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Planning, Consents and Energy Law

Critical issues to be addressed for forthcoming UK project deployments

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Planning and consenting – the issue

"Business in particular needs to know that their planning applications will be dealt with efficiently and predictably. Time delays caused by bureaucracy, lack of skilled staff or over-complex systems are bad for business and do little good for anyone else. Delays in receiving a planning decision can mean loss of competitiveness for business, something that we simply cannot afford in the modern global economy."

Planning Green Paper - "Planning: Delivering a Fundamental Change", 2001

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Planning and consenting – the solution?

"The Bill is focused on the Government's commitment to reform a planning system which has become too inflexible and bureaucratic and is, as a consequence, largely deregulatory in nature … The measures also include a series of necessary reforms to speed up the plans system and improve the predictability of planning decisions, speed up the handling of major infrastructure projects and provide for the introduction of business planning zones. It will help to make the planning system faster, simpler and more accessible, and to contribute to the achievement of sustainable development."

ODPM Regulatory Impact Assessment on the Planning and Compulsory Purchase Bill, 2003

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Issues with existing consenting regimes

- Need for more renewable energy, greater energy efficiency and security of supply
- Speed of decision making and impact on project delivery
- Lack of time limits
- Lack of clear policy on strategic need for particular types of development

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"Radical, joined-up action on infrastructure planning"

- Parallel reviews:
  - Energy Review
  - Barker Review
  - Eddington Study
- Three-pronged programme of work:
  - National policy strategy
  - Streamlined planning inquiries
  - Mechanisms to prevent delay in decision-making

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Setting the right strategic context

- Statement of Need for renewables
- Statement of Need for additional gas supply infrastructure
- Policy Framework for Nuclear Build
- Material consideration

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Streamlining planning inquiries

- New rules in respect of energy projects (Spring 2007?)
- “High powered inspectors” – senior judge or QC
- Concurrent hearings on different issues
- Greater use of pre-inquiry hearings
- Written procedures

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Offshore

- Marine Bill:
  - New consenting regime for gas storage and LNG unloading
  - Carbon capture and storage (CCS)

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Will the proposed changes work?

- Reforming the 2004 reforms?
- New legislation “when parliamentary time permits”
- More or less public opposition to projects?
- Are Statements of Need working?
- Impact on applications determined without a public inquiry
- Resourcing of decision-makers
- Planning delivery agreements
- Planning gain supplement

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