



# Housing and the politics of Nationally Strategic Infrastructure Planning in England

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## ARTICLE INFO

### Keywords:

Housing  
New settlements  
Democracy  
Infrastructure planning  
Politics

## ABSTRACT

The 2008 Planning Act introduced a new approach for determining large ('nationally significant') infrastructure projects in a new national process that would unify consent regimes and speed up decisions within fixed time-scales outside of local planning. Major housing schemes have been excluded from this process, despite repeated attempts by recent UK governments to allocate more land for housebuilding through parallel reforms to the English planning system. This paper explores why Nationally Significant Infrastructure Planning (NSIP) has not been used for housing schemes, using the example of housing to reflect on debates about potential democratic deficits in the NSIP process and the selective politicisation of infrastructure planning in England. In doing so, the paper makes a distinctive contribution to practice and research by linking together debates about the politics of planning for housing in England and international literature on democratic process in the delivery of critical infrastructure.

## 1. Introduction

There is a paradox in contemporary planning theory. Land use planning is often seen as being reworked in favour of a neo-liberal agenda that prioritises the interests of development and the private sector (Allmendinger and Haughton, 2012). Yet, there is considerable evidence of difficulties for pro-development governments in creating a system that can deliver development consents with reasonable certainty in a reasonable time frame (Legacy, 2016; Marshall, 2011). For all the talk of a pro-development takeover, concerns are voiced in many countries about the ability of governments to ensure the provision of critical infrastructure needed to support economic competitiveness, environmental transitions and social wellbeing (Bhattacharya, 2012; Hammerschmid and Wegrich, 2016). In short, elected governments can find it difficult to ensure the delivery of major new infrastructure through existing democratic planning processes (Baker, 2016; Picot et al., 2016; Legacy, 2016; O'Neill, 2010). The consent needed for major infrastructure projects is complex, often spanning multiple consent regimes and local planning jurisdictions, and new infrastructure projects can also attract intense opposition which further complicates the planning process (Groves et al., 2013). Faced with these challenges, one option is to develop bespoke consent regimes that deal more efficiently

with the specific requirements of large complex development. However, these new consent regimes are often seen by critics as a means of bypassing democratic planning practice, with implications for political scrutiny, accountability and public debate. Whether or not that is deemed to matter depends on attitudes to democratic process, views on the spatial scale at which decisions are best made and the perceived importance of different types of infrastructure relative to other impacts.

Against that backdrop, this paper examines the role of the centralised mechanism for determining large infrastructure planning proposals in the UK, Nationally Significant Infrastructure Planning (NSIP). Introduced by the 2008 Planning Act, the NSIP regime provides for schemes over a certain threshold to be determined by central government outside local planning processes following recommendations from the government's planning inspectors. In other words, decisions about nationally significant infrastructure are 're-scaled' (Bickerstaff and Johnstone, 2017) from subnational direct democracy to a new institutional space where democratic accountability is exercised more indirectly, at a distance from communities directly impacted. Our specific focus is whether the process of consenting for Nationally Significant Infrastructure Projects (NSIP) could be used as a mechanism for large scale housing projects, at the scale of new settlements, in England. This has emerged as a debate in England because of the significant problems in providing

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sufficient housing to meet social need for a number of decades,<sup>1</sup> and the challenges associated with bringing land forward for, consenting, and delivering housing at the scale to meet demand. Whilst this has many possible causes, governments have repeatedly attributed blame, at least in part, to restrictions that come with the planning system, and especially the resistance and delays of local democratic process (Clifford, 2020). Against that backdrop, it is curious that governments have chosen not to apply the NSIP route as a potential solution to help unlock some of the barriers to bringing forward housing sites for development.

Drawing on empirical material from two studies of the potential role of NSIP in delivering major housing, this paper aims to explore why governments have not yet sought to use NSIP as a route for consenting for major housing schemes. We do so by (1) critically evaluating the potential role and value of NSIP in facilitating large-scale housing development; (2) assessing the challenges of using NSIP for large-scale housing relative to infrastructure projects currently supported by NSIP; and (3) reflecting on what the example of NSIP and housing reveals about the politicisation of different elements of strategic planning in England. Our conclusions link back to wider national and international literature and debate on the politics of infrastructure planning and its implications for political legitimacy in the planning process.

We begin by setting out the persistent challenges the UK faces in meeting housing need and the current role of planning in supporting housing delivery and introduce the NSIP consenting regime its background and purpose.

### 1.1. Planning and the housing delivery problem in the UK

Much has now been written on the failure to provide sufficient housing and its implications for housing affordability in the UK. Reflecting the failure to meet housing need through new housebuilding, the language of ‘crisis’ and ‘nightmare’ dominate headlines about England’s shortage of both affordable and market housing (Gallent et al., 2018; Pickard, 2018; McMullan et al., 2021). ‘Fixing the broken housing market’ has become the mantra of calls to address this failure (Cheshire, 2018). According to one estimate, around 340,000 new homes need to be supplied in England each year to 2031 (Bramley, 2019), but whilst there has been an upward trend in supply over the last decade, this falls far short of need with only 216,000 new homes being delivered between April 2020 to March 2021 (House of Commons, 2022).

There are many possible explanations for the housing shortfall including anti-competitive practices in the monopolistic housebuilding sector, difficulties in assembling large sites for development, the time and uncertainty in negotiating multiple consent regimes, high land values, the underfunding of supporting social and physical infrastructure to support housing, limited financial support for social housing, the abolition of regional planning, and the UK Government’s unwillingness to take a strategic lead in identifying sites for new towns and other major housing development (see Lyons, 2014; Coehlo et al., 2017; Mulheirn, 2019; Heslop and Ormerod, 2020; Gallent, 2019). Unsurprisingly, therefore, increasing housing supply has been seen as a classic ‘wicked problem’ (Adams, 2011). However, consecutive governments on the right and left, and particularly the more right-leaning governments since 2010, have tended to blame housing delivery shortfall on the restrictive nature of planning in England, seeing this as more politically expedient than tackling other factors, particularly the ‘corporate largesse’ impacting some housebuilding practice (Archer and Cole, 2021; Imrie, 2021). The argument is that planning is not sufficiently pro-development, with too much scope for local authorities and residents to resist or delay new housing development (see, e.g. Southwood,

2020; Wojtulewicz, 2021). The result has been a succession of planning reforms over the last two decades presented as to better facilitate new housebuilding. A particularly key moment was the complete abolition of the regional tier within the English planning system (and their associated housing allocation targets at a regional and sub-regional level) by the incoming Coalition Government of 2010, and an renewed focus on local plans. This was a deliberate de-scaling of state activity (Boddy and Hickman, 2013; Gallent et al., 2013).

However, a fair amount of contradiction has been at the heart of the reforms. For example, a strong ‘rhetorical emphasis’ on localism (Inch and Shepherd, 2020), framed around espoused freedoms and flexibilities for local authorities to plan according to their own assessments of need, has been overshadowed by strengthened central control and a requirement on local authorities to allocate deliverable housing sites to meet projected needs (the five year housing supply test): a policy which frames local authorities as a hindrance to development and comes with a threat that local authorities could lose control over planning decisions if the five year housing supply is not delivered (see Branson, 2021). The result has been a curious mix between pro-market discipline, central control and localism. This has not resulted in the levels of delivery required to meet need, and suggests the need for more radical solutions to the housing supply crisis (Bowie, 2017).

An enduring narrative alongside this succession of planning reforms has been the potential for large-scale housing developments, ‘garden communities’, and other new settlements, to tackle need (Royal Town Planning Institute 2013; Nathaniel Lichfield and Partners (NLP) 2016). Indeed, large-scale developments have been promoted via a series of national government initiatives with associated financial incentives. Yet progress has been mixed. The problem is that gaining permission for and building out sites for large scale housing development is both technically and politically difficult given the costs, time and risk in preparing an application and the complexity of combining different consent regimes such as planning and compulsory purchase of plots of land (Hourigan Connolly, 2014). In 2019, of the 49 ‘garden communities’ in receipt of UK government support, only a third had permission or were allocated in an adopted plan, leaving two thirds ‘subject to ongoing levels of planning risk’ (NLP, 2019, 3). The issue of risk was exemplified in the decision of the UK government’s Planning Inspectorate in 2020 to find plans for two out of three proposed new garden communities in North Essex ‘unsound’ on the basis of financial viability (Edgar, 2020). It is in this context that we now turn to the potential role of NSIP as a means of resolving these issues.

### 1.2. Planning for infrastructure as spatial politics

At the heart of this paper is the issue of how governments facilitate the delivery of large scale multi-faceted infrastructure projects. These projects are challenging for planning because of their scale and complexity, often requiring coordinated decisions across multiple constraint regimes. Large projects might also span different local or regional jurisdictions or require decisions in spaces (for example, offshore renewable energy) which extend beyond the land-use planning regime. Moreover, projects are often politically contentious because of their local or extra-local impacts and sometimes because of the public policy choices they involve. Public enquiries into large infrastructure structure can involve considerable time and costs.

Moreover, development of new infrastructure has long been subject to (and shaped by) opposition. However, the level of opposition and extended scope for oppositional purchase (for example, in relation to environmental and latterly climate impacts) has extended over the last three decades. As a result, many governments internationally have sought to find ways of reworking prevailing planning systems to facilitate critical infrastructure (Marshall, 2013; Legacy, 2016). This invariably involves reforms to consider infrastructure projects as a separate class of planning decision outside of existing decision-making frameworks, often involving a rescaling of decisions from regional or local

<sup>1</sup> In the UK planning is devolved matter. Planning in England, Scotland, Wales and Northern Ireland, therefore has a separate legal basis, as well as some distinct operational and policy differences. The UK government is responsible for planning policy in England.

tiers of government to the national. The broader tendency internationally is for governments to support development by reconfiguring – and rescaling – state power and political-institutional spaces to facilitate development (Brenner, 1999; Swyngedouw, 2004). The rescaling of decision-making makes it more difficult for local interests to mobilise effectively (Cox, 1998), but also places decisions in a wider evaluation framework where local impacts are balanced with a wider public interest. Thus Marshall's (2013) review of the changing context for large scale infrastructure planning in France, Spain, Netherlands, Germany and the UK highlights a general tendency to locate decisions outside the machinery of traditional planning regimes with a sectoral rather than spatial focus (Legacy, 2016). Marshall (2013) is particularly concerned about the 'lack of wider spatial moorings' and a potential gap in democratic engagement. The tendency is for infrastructure decisions to be taken outside and beyond the reach of direct public involvement, depoliticising infrastructure making through the creation of state-based infrastructure agencies. This might be seen as part of the wider reorganisation of the state in support of growth, raising concerns about democratic process and reduced scrutiny of the rationale for, and impacts of, infrastructure.

The rescaling of planning and land management in support of growth is hardly new in relation to infrastructure and housing. For example, the idea of 'The Quiet Revolution in Land Control' highlighted the ways in which US states in the 1960s used their regulatory authority to override and replace local land use regulation in favour of development of regional impact. The approach was attacked for usurping local interests, but defended as an example of planning in the public interest (Beckley, 1992). Yet critical infrastructure does need to be planned for and provided in a reasonable timescale, and a slow drawn-out process of decision making does not necessarily involve more effective public engagement nor does it better serve the public interest. Moreover, it is possible that a special purpose planning route can in principle be as rigorous as any other planning decision making, but also transparent and democratically accountable, with space for meaningful public engagement and debate. The question perhaps is whether and how to reduce the costs and time around infrastructure planning, whilst maintaining sufficient scrutiny and democratic checks and balances.

### 1.3. The nationally significant infrastructure planning regime in England

There is no constitutionally protected local planning 'monopoly' in England. UK central government can reorganise local government or create (or abolish) special purpose bodies with planning powers and there is a long history of government action to rescale or bypass local democratic control by abolishing tiers of local government, constraining local government powers and creating sub-national agencies and mechanisms with decision-making powers (Marshall, 2007; McGuinness and Mawson, 2017). Even the system of local democratic determination of planning decisions is subject to applications being 'called in' for decision by government ministers or decided by government-appointed planning inspectors on appeal, and all decisions must conform to national planning policy.

From the 1970s onwards, the process of granting planning permission for large infrastructure projects was difficult, slow and expensive. As in many other countries, in the UK, concerns were voiced about the ability of governments to ensure the provision of critical infrastructure needed to support economic development, environmental transitions and social wellbeing (Bhattacharya, 2012; Hammerschmid and Wegrich, 2016). With no defined timescales for decisions on major projects, the decision-making process became very drawn out: the public inquiry for Terminal 5 at Heathrow Airport lasted 524 days before consent was given for development (Vidal, 2007). It is often described as the stimulus for the new NSIP regime, enshrined in the Planning Act of 2008 (Newman, 2009).

Described as 'the most far-reaching legislation of its kind since 1947' (Hetherington, 2009, 1), NSIP as introduced by the centre-left Labour

government in 2008 was seen as a 'genuine revolution' (White, 2013) in the handling of planning applications and other relevant consents for large scale infrastructure developments. NSIP was intended to provide authorisation for a project by combining most - although not all - consents, including planning permission and compulsory purchase acquisition powers into one document to enable infrastructure development to progress. This composite consent is known as a Development Consent Order (DCO).<sup>2</sup> The aim was to simplify and speed up decision-making (Rydin et al., 2018) within defined timescales:

*"Since the beginning of March 2010, the UK's major infrastructure projects have been steered away from the conventional town and country planning system and funnelled into a new process that aims to grant development consent more rapidly than the established system"* (Walker, 2013, 1).

The NSIP decision-making process is expected to take no more than one year following an examination of no more than six months. Fixed timescales are to be achieved by 'front loading' detailed consultation pre, rather than post, submission and schemes are not allowed to introduce material changes after the submission.

Initially, decision making on NSIP applications was handed to a new Independent Planning Commission (IPC). However, in response to criticisms of the IPC being 'unelected and unaccountable' (CLG, 2011, 1), the national Coalition Government of 2010–2015 abolished the IPC and transferred its functions to a new infrastructure unit within the Planning Inspectorate, an executive agency of government with ministerial and parliamentary accountability. At the time of writing, therefore, NSIP decisions are made by ministers following recommendations from government appointed planning inspectors. NSIP thus represents a new centralised institutional space for decision making in which power is notionally transferred – or 'rescaled' (Brenner, 2004) - to ministers in central government.

NSIP is restricted to projects of national need across a range of sectors. National need is signalled by a defined size of development such as: airports with at least 10 million passengers per year; an electricity generating station with a capacity of more than 50 MW; dams and reservoirs expected to exceed 10 million cubic meters, and so on. For most infrastructure sectors, National Policy Statements (NPSs) provide clarity on the criteria for decision-making and in the case of nuclear power and airports define the sites for development (See Table 1). Seen as one of the most important parts of the new system, it was clear from inception that NPSs were to have an 'unusually decisive role' (Tucker, 2010). NPSs established the principle of development for proposals that meet the thresholds. This means that any debate about the need for infrastructure takes place during NPS preparation rather than on a case by case basis, with inspectors and decision makers having no requirement to consider the need for infrastructure being examined if it is in line with the NPS. For this reason, NPS preparation stage has become a key point for engagement by pressure groups (Walker, 2021).

Initially at least, the 2008 Act passed relatively unnoticed through parliament 'in spite of its wide-ranging implications and significance' (Hetherington, 2009, 1). The emphasis given to process and speed potentially downplayed the more radical element of the 2008 Act which was its potential implication for public engagement, because 'the strong presumption in favour of consent means that public participation is ultimately about 'how' not 'whether'' (Lee et al., 2018, 512). However, commentary on the potential for shale gas to be included within the NSIP regime in 2015 was accompanied by headlines such as 'Fracturing

<sup>2</sup> A Development Consent Order (DCO) is a statutory instrument granted by the relevant Secretary of State. DCOs differ substantially from planning permissions under the Town and Country Planning Act 1990 which are drafted and granted by local planning authorities. A key difference is that the DCO is drafted in full by the applicant and submitted, together with other prescribed documents, with the NSIP application (see Planning Inspectorate, 2012). As a statutory instrument, a DCO once awarded is a piece of secondary legislation.

**Table 1**  
National planning statements (as of July 2022).

NPS sector	Departmental responsibility	NPS
Energy	Department for Energy and Climate Change	Overarching energy Renewable energy Fossil Fuels Oil and Gas Supply and Storage Electricity Networks Nuclear Power (All July 2011)
Transport	Department for Transport	Ports (January 2012) National networks (July 2015) Airports (June 2018)
Water, wastewater and waste	Department for Environment Food and Rural Affairs	Hazardous Waste (June 2013) Waste Water Treatment (February 2012) Geological Disposal Infrastructure NPS (October 2019).

democracy?’ (Szolucha, 2015), and ‘a serious attack on democracy’ (Sheppard, 2016), which illustrated a growing strength of feeling about a perceived democratic deficit to NSIP.

On the one hand, the critique of the NSIP regime for perceived democratic deficit reflects a parallel characterisation of NSIP as part of a perceived ongoing reworking of the planning system in favour of a pro-development neoliberal agenda (Allmendinger and Haughton, 2012; Ferm and Tomaney, 2018). In tracing the origins of the NSIP regime, Marshall (2011) highlighted the persistence of private sector arguments that delays in planning consent were causing ‘harmful spillover effects for the rest of the economy’ (Barker, 2006, 10) and NSIP has been described as putting strategic planning ‘into the hands of private infrastructure companies’ (Marshall, 2011, 258). The sector specific, rather than spatial focus (Legacy, 2016), has also led Marshall (2011) to raise concerns about the relatively ‘skeletal’ discussion of how the NSIP regime would dovetail with the existing town and country planning system. He suggested that the 2008 Act tended to assist the delivery of controversial schemes, arguing that there is ‘no opportunity to argue out competing national imaginaries and their spatial dimension’ (2011, 256).

On the other hand, there is a potentially alternative characterisation of the NSIP regime as a much-needed strategic planning response to infrastructure needs established through prior analysis. NSIP is an exercise in ‘big planning ... real spatial planning by the state, and an evolution of UK state policy towards spatialisation’ (Marshall, 2020, 49). National Policy Statements, in particular, with their intended expression of national need and, in a minority of cases spatial specificity, are a form of ‘national spatial steering ... a favoured state policy instrument’ (Marshall, 2020), and seen as a critical part of the renewed national focus on infrastructure delivery. Rather than a decline in planning influence, the NSIP regime might be seen as a re-assertion of central state planning in support of big infrastructure, and appears in stark contrast to other parts of the town and country planning system in England, where repeated calls for a national planning strategy of any kind have been repeatedly rebutted (see Armitt, 2017; UK2070 commission, 2020). It might be noted that Central Government is, itself, one of the key players in infrastructure delivery both as a funder and promoter: one third of projects listed on the national infrastructure planning database are from Highways England (now National Highways).<sup>3</sup>

Literature on NSIP has also explored the notion of democratic (and anti-democratic) practice. Notwithstanding the fact that, in reality, large infrastructure projects of the type covered by the NSIP regime would, historically, have been ‘called in’ because of their size and complexity

(see Clifford and Tewdwr-Jones, 2013), one argument is that democratic accountability for NSIP is effectively exercised through directly elected national parliamentary process via the approval of National Policy Statements. A further argument is that the potential for considering and mitigating local impacts may even have been enhanced by separating decisions about the principle of whether development is acceptable from decisions about the acceptability of the detailed proposal. Advocates have highlighted the rigour of the examination process in considering opposition and in allowing space for public engagement within a structured framework (Quod and Bond Dickinson 2015, 28). Rather than ‘riding roughshod over localism’ (Hetherington, 2009), some local authorities are on record as welcoming the NSIP regime (see Bate and Owen, 2015).

However, for all the nuanced discussion about what the NSIP might or might not represent in terms of democratic process and planning process, NSIP is likely to be perceived as a challenge to prevailing democratic practice in planning centred on local decision-making. The NSIP process clearly marks a distancing of decisions from local determination, in which the role of local authorities is highly circumscribed to that of ‘evidence and opinion’ (see Planning Inspectorate, 2020). Rightly or wrongly, national infrastructure policy takes precedent over local planning policy: ‘If there is any conflict between a designated NPS and any local planning document, the policies in the NPS will prevail’ (Planning Inspectorate, 2015, 2). As suggested above, wider societal debate about NSIP was somewhat muted when the mechanism was introduced, in part reflecting the nature of projects that initially went through the system. In the following sections, we explore the potentially difficult relationship between housing and NSIP.

#### 1.4. Housing and the English NSIP regime

From the outset, housing was excluded from the NSIP regime. That might not be surprising as housing has not typically been classed as ‘infrastructure’ in UK planning, with infrastructure instead described by Marshall, 444 (2011) as having ‘always stood slightly separately from the main parts of town and country planning ... understood as something different [and] subject to different pressures’. Nevertheless, there has been an ongoing debate, including prior to the 2008 Act, about whether the NSIP regime should include large scale housing schemes. Proponents have advocated NSIPs as a solution to overcoming the key housing delivery challenges identified above, particularly difficulties in assembling large sites for development and the time and uncertainty in negotiating multiple consent regimes (see Barton Willmore 2014; Hansard Debate Thursday 10th July 2014).

Expansion of the regime in 2013 to give business and commercial schemes (land uses beyond the traditional infrastructure definition) the option of seeking a DCO appears to have fuelled these voices further (Grace, 2015). In the Housing and Planning Act 2016, provision was made for a DCO to grant consent for housing either linked to an application (for example, housing provided for workers during the construction phase of a NSIP) or where there is a close geographical link between the housing and the NSIP. At the time of the 2016 Act, the provision of an upper threshold of 500 homes was described as ‘hardly a panacea for the housing crisis’ (Grace, 2015) and a failure to fully explore the potential of NSIPs for housing to any meaningful degree. At the time of writing, no DCO applicant has yet included housing within their submission.

Moreover, proposed planning reforms in a White Paper in 2020 (MHCLG, 2020) included provision for DCOs under the NSIP regime to provide ‘an appropriate route to secure consents ... for exceptionally large sites, such as a new town’ (ibid, 34). Whilst signalling openness at Central Government level to the idea of NSIPs for housing focussed on the very largest scale of new settlements, reaction to the White Paper’s question about NSIP and housing was very mixed. The ensuing planning reform proposals in the *Levelling up and Regeneration Bill published in May 2022* did not make provision for the use of NSIPs for housing.

<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/>.

## 2. Research

The following sections explore the politics of extending NSIP to large housing projects in England. The analysis draws on a range of research undertaken by the authors since the NSIP regime was introduced, which has involved close and ongoing discussion with key interests in and around the NSIP process. In particular, the research draws on two studies that addressed whether and how housing might be supported (Quod and Bond Dickinson 2015; Copper et al., 2018).<sup>4</sup> Across the two studies, a total of 45 people with a deep knowledge of either NSIP or housing delivery were involved to elicit views and experiences from a broad cross-section of practitioners. These were sampled from a long-list derived by the authors, and were directly recruited via email. Participant consent was given prior to participation, which included details of how data was to be held and analysed. These included: those from local government (3), lawyers (3), housebuilders (5), infrastructure planning inspectors (3), central government civil servants (2), current NSIP project promoters and their consultant teams (20), planning consultants (4), professional bodies and interest groups (5).<sup>5</sup> Thirty in-depth interviews were undertaken together with three focus groups. Interviews combined closed and open questions on the housing delivery problem and the role of NSIPs following a common topic guide. The focus groups were managed to promote discussion and debate around key themes generated by the interviews. Data was subsequently analysed using the qualitative data analysis tool, NVIVO, using a framework that enabled data to be coded using themes related to the purpose of this paper as set out in the introduction to this paper.

### 2.1. NSIP as part of the solution to building new settlements

The first question addressed in our research is whether NSIP might be of value in supporting and unlocking the particular issues in planning for housing. Only a quarter of participants were distinctively positive about the potential value of NSIP for new settlement and felt that NSIP might be used creatively by local authorities and developers in ways that might not be easy to predict and could either lead to behaviour change within the housebuilding sector or stimulate new development models. These participants suggested that using NSIP for housing should at least be trialled as an addition to existing local planning routes. One lawyer simply stated, “*why not pilot it?*”. Others observed: “*We need a number of channels. Why is the private sector denied access to the most powerful tool available in planning?*” (Housing Developer). A representative of a Government Agency said, “*Having the option seems sensible. If it frees up half a dozen sites. It’s got to be worth it. Why not add it to the tool kit if it could work well.*” (Government Agency).

Participants’ instincts as to the value of NSIP for new settlements had two roots. The first related to features of the NSIP process itself. Here, participants emphasised the benefits of the single consent regime and especially the opportunity to link compulsory purchase and planning consent at an appropriate spatial scale. At present, compulsory purchase and planning consent can be something of a chicken and egg (i.e. a planning proposal is required to justify compulsory purchase, but it can

<sup>4</sup> These studies were commissioned by planning consultants, development specialists and lawyers. The first commission was for an objective and impartial approach to exploring the potential role of NSIPs for housing. The second was for practitioner reflections on the 2008 Act a decade on, in which questions about the potential extension of the regime to include housing were component parts. There were no attempts by either client group to steer the research outcomes in a particular direction. No conflicts of interest were noted.

<sup>5</sup> These studies were deliberately focussed on those with professional experience of either planning for housing, housing delivery or national infrastructure. An extension to this work could usefully engage a wider set of stakeholders, including community groups, in exploring the merits of an NSIP approach.

be difficult to formulate without reasonable certainty of gaining compulsory purchase). Those in favour of NSIP were also of the view that, instead of circumventing engagement, an NSIP approach could actually offer a meaningful approach to community engagement within a framework oriented to ensuring design and environmental quality:

*“I think the DCO drives the right behaviours around early engagement, and being honest with people ... You have got to go on a journey with people and know what the problems are”* (Government Agency).

*“Now it’s a requirement [early consultation] it focuses the mind on having challenging conversations on how to mitigate effects much earlier on”* (Lawyer).

The second, and more predominant factor in NSIP’s perceived value for housing delivery was that it was seen as an explicit way of overcoming the challenges of planning at the local level, including the need to manage public opposition in a strategic way and the difficulties in working across local authority boundaries:

*“Take need for large scale development – we need to look at a way of taking this outside the local plan process”* (Planning Consultant).

*“Politics come into play too much ... You could make things seriously happen if you took some sites away from local authority control. A DCO could help very much”* (House Builder).

The issue was not that opposition should be avoided or bypassed through NSIP, but that public engagement might be better managed outside of the particular politics of local planning processes. Indeed, it was suggested that “*you have to be a very ambitious local leader to take on a new settlement*” (Interest Group Representative) and therefore centrally determined decision making might be welcomed by local politicians in some circumstances:

*“I can imagine a few [elected] members who would support letting government decide controversial schemes - there could be political benefits to taking schemes outside a local authority process”* (Infrastructure Planning Consultant).

Even those participants more circumspect about or opposed to NSIP for new settlements were unanimous in their concern about the abolition of Regional Spatial Strategies in 2010 and the resultant challenges in relation to the identification of strategic sites for housing: “*if we hadn’t lost strategic planning, I don’t think we’d be talking about DCOs*” (Professional Body Representative). Thus, NSIP was clearly seen by some players as a spatial-regulatory fix for the void in strategic planning, enabling thinking on a larger than local scale:

*“Where it becomes challenging is where you are sitting cross-boundary and two local authorities don’t see eye to eye – policies aren’t in the same place. A DCO – could facilitate that – because we don’t have RSS that would have dealt with that at a higher level”* (House Builder).

*“How is anyone going to deliver housing that straddles more than one local authority under the TCPA regime?”* (Former Civil Servant).

Ultimately, however, a key consideration in whether NSIPs would be meaningful in helping support large settlements was the degree of prescription and spatial targeting that might be needed in a national policy statement to create a sufficient policy platform for decision making and the political difficulties that would cause for national government. Although some developments eligible as NSIPs have not had an NPS (e.g. the extension of NSIP to Business and Commercial schemes in 2013 did not include an NPS), a national statement for new settlements in establishing need was widely considered essential in providing the certainty that developers would need to even consider using the NSIP route:

*“If need is not established. A promoter would have to establish need. How do you do that? Particularly if the local authority has said it doesn’t agree. This would create a huge conflict – which doesn’t happen in DCOs”* (Lawyer, QC).

*“From a planning point of view – the NPS has to be there – how could it not?”* (Local Authority Planning Officer).

More challenging was the question of how much specificity might be needed in an NPS, notably whether an NPS would need to identify specific priority regions or even priority locations. There were concerns

that a more generalised statement would in practice be no more meaningful than the already strong statements on housing need in the existing National Planning Policy Framework:

*“My view is that it would be difficult for 2008 Planning Act to deliver large amounts of housing unless government took the very radical step to use a national policy statement to identify areas and quantity and locational indicate where that should be (Former Civil Servant).*

*“I don’t think you can have a housing NPS without locations. Without the element of doubt that consent would be granted it would be too risky given the costs” (Lawyer).*

As Marshall (2013, 277) notes, with the exception of nuclear power and airports, locational guidance has so far tended to be resisted in NSIP because ‘an implicit spatial imaginary may come into a sphere of public visibility and debate and cause major political difficulties for governments’. Even the identification of a “just a handful” (Local Authority Officer) of new settlements through a NPS – where many possible locations are in theory conceivable – was seen as politically challenging. Participants saw ministers facing strong opposition from elected Members of Parliament given the potential for local opposition. Furthermore, such a route would appear in stark contradiction to wider resistance in English national governance to the idea of a National Spatial Strategy (in contrast to Wales or Scotland where national plans set out spatial strategies) or the use of regional planning or a defined New Towns policy to identify sites for new settlements, and would cut across the Government’s notional and rhetorical commitments to localism as described above.

In summary, a quarter of participants suggested that, although it might require creative approaches, NSIP could potentially encompass the complexity of large housing development, or at least open up the scope for creative responses given its potential benefits in assembling sites through compulsory purchase and working across local authority boundaries. The decision-making process would still be contentious for local authorities, but there might be positive benefits for local government in being distanced from the hard politics of decision making. The more pressing practical issue is perhaps whether central government would be prepared to provide the level of locational detail that might be needed in an NPS to facilitate the bringing forward of proposals.

## 2.2. Challenges of bringing new settlements into the NSIP regime

The second question addressed in our research was, if NSIP could in principle be used for new housing development, are there particular challenges of bringing housing into the regime relative to other uses? The first issue raised by participants was whether NSIP, which was primarily designed for single infrastructure schemes, would in practice be suitable for the particular challenges and complexities of housing development. The research pointed to significant concerns about whether NSIP should be used given the flexibility needed for large scale new settlements, that are phased over time and require multiple inputs:

*“You are effectively submitting a secondary piece of legislation when you apply for a DCO ...An awful lot of things get examined in exacting detail. There is a feeling at examination that we’ve got to tie everything right down” (Lawyer).*

The need for any material changes to a DCO post-consent requires a new DCO. This need has already posed problems in some infrastructure sectors, resulting in either delay to delivery and substantial additional costs, or the decision not to seek post-consent changes and thus criticism of the lack of flexibility within the process (Hickman and Mitchell, 2017). Here, the NSIP process operates in stark contrast to the two-stage local planning route of outline planning permission followed by reserved matters applications for subsequent details and individual development phases (MHCLG, 2020).

This lack of flexibility was seen as particularly problematic for large settlements. Changes to site density, layout, scheme configuration are often needed for housing schemes post-consent to reflect market conditions, changes in consumer demands, knowledge accrued during

delivery, and changes in developer team (with outline permission secured by a master developer, and some phases built out by different housebuilders). This need for flexibility is one area where housing is perceived to differ substantially from other projects considered by NSIP, especially given the complexity of large housing schemes with substantial infrastructure and service provision alongside. One participant observed, “one should guard against a simplistic assumption that the benefits of DCOs automatically transfer to housing” (Planning Consultant). The financial and pre-application work required in the submission of the DCO and its inflexibility are likely to be challenging for housing developers:

*“There is a lack of flexibility with DCOs. Housing developers, will want to retain more flexibility around density, tenure and materials, rather than fixing them from the outset ... If you go outside terms of a DCO it’s a criminal offence. Some housing developers will look into that and think I don’t want to get into that game” (Lawyer).*

*“New communities are unique as a form of infrastructure. They are vastly different from roads, railway lines and power stations. The NSIP regime is simply not set up to deal with the complex task of place making ... It’s the wrong approach” (Interest Group).*

The second issue raised by participants was about democratic oversight and accountability. Three-quarter of the participants saw the highly restricted basis of consultation as a distinct negative of the DCO process:

*“There is insufficient democratic accountability and opportunity for public involvement in the process. It’s the wrong approach” (National body).*

There was concern that Parliamentary over-sight of National Policy Statements might not be recognised as a sufficient form of democratic accountability by all interests:

*“DCOs are insufficiently democratically accountable. Lack of communication with local people brought down the new towns act – the same thing would happen again with DCOs” (National body representative).*

There was particular concern from local authority participants about the integrity of the local plan making process and the existing strategic development framework:

*“Getting housing into the regime will be difficult - there will be an enormous backlash at a local level. If you have been working on a local plan for years it will feel like it’s being thrown out of the window” (Local Authority Officer).*

*“I feel that the planning system has been fragmented already - been dismantled from multiple different directions ... This would be an extension of that – another way the planning system could be dismantled and the democratic interface removed (Former Local Authority Officer).*

The NSIP route was seen as potentially disruptive for existing processes if it created uncertainties around emerging and established local plans that would neither be resolved through locational specificity in an NPS (because there is no guarantee that development proposals would come forward) nor a more generalised NPS (because in theory developments could come forward anywhere). Participants observed that an NPS with the kind of locational specificity needed to make it meaningful for the establishment of need would “begin to look like regional planning” (Professional Body Representative), but with a perceived emphasis on facilitating private developers. The issue of granting legal powers to private housing developers was also potential issue for some participants:

*“People will question the legitimacy of this? Should they have these powers in perpetuity” (Lawyer).*

## 3. Discussion: the politics of planning for housing and NSIP for new settlements

Research presented above suggests that, although there are potential challenges in using NSIP for new housing, a quarter of participants saw it as possible that NSIP could provide a mechanism for supporting the development of large new settlements in England. There are no guarantees that it would deliver in practice, given the complexities we have

mapped out, particularly around the post-consent change management process. There are also other routes that could also prove effective in increasing housing supply. The rights and wrongs of extending NSIP to housing, or choosing another mechanism to facilitate large scale housing development, is a matter for debate. For the Labour government (prior to 2010), reluctance to use the NSIP route for housing was understandable because its approach of using statutory regional spatial strategies to set housing targets and identify strategies locations for development was relatively new and was starting to have an impact on housebuilding (Cochrane et al., 2015). The problem for large settlement delivery was that after the 2010 election, the localisation of the pro-development politics of housing meant that many local planning authorities had limited incentive to promote potentially controversial and complex large-scale settlements. The NSIP approach might be seen to be more commensurate with the strengthening of requirements for specifying housing land allocation in local plans in the 2012 National Planning Policy Framework and associated Planning Practice Guidance, which included threats by central government to take control of local plan preparation and reflected a new urgency around housebuilding as an economic, political and social priority (McGuinness and Mawson, 2017). However, the increased emphasis on housing delivery targets after 2012 has not been consistent geographically, and ministerial statements and the discretion allowed for individual decisions have been shaped by electoral politics and in relation to local political and preservationist pressures (see Tait and Inch, 2016). Moreover, even though national planning policy has required local authorities to support new housebuilding, for political reasons national government has tended publicly to be equivocal about issues such as releasing greenbelt land for housing which has created uncertainty about the strategic planning process. This is in stark contrast to NSIP, where ministers continue to approve DCOs, even where government appointed inspectors have, as in a number of more recent cases, recommended refusal (Walker, 2021).

As demonstrated above, there is no guarantee that an NSIP approach would be beneficial, especially if the accompanying National Planning Statement lacks the necessary prescription. In some respects, the advocacy for an NSIP approach has tended to come from development promoters keen to open up (and profit from) a new approach to land assembly, yet participants from the development sector have also been circumspect about the NSIP approach to housebuilding (see British Property Federation, 2020). This is partly because the development sector tends to favour the use of strategic planning as a means of unlocking land for development. But NSIP was also not seen as pro-development instrument that automatically favoured the private sector. On the contrary, the NSIP process was felt to be extremely demanding for promoters in terms of pre-application engagement, level of detailed information required and the rigor of the examination process. Even those more instinctively in favour of the potential use of DCOs for new settlements, express a degree of circumspection about their effectiveness in their current form (see RTPI, 2020; Owen, 2020).

It might be argued that some of the concerns about a potential NSIP approach to housing are about the difficulties in treating housing as an infrastructure class amenable to the NSIP process, which is arguably more suited to discrete projects. Problems with the need for post-application flexibility have certainly been a concern for some NSIP projects, but considerably greater post-application flexibility would be needed for large scale housing development stretching over many years. Housing would likely need much more political and public support from different agencies compared with the single design and operator model of most projects that go through NSIP process. However, the central question around the issue of whether or not to use NSIP for housing – and moreover the question of why NSIP is being suggested as a mechanism for supporting housing delivery – is also bound up with the wider of politics of scalar responsibility (Swyngedouw, 2004) for planning. The UK central government has become more directive in requiring local authorities to allocate land for housing and, in doing so, has passed potential political fallout to the local decision-making process.

Localising the question of national housing delivery has fragmented political opposition into a myriad of local struggles. One of the reasons why NSIP has been potentially so difficult for UK governments to contemplate for housing – as opposed to other sectors – is that localism and the de-scaling of planning continues to be the dominant narrative.

#### 4. Conclusions

Drawing on extensive structured interviews with key interests and experts, this paper has explored issues around the role and purpose of the English NSIP regime that was introduced in 2008 to help speed up and facilitate infrastructure development of national importance through a new national consent regime. In particular, we have examined what the decision to exclude large scale housing from the NSIP process (at a time when large scale housing is a national planning challenge and priority) might reveal about the politics of housing in England and the politics of infrastructure planning in England and internationally. Indeed, planning researchers have been sceptical of the NSIP process, because it removes some of the traditional bases of local democratic engagement and accountability in English planning and is thus felt to prioritise private and governmental development interests over social and environmental concerns. However, NSIP is far from a rubber stamp for development and many of the projects taken forward under the NSIP have explicit and intended public benefits. Advocates of the NSIP approach suggest that the underlying framework of NSPs is not only democratically accountable to elected MPs who vote on NPSs, but NSIP decisions have also been shown to be rigorous in their assessment of social and environmental impacts, with a significant commitment to giving the opportunity to citizens and interest groups to voice concerns and opposition. It might also be argued that NSIP represents an important two-level process of decision making whereby need is established through accountable National Policy Statements prior to scrutiny of individual projects.

The focus of the paper has not been on NSIP per se but why, having introduced and supported (and extended) the NSIP regime, successive pro-growth governments have chosen not to use that framework to facilitate much needed large-scale housing projects. This, we suggest, is curious given the range of action taken by successive UK national governments to remove perceived planning barriers to development and facilitate the sort of large-scale housing projects that NSIP could support. Advocates of NSIP see the potential to de-risk, incentivise and facilitate local authorities and the private sector to come forward with schemes that are unlikely to be considered in the current context. However, as demonstrated throughout the paper, using NSIP for housing would be politically controversial in a context where the Conservative Party in power since 2010 has had to reconcile its commitment to facilitating growth and housebuilding with maintaining electoral power given its electoral base of more affluent voters in areas in high demand housing areas. NSIP is one of many possible strategic planning solutions that the UK Government has not pursued because of its equivocation around ‘big state’ strategic planning and its preference to deflect political responsibility for facilitating housebuilding to local government. Doubt over the government’s intentions to continue to lead work on a spatial framework for the Cambridge-Oxford corridor spatial framework (Norris, 2022) further indicates a receding rather than resurgent appetite for direct central intervention in anything that looks akin to the allocation housing growth.

Looking beyond England, the paper contributes to debates about the changing politics of infrastructure planning in a range of ways. Facilitating major large scale infrastructure projects through planning and other consent regimes can be a major challenge for democratic national governments because permission to develop can take considerable time and projects often generate high levels of public scrutiny and opposition. Some national governments have sought to create new consent regimes that streamline decision-making, often taking decisions out of prevailing regimes of political decision-making: a politics of re-scaling and re-

segregating land use control and state power in relation to planning (see Marshall, 2013). Critical planning studies have highlighted the tendency for infrastructure planning to be insulated from prevailing democratic process, often linked to enhanced pro-development state strategies.

It is tempting to see mechanisms such as NSIP as inherently anti-democratic in their decoupling and reworking of established modes of democratic planning. However, in the UK case, the picture is more complicated if account is given to mechanisms of governmental insight (exercised through parliament and National Planning Statements), the direct involvement of government as developer, and the opportunities for public engagement and the ways in which the public interest is protected. The costs and benefits of new infrastructure are inevitably unevenly distributed over space and time. Infrastructure projects also vary in their relative social, economic and environmental costs and benefits. Perhaps the story in England is about the absence of state authority to make and justify potential controversial political decisions in relation to planning. Interest in the NSIP route for housing in the UK is ultimately a reflection of the absence of political leadership in a critical development sector that deserves better strategic management.

## Data Availability

Data will be made available on request.

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