



Waste Water National Policy Statement

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This note provides background information on the Waste Water National Policy Statement, which streamlines planning policy for nationally significant waste water treatment projects such as the Thames Tunnel.

The Statement will be debated in the House on 19 March 2012. It cannot be amended at this stage—there will be a yes or no vote.

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1 National Policy Statements

National Policy Statements (NPSs) derived from the Labour Government's attempt to reform the procedure for granting consent for major infrastructure projects in the *Planning Act 2008*. The previous consent procedure required a public inquiry, after which the inspector would make a recommendation to the Secretary of State. The Secretary of State genuinely had the last word, and could reject the recommendation, provided that she gave reasons.

The *Planning Act 2008* provided for a new Infrastructure Planning Commission (IPC) to decide applications for major infrastructure applications of national importance. The Secretary of State would no longer have the final word. Instead, the Government would publish an NPS covering that type of infrastructure. The IPC would take its decision largely on the basis of that NPS, using its time to consider points specific to the particular application. NPSs would be published in draft, for consultation and Parliamentary scrutiny by a report from a Select Committee.

The Coalition Government is scrapping much of the 2008 Act, including the IPC. It is retaining the idea of the NPS in order to facilitate the consent procedure for major infrastructure. However, the Coalition has provided that NPSs will require a vote in favour by Parliament before they are designated as NPSs by the Secretary of State.

For further information see Library Standard Note on [National Policy Statements](#).

1.1 National Policy Statement Parliamentary process

The parliamentary process for the NPS is as follows:

Provisions in the Localism Act are that approval of an NPS can occur either by "deemed consent" after a "consideration period" of 21 sitting days passing without a vote, or if the House of Commons votes to approve the NPS within the 21 day period. As the appropriate sections of the Localism Act have not been commenced, we are proposing an informal process which is as similar as possible to the arrangements that are set out in the Localism Act.¹

The Waste Water NPS was laid on [9 February 2012](#).

2 The draft Waste Water National Policy Statement

A [draft Waste Water National Policy Statement](#) was published in November 2010. It set out a framework "for planning decisions on nationally significant waste water infrastructure". The NPS will be used to guide decision making on Nationally Significant Infrastructure Projects (NSIP) covering waste water. These were defined as waste water treatment plants with a capacity "exceeding a population equivalent of 500,000 when constructed; or alterations to waste water treatment plants where the effect of the alteration" is that it would exceed this threshold.

While the NPS was a generic document, it also made the national case for two NSIPs "which have been assessed as required". These are "a sewage treatment works scheme at Deephams in North East London and a sewage collection and transfer scheme (the Thames Tunnel)" The Thames Tunnel project "does not meet the thresholds contained within the

¹ [The Government Response to Parliamentary Scrutiny of the Draft National Policy Statement for Waste Water](#), DEFRA, February 2012

Planning Act”, however the Government said that “given its significance [it] has already stated its intention that the project should be considered at national level”.²

A [public consultation](#) was held between 16 November 2010 and 22nd February 2011.

2.1 Environment, Food and Rural Affairs Select Committee scrutiny of the NPS

The Environment, Food and Rural Affairs Select Committee (EFRA) scrutinised the draft NPS. The full report and related evidence can be found on the Committee’s website [here](#).

In short EFRA recognised the importance of the NPS in facilitating the delivery of nationally significant waste water projects. However it said that the NPS required “considerable revision”, including the removal of the site specific-sections on the Deephams works and Thames Tunnel. The Committee thought that the NPS was also “woefully short on detail... [the NPS] should include much clearer guidance about how to judge the impacts of large-scale projects”.³ In summary the Committee stated:

The UK’s 347,000 kilometre network of sewers and 9,000 sewage treatment works fulfil the vital function of managing over 11 billion litres of waste water each day. Changing weather patterns and population growth are leading to increased volumes of waste water in some parts of the country. Although improved water efficiency and the increased use of sustainable drainage systems can help to keep this increase to a minimum, in coming years there will be a need to construct new infrastructure to manage waste water. In particular new infrastructure is needed in the River Thames area to cope with population growth and to meet the European Union’s environmental requirements. It is therefore essential that the planning system for large waste water projects is as efficient as possible, to ensure that the new infrastructure is delivered in a timely manner while giving sufficient attention to the impacts on local communities and water and sewerage company customers who ultimately pay for such projects.

The National Policy Statement (NPS) on Waste Water has the potential to provide a valuable policy framework to guide decision makers in their consideration of new large-scale projects under the streamlined provisions of the Planning Act 2008. However, the draft NPS is a work in progress which will require considerable revision to make it complete and accurate. In particular, the site-specific sections should be removed and the NPS should focus wholly on providing clear generic criteria applicable to all Nationally Significant Infrastructure Projects (NSIPs).

Furthermore, the Planning Act’s new regime for NSIPs does not currently apply to the Thames Tunnel project—a surprising omission given that this multi-billion pound project is one of only two waste water projects likely to be of sufficient scale to come within the ambit of this NPS. The Government must rectify this urgently.

The Committee also urged “Ministers to set out the justification for Defra’s view that sustainable drainage schemes (SUDs) can have only a limited role in reducing waste water in London and calls for Defra to undertake further work on how increase the use of SUDs nationally”.⁴

² *National Policy Statement for Waste Water: A framework document for planning decisions on nationally significant waste water infrastructure*, DEFRA, November 2010

³ *MPs warn Government must improve national planning rules for major waste water projects*, EFRA Select Committee, 5 April 2011

⁴ *ibid*

A debate on the NPS took place in the Grand Committee House of Lords on 5 April 2011.⁵

3 The NPS and Government response to EFRA

The final NPS was laid in February 2012. The Government published its response to the EFRA report on the same day. It can be seen [here](#). It made a number of changes in response to scrutiny.

The Government rejected the Committee's call for site-specific information about the need for the Thames Tunnel and Deephams works to be removed from the document, saying:

An objective of the Planning Act is to clarify the policy framework for Nationally Significant Infrastructure Projects and it makes provision for location specific projects to be included in an NPS. The purpose of the Act is best fulfilled by acknowledging in the Waste Water NPS those projects that have been identified as required, Deephams Sewage Treatment Works in north London and the Thames Tunnel. Based on project-specific considerations, their inclusion provides a degree of certainty to developers as to what waste water infrastructure of national significance is required in the future. This approach has been subject to extensive consultation across Government and agreed with the Department for Communities and Local Government.⁶

The debate on the NPS will take place on 19 March 2012. The NPS cannot be amended at this stage—it is a yes or no vote.⁷

4 Thames Tunnel

The EFRA Committee noted in its report that it had received a large body of evidence related to the Thames Tunnel project. This evidence was polarised. The Committee recommended that more evidence was provided by the Government on why alternatives to the Tunnel were unable to meet the required environmental improvements.⁸ In particular it recommended consideration of the role of sustainable urban drainage systems.

There has been a vociferous campaign against the Thames Tunnel. Justification of the Tunnel has been challenged on a number of grounds. It has been argued that:

- not enough evidence was collected on alternatives to the Tunnel;
- the Tunnel is seeking to meet environmental objectives that were set at an unnecessarily high level; and,
- it is not clear that EU law requires the construction of the Thames Tunnel for the UK to avoid pollution fines.

These arguments are set out in more detail in these reports:

[Report of the Thames Tunnel Commission](#), October 2011

[Project Justification Review](#), Professor Christopher Binnie, 2011

⁵ [The Government Response to Parliamentary Scrutiny of the Draft National Policy Statement for Waste Water](#), DEFRA, February 2012

⁶ [The Government Response to Parliamentary Scrutiny of the Draft National Policy Statement for Waste Water](#), DEFRA, February 2012

⁷ HC Deb 6 Mar 2012 c746

⁸ [The Draft National Policy Statement \(NPS\) on Waste Water Report](#), EFRA select committee, HC 736, 5 April 2011

[Independent report on tackling London's sewage overflows published](#), Ofwat, December 2005

The Government rejected these criticisms of the Tunnel, and rejected EFRA's recommendation. It argued that there was good evidence on the case for the Tunnel, which it said had been confirmed in a number of assessments:

On the consideration of alternatives to the Thames Tunnel the Waste Water NPS draws on information in the [Defra 2007 Regulatory Impact Assessment](#), the Thames Tunnel Needs Report and the [Defra 2011 Strategic and Economic Case for the Thames Tunnel](#), which accompanied a [Written Ministerial Statement](#) to Parliament of 3 November, reaffirming the Government's support for a tunnel-based solution to the problems in the Thames Tideway.

The Strategic and Economic Case sets out an overview of the proposed Thames Tunnel project and why it is needed, summarising the strategic and economic case for the Thames Tunnel, assessing alternative options and explains why the Government believes that a tunnel remains the preferred solution for dealing adequately with the untreated sewage that is polluting the River Thames. We therefore consider that the Waste Water NPS provides a detailed analysis of the alternatives to new waste water infrastructure, both strategically and in relation to the Thames Tunnel.⁹

4.1 Thames Tunnel impact on bills—the *Water Industry (Financial Assistance) Bill*

The Thames Tunnel could lead to large increases in Thames Water customer water bills. The Minister said that the “central range for an average maximum annual customer bill impact” was “£70 to £80 at 2011 prices”.¹⁰

On 2 February 2012, the Government introduced the *Water Industry (Financial Assistance) Bill*. The Bill will give the Government the power to give water and sewerage companies financial assistance for the construction or maintenance of large or complex infrastructure projects like the Thames Tunnel.

The Government indicated that this facility may reduce the costs of the project for Thames Water customers and tax payers:

Financing a tunnel of this size at a cost that is value for money for customers is a challenge. The Government believe that the private sector can and should finance this project but accept that there are some risks that are not likely to be borne by the private sector at an acceptable cost. It is willing in principle to provide contingent financial support for exceptional project risks where this offers best value for money for customers and taxpayers. However, I will want to be assured that, when offering this contingent support, taxpayers' interests remain a top priority and that the taxpayer is appropriately protected by measures that minimise the likelihood and impact of these exceptional risks.¹¹

The Consumer Council for Water welcomed this measure:

This will help secure finance for the scheme which might otherwise have difficulty in raising capital or make the cost of capital very expensive. The Bill also provides for

⁹ [The Government Response to Parliamentary Scrutiny of the Draft National Policy Statement for Waste Water](#), DEFRA, February 2012

¹⁰ HC Deb 3 November 2011 c41WS

¹¹ [The Water Industry \(Financial Assistance\) Bill 2010-12 - Commons Library Standard Note](#), Oliver Bennett, 27 February 2012

financial assistance to be given to water and sewerage undertakers to secure a reduction in water and sewerage bills where Government considers it desirable to do so. We welcome any intervention that will help to minimise the risk and financial burden carried by Thames Water's customers.¹²

See the [standard note on the Bill](#) for more information.

¹² *ibid*