consult with impacted local governments, the landowner (if that is not the applicant) and the people who live in the vicinity of the proposed project. Notice must also be published in a local newspaper. During the pre-application process, the applicant must also present their proposed application to impacted local governments and residents. The applicant must take into account the comments that are received and determine whether to submit the application as originally proposed or with modifications.

The IPC has set service targets for its reviews to ensure that they meet the goal of completion within one year. The commission will hold

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hearings on applications, accepting oral and written testimony from the applicant and stakeholders. Written, detailed decisions, based on the National Policy Statements, will be issued. Decisions can be challenged in court.

Commission appointments were made by October 1, 2009 and potential applicants and stakeholders have been receiving IPC counsel since. The IPC has adopted values of independence, impartiality and inclusiveness. The appointed members are recognized experts in their fields who have backgrounds in planning and engineering. The IPC will begin accepting applications on March 1, 2010 for nationally significant infrastructure projects and anticipates receiving as many as 50 applications in the first year.

### *National Policy Statements*

The subjects of the National Policy Statements are shown in the sidebar. The NPSs will address issues in a big-picture framework and develop criteria based on national need. The intent is for debate on the need for each type of infrastructure to occur as the statements are formulated, rather than when individual applications are presented. Each individual application will then be evaluated by the IPC on its merit and consistency with the national policy statements, rather than on whether or not there is a national need for the proposed project. The NPSs are to be general in nature, with the exception that some may identify specific sites for nationally significant infrastructure.

The initial draft NPSs were released in November 2009 and include statements for Overarching Energy, Fossil Fuel Electricity Generating Infrastructure, Renewable Energy Infrastructure, Gas Supply Infrastructure and Gas and Oil Pipeline, Electricity Network Infrastructure, Nuclear Electricity Generation and Ports and Harbours.

The draft energy NPSs are located at:  
[www.energy-nps-consultation.decc.gov.uk](http://www.energy-nps-consultation.decc.gov.uk)

The draft Port and Harbours NPS is available at:  
[www.dft.gov.uk/consultations/open/portsnps](http://www.dft.gov.uk/consultations/open/portsnps)

## Nationally Significant Infrastructure Subject to the UK's 2008 Planning Act

### Energy

- Power generating stations
  - Nuclear and fossil fueled*
- Renewable energy installations
  - Wind farms, solar, and tidal facilities*
- Electrical transmission networks
- Oil and gas pipelines and storage

### Transportation

- Airports
- Ports
- National roads
- Railroads

### Water and Wastewater

- Sewage treatment infrastructure
- Water supply infrastructure
- Hazardous waste disposal
- Dams and Reservoirs
- Transfer of Water Resources



source: [istockphoto.com \(#5102362\)](http://istockphoto.com/#5102362)

NPSs on roads and railroads will be published in early 2010, followed by the NPS on hazardous waste in mid-2010. The water supply NPS is scheduled for late 2010 and the final NPS on aviation will be available by 2011.

Each NPS includes an opportunity for public scrutiny and involvement. Notices of the draft NPSs are published in local newspapers and posted on several websites, including those of local governments and the IPC. For the energy NPSs, five national events were scheduled to explain the statements and accept testimony.

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Local events are held for site specific NPSs. Formal review questions are listed on the websites above for each of the draft NPSs. Responders are asked to base their comments on evidence rather than opinion only. As an example, the following questions are asked on the Overarching Energy NPS comment form:

- (a) Do you think that the Government should formally approve the draft Overarching Energy NPS?
- (b) Does the draft NPS provide the IPC with the information it needs to reach a decision?
- (c) Does the draft NPS provide suitable direction to the IPC on the need and urgency for new energy infrastructure?
- (d) Does the draft NPS provide suitable information to the IPC on the Government's energy and climate policy?

At the conclusion of each review period, public comment will be considered, a summary of the responses will be prepared and any necessary revisions will be made. The NPSs are subject to approval by the Parliament before being officially adopted by the British government.

### Conclusions

The goals of the 2008 Planning Act are lofty and admirable. The Act aims to look at the

long-term infrastructure needs on a national basis; promote sustainability; create economic growth and jobs for skilled workers; and speed the UK's transition to a low-carbon economy. It provides a very streamlined review process for nationally significant infrastructure, while upholding the authority for local governments to approve local development projects. It appears to be a more logical and reasoned approach to policy making than that used in the United States, where policy is often made on a city by city, county by county and state by state approach.

The system is successfully meeting all the established milestones so far but has yet to be tested; the first applications will be accepted in March, 2010. "A suite of National Policy Statements provides the basis for more certainty and therefore for more investment in improved infrastructure, time will tell if the policies can deliver on this promise" said Gideon Amos. It will be worth revisiting the UK's revised planning system in a few years to gauge its performance and determine what could be transferable to the United States.

*Mary Kay Peck, FAICP is the founding principal of MKPeck Associates and an internationally recognized planning and municipal leadership consultant. Ms. Peck is also a former president of the American Planning Association. For more information, she may be contacted at [mkpeck@mkpeckassociates.com](mailto:mkpeck@mkpeckassociates.com).*

## Critical Infrastructure for Resilient Communities: International Post-Katrina Lessons from New Orleans

*By Bruce C. Glavovic, MNZPI*

*Note: This article was reprinted from an earlier edition of Interplan. The upcoming APA National Conference will be held in New Orleans, and this article reminds us of challenges the city has faced from the floods through to rebuilding that many planners will see at the conference.*

Who can forget the shocking television images of people stranded in New Orleans in the aftermath of Hurricane Katrina? But three years on, many

people assume that 'things are back to normal'. Despite massive rebuilding efforts, many New Orleanians continue to face tremendous hardship; and their future is uncertain at best. It behoves us to learn the tragic lessons that Katrina wrought; so that we can build more sustainable, hazard-resilient communities. My reflections are based on six visits to the region between July 2006 and June 2008 to interview planners, academics and others involved in recovery efforts.