

**PLANNING ACT 2008
DRAFT NATIONAL POLICY STATEMENT FOR
PORTS**

**A response by the Royal Town Planning Institute to
The draft National Policy Statement for Ports
This National Policy Statement provides the framework for future
decisions on proposals for new port development to be taken by the
Infrastructure Planning Commission established under the Planning Act
2008 to deal with Nationally Significant Infrastructure Projects
February 2010**



RTPI

mediation of space · making of place

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1. Introduction

The Royal Town Planning Institute (RTPI) is the leading professional body for spatial planners in the United Kingdom. It is a charity with the purpose to develop the art and science of town planning for the benefit of the public as a whole. It has over 22,000 members who serve in government, local government and as advisors in the private sector.

This document responds to draft National Policy Statement (NPS) for Ports which provides the framework for future decisions on proposals for new port development to be taken by the Infrastructure Planning Commission (IPC), established under the Planning Act 2008 to deal with Nationally Significant Infrastructure Projects (NSIPs).

The response has been formed drawing together internal consultations and the results of meetings with members, including formal debates within the RTPI Policy and Practice Committee¹ and the membership as a whole.

Our comments are entirely concerned with widening the contribution that our ports can make to the nation and to improving the planning and decision making processes that surround new port developments. As a national body, RTPI has not attempted to provide responses that are specific to individual regions or ports.

¹ Planning Policy & Practice Committee 14th January 2010.

2. Response in Principle

General comments

There is generally a lack of clear spatial guidance in the draft National Policy Statements (NPSs), particularly in translating the national need for infrastructure into the need to provide a particular type of infrastructure in a particular locality: this makes a robust assessment balancing need with local impacts very difficult. A National Spatial Planning Framework (see below) could assist with giving locational guidance for investors, and this could be assisted by a sequential approach to site selection embedded in the NPSs.

Interpretation of the NPSs is hindered by their structure, which does not clearly distinguish between what is policy and what is guidance, or evidence/background. Lessons could be learned from the “new style” Planning Policy Statements (PPSs). Similarly, the NPSs should provide guidance for the preparation of policies and proposals for Nationally Strategic Infrastructure Projects (NSIPs) to come through development plans at the regional and local level.

Consideration needs to be given to the relationship between this NPS and subsequent NPSs to further reduce the potential for repetition, conflict and the constant review of established principles. This would also contribute toward greater understanding of the NPSs amongst stakeholders and the community.

National Spatial Planning Framework

The main purpose of a National Spatial Planning Framework (NSPF)² is to enable the alignment, in an open and transparent way, of strategic investment decisions on housing and economic growth with the infrastructure needed to support them.

A NSPF would include broad expectations (not necessarily targets) for growth in different areas, and would enable a translation of the national need for infrastructure to target the locations for delivery to meet local/sub-national need.

The draft NPS only consolidates existing Government policy and outlines a framework for assessing development proposals. As a result it lacks the spatial element of policy necessary for meaningful and informed decisions to be made about the location and scale of ports. A pre-requisite for this is a national spatial strategy to co-ordinate the appropriate location and timing of infrastructure with the broader growth, development and conservation needs of the nation.

The NPS outlines the need for infrastructure, but then leaves it to the market to come forward with proposals for the location and scale of ports, which could have a significant impact on the development of the entire country. Such important locational decisions cannot be dealt with adequately through individual assessments (as proposed in the NPS), left to be proposed by the market, or indeed at the regional or local level, as commercial conflicts may override the national good. It is important that an integrated assessment of the spatial consequences of major infrastructure projects should be carried out at the national level.

The effectiveness of the planning system depends on the clarity of the national policy context within which all plans, whether national, regional or local, must fit. The

² The RTPi has published research into the key drivers of national spatial planning which can be accessed here: <http://www.rtpi.org.uk/download/748/Uniting-Britain.pdf>

relevance of national policies depends on their sensitivity to the great spatial variation in the needs and opportunities throughout the country. Against this background, the RTPI has always regarded a national planning context as an integral part of the hierarchy necessary for an effective planning service.

The national spatial strategy should be accompanied by a delivery plan that identifies committed and potential funding, together with the expected timing of development to enable the transparent and efficient delivery of infrastructures (including any public private partnerships).

NPSs must have a spatial element, and this implies a connection between the Ports NPS with other NPSs. The RTPI believe Government should undertake a strategic assessment of suitable locations/areas for all infrastructures based on best practice sustainability and climate change considerations to ensure NSIPs are delivered in the right areas to meet the needs of the nation. This will effectively mean NPSs are all strategic location- if not actually site-specific.

Case for site specificity

It is recognised that site-specific policies are easier to determine for some project types than others, and it is appropriate for there to be a spectrum ranging from actual site designation (e.g. with nuclear plants), through locality-specific policies and “areas of search”, to non-specific criteria-based policies.

There are examples in national, regional and local planning policies that could assist. For example:

- the sequential approach to site identification for housing (Planning Policy Statement 3) and retail (Planning Policy Statement 6 Planning for Town Centres – now Planning Policy Statement 4 Planning for Sustainable Economic Growth)
- identification of towns suitable for urban extensions (without necessarily dictating a site, or even direction of growth), common to many Regional Spatial Strategies
- areas of search for minerals extraction in minerals plans

Alternatively, an NPS containing strategic criteria-based policies could be followed by a “site allocations” NPS that identified and prioritised potential sites on the basis of the criteria; such a site allocations NPS could be reviewed on a rolling basis, taking account of port delivery and the impact of various monitoring indicators.

Being site-specific, or narrowing the field of search, enables investors to make more informed decisions, and makes consultation easier and more meaningful.

It would be appropriate for non-site specific NPSs to give more detailed guidance on identifying appropriate sites to meet needs, either through development plans (sub-national or local) or, perhaps, through subsequent locationally specific NPSs.

Impact on Planning System

As drafted, the NPS does not introduce new policy, as a NPS is only intended to provide a framework for the IPC to make decisions based on the infrastructure ‘need’ and how to weigh up impacts. However, the implications for planning policy will be in how the IPC weigh national policy with existing regional and local policy when taking decisions on major infrastructures.

NPSs are proposed to be taken as material considerations for lower level planning decisions and this will have implications for regional and local planning.

Local development frameworks and regional spatial strategies will also need to consider the implications of each development consent for major infrastructure and this provides yet another significant basis for Government to prepare a national spatial strategy.

The structure of NPSs needs to be aligned more carefully with the “new style” PPSs, in which policy, guidance, background and assessment criteria are carefully separated, and which provide distinct policy/guidance for making decisions on consents and for local policy-making. The latter is disappointingly lacking in the NPS as currently drafted.

The draft NPS does not clearly articulate what is actually to be consulted on given the level of existing policy contained in the document to enable effective consideration of the issues.

The IPC should be afforded a clear policy statement that reflects Government policy and provides a clear means of implementation for consistent decision making for each of the NPSs for different types of infrastructure.

In many respects, it is in the overlaps and variances between the policies and processes of the town and country planning and NSIP regimes that potential weaknesses may surface. A national spatial planning framework that sets out the broad principles for both NPSs and PPSs is in our view the best immediate and long-term remedy.

The draft NPS disappointingly repeats and reinterprets established planning policy in PPSs/PPGs – particularly, for example, PPG2 on Green Belts and general principles on design etc in PPS1, when it may have been more straightforward simply to specify that the IPC should make decisions in accordance with PPGs/PPSs – unless directly and explicitly superseded by an NPS.

The RTPI believes that this approach seems reasonable, particularly where a non-NSIP development similar to an NSIP, or which supports an NSIP, is determined with a NPS as at least a material consideration. The primacy of an up-to-date development plan should not be over-ruled, however.

Primarily, the benefits would include the reduction of repetition and the risk of conflict in the interpretation of policy, establishing overarching principles that would apply to all types of infrastructure, and reducing the burden of consultation on later NPSs. Where a specific case can be made that a particular infrastructure type should be treated differently, this can be done through the NPS consultation. It should also be possible to make amendments to such an overarching NPS if necessary as the result of consultation on an NPS for a particular infrastructure type that is more broadly applicable

The RTPI has previously responded to the Ports Policy Review undertaken by the Department for Transport in 2006 which highlighted key issues prevalent in the draft NPS.

The scale and impacts of our ports mean that they have a central role to play in all levels of spatial plan-making. We have sought to emphasise this in our response to the consultation. In particular, the following points are worth highlighting:

- The draft Ports NPS needs to be considered together with all other transport infrastructure NPSs.

- NPSs generally should be spatially planned and integrated with other national policies, not majority market-led. In particular, the Ports NPS needs to be linked with manufacturing localities and major growth areas where goods are distributed.
- The Ports NPS should also demonstrate direct links to the RSS and LDF context and the Planning Policy Wales and the Wales Spatial Plan and related local development plans
- The Ports NPS should focus on enhancing the sustainable transport of goods throughout England and Wales (and to contribute to the whole of the UK) and ports have a major part to play in this respect.
- The 5 core policy pages of the draft NPS therefore require full review.

The draft Ports NPS establishes the need for new port infrastructure but this is premised on arguments of additional capacity to allow for competition, choice and resilience. As a consequence there is little to guide decision makers on the location, scale or phasing of port facility provision. The draft NPS neither sets out a level of 'need' nor does it establish an 'urgency' of delivery. Rather it indicates an industry impacted 'severely' by the recession, where consented development may be delayed, but which needs to be able to respond to changing market demands and build in additional capacity to ensure resilience, however the amount is not quantified. This, together with the recent nature of the consents would suggest that 'urgency' is not currently an issue (unlike the draft energy NPSs).

This unspecified approach to need fails to enable the coordinated provision of related infrastructure such as road and rail transport, energy generation and transmission. Only through the coordinated provision of related infrastructure can the Department for Transport's (DfT's) overarching policy, of encouraging sustainable port development be achieved. In particular coordinated infrastructure provision is a necessity if the aims of sustainable transport, trans-modal shift, capacity for the development of renewable energy and economic and social cohesion are to be met. Certain ports provide for more efficient on-journeys than others and the market cannot be relied upon to identify these.

In summary the draft NPS is inadequate in that it fails to identify the quantity, location and timing of the provision of additional port capacity.

3. Response to Consultation Questions

Q1: Do you think the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

The draft Ports NPS aims to establish the need for new port infrastructure but this is premised on arguments of additional capacity to allow for competition, choice and resilience. As a consequence there is little to guide decision makers on the location, scale or phasing of port facility provision. In fact, the draft NPS neither sets out a level of 'need' nor does it establish an 'urgency' of delivery. Rather it indicates an industry impacted 'severely' by the recession, where consented development may be delayed, but which needs to be able to respond to changing market demands and build in additional capacity to ensure resilience, however the amount is not quantified. This, together with the recent nature of the consents would suggest that 'urgency' is not currently an issue (unlike the energy NPS). This unspecified approach to need fails to enable the coordinated provision of related infrastructure such as road and rail transport, energy generation and transmission.

Only through the coordinated provision of related infrastructure can the DfT's overarching policy, of encouraging sustainable port development (paragraph 1.10.01) be achieved. In particular coordinated infrastructure provision is a necessity if the aims of, sustainable transport, trans-modal shift, capacity for the development of renewable energy and economic and social cohesion (paragraph 1.10.3) are to be met. Certain ports provide for more efficient on-journeys than others and the market cannot be relied upon to identify these.

A secondary issue relates to the capacity of smaller ports and their role in long term provision. By implication capacity outside the major ports will contribute to greater competition and resilience but the extent to which this might relieve the need to expand elsewhere is not addressed. Para 2.7.1 seems to suggest that the impact of new development on existing operators should be considered in the consenting process, but this runs counter to the market-led philosophy elsewhere.

In summary the NPS is inadequate in that it fails to identify the quantity, location and timing of the provision of additional port capacity.

Q2: Do you think the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

No, the RTPI believes that the draft NPS fails completely in this respect. While there is generic advice on the provision of related transport infrastructure there is no detailed indication of the location, capacity or mode of transport that other bodies are expected to provide to support port development. Agencies such as regional transport bodies, the Highways Agency, local authorities, Network Rail, rail service providers, and energy companies require much clearer guidance on the future location and provision of port development in order to establish their own long term investment plans. More specifically the NPS ignores the importance of international and national transport networks, up-grading programmes of the railways to accommodate container traffic, or regional spatial strategies such as 'The Northern Way'.

A key test of the NPS's success in this respect will depend on its complementarity to the National Networks NPS yet to be published. Not until this NPS is published can this question be answered adequately.

The Government has missed the opportunity to enable these other agencies to plan effectively and again undermines the policies and objectives of the DfT as set out in Section 1 of the draft NPS.

Q3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

As with other questions generic information is provided but little to guide other decision-makers. For example in those parts of the country looking to boost regional and local economic performance, investment in port development would be a significant element of such a strategy. However there is little in the NPS which would assist other policy makers and investors or provide them with certainty, particularly with respect to the identification of likely locations for new port development. Exceptions are in as much as those ports with new consent for port development that have been identified. A further consideration worthy of factoring in to the NPS is the cost of congestion recently experienced in ports in the south of England.

The threshold for job creation outlined in the draft NPS: "*where a port development is likely to lead to a substantial net increase in employment (of 5000 or more) which would require inward migration to the area, the effect on demand for local public services (such as affordable housing, education and healthcare) should be assessed*" is considered far too high. 5,000 direct jobs equates to between 6,750 - 10,000 or more when indirect jobs are taken into account (using figures in paragraph 1.8.7) with their associated households this amounts to very significant population growth.

In summary the RTPI believe that the draft NPS fails to provide sufficient guidance to enable regions and localities to benefit fully from future port investment.

Q4: It is a requirement of the Planning Act that an NPS must include an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. Do you think the draft ports NPS adequately fulfils this requirement?

While the issue of climate change adaptation is covered in the text of the draft NPS there is little indication of the way in which port development will adapt to future impacts of climate change. For example it is likely that sea level rise will affect the east coast of England to a greater extent than elsewhere in the UK. This does not appear to be reflected in the draft NPS. No specific measures are established which will assist the applicants or decision-makers in determining whether a proposal has adequately adapted to the implications of climate change. Port developments can be expected to last for many generations and the public investment required to enable their effective working is inevitably made at the expense of public investment elsewhere. Consequently decisions to invest in new port infrastructure must be made in the best interests of current and future generations.

Q5: Do you think the draft ports NPS provides suitable guidance to decision-makers on the extent to which coastal and inland shipping should be considered?

The principle of encouraging the use of rail, coastal and inland shipping for distribution and collection of goods purposes is well made, however the means of achieving this is not clarified for decision-makers. Some locations are better placed than others to

achieve such a shift in modal share. It would be beneficial for the draft NPS to identify these locations and their characteristics. Where the construction of new rail or shipping links would be desirable should be suggested. In summary the draft NPS does not go far enough in providing decision makers with suitable guidance for the appropriate locations for future port development.

Q6: Do you think the draft ports NPS provides suitable guidance to decision-makers on the safety, security and health impacts of port infrastructure?

Yes, this is adequate.

Q7: Do you think the draft ports NPS provides suitable guidance to decision-makers on the need to promote equal access to the jobs, services and social networks created by port infrastructure?

There is no guidance as to what this actually means. There should be some indication of how these objectives are to be achieved (see paragraphs 1.10.2 & 1.10.3). Will the port developers contribute to training so that jobs created will be accessible to local people, will there be facilities provided that are accessible to locals regardless of whether they work in the port or not, and what particular support will be provided to ensure that the 'most disadvantaged' will experience greater access to 'jobs, services and social networks'? Much more specific guidance with examples should be provided.

Q8: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the local population?

Yes, the guidance on this appears adequate in respect of noise and nuisance.

Q9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

There is extensive guidance, most of which is adequate, in guiding the decision maker. However there are two points that should be considered. Firstly the objective of 'good design' (paragraphs 1.10.2 & 1.10.6) is not elaborated upon in Section 2. The impact of port development will be significantly mitigated if the design of buildings and port-side equipment, the layout of development and the use of materials is of good quality. Port developers should be encouraged to ensure that their schemes are of good design quality, contribute to place making and that they subject their proposals to Design Review by CABE or its affiliated regional partners (however given the national significance of NSIPs, the CABE review panel would most likely be the reviewer). A related point is that there is no reference to the DfT's own advice on port master planning published in 2008. Port master plans should be central to the good design of new facilities and port authorities should be encouraged to incorporate such in to the Local Plan and LDF documents produced as part of the statutory development plan for the relevant local authorities.

Secondly, sub-section 2.25 is entitled 'social impacts' but contains just one impact: 'open space, green infrastructure, sport and recreation'. While important, these are not social impacts but physical environment impacts (sport and recreation are considered only in terms of land use). The social impacts of port development concern community cohesion, health care, education and social services. These impacts are not considered and should be.

Q10: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on biodiversity?

Paragraph 2.6.4 establishes that where a port development affects a protected habitat, in the absence of alternative solutions, the decision maker may need to consider whether there are Imperative Reasons of Overriding Public Interest for allowing development to proceed. Given the lack of precision on need, both locational and quantitative, in this NPS, it is difficult to conceive of such a circumstance occurring. As there are no locations identified as having national significance and no targets for capacity, there will always be alternative solutions somewhere in the UK. Consequently it is difficult to see this argument ever being successful in overcoming the importance of a protected habitat. This conclusion brings into doubt the ability of the Government to ensure that port provision is sufficient to meet national need. The only conceivable alternative to this situation is that the decision-maker will be bound to assume that the perceived market demand for a port in any location would be sufficient to override biodiversity interests – this would be a gravely unsatisfactory outcome.

Q11: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the historic environment?

The draft NPS places emphasis on the minimisation of harm to the historic environment but ought to place greater emphasis on the conservation and restoration of historic monuments, listed buildings and their environs as well as increasing public access to such buildings and monuments.

Q12: Do you think the draft ports NPS provides suitable guidance to decision-makers on the key considerations to inform the assessment of future port development applications?

In subsection 2.2 of the draft NPS, the weighing of adverse effects against the benefits is cited as a mechanism which the decision makers should use in determining the balance of judgement where a proposal is in accordance with the NPS. However in paragraphs 2.2.2 & 2.2.3 it is clear that while benefits are to be considered in national, regional and local terms, adverse impacts are referred to only in the local dimension. Where adverse impacts are nationally or regionally significant they too should be considered. Overall there is insufficient guidance on how the weighing of need and impacts should be undertaken.

The draft NPS appears to avoid the need to make reference to development plans in England, Regional Transport Plans or Local Transport Plans, with one notable section – that on Social Impacts, which appears to be entirely at odds with the rest of the NPS.

Paragraph 1.6.2 deals with Wales, but amongst the Welsh national policies and plans, this paragraph also makes reference to the four Welsh Regional Transport plans to be published in late 2009 – no similar reference appears for England.

Section 2.25.18 states that: “where the project conflicts with a proposal in a development plan, the decision maker should take account of the stage which the regional strategy or development plan document ...has reached...the closer the regional strategy ...development plan document ...is to being adopted...the more weight which can be attached to it.” This does not appear in any other part of this NPS or in the energy NPS. It fits with normal planning decision making approaches and provides a key link between the two systems.

Further consideration should be given to the content of development plans for the area affected by the proposal. These will have been subject to community engagement and as such should have a bearing on the determination of a port proposal. The proposal

may have a beneficial or an adverse effect on some element of agreed development plan policy, such as a regeneration project. More particularly further advice on the content and importance of the Local Impact Report should be given. There is no reference to local development plan documents which may well have been subject to extensive public consultation and therefore should be accorded significant weight in the process of local decision making. This should be a significant consideration in the determination of the impact of a proposal.

Some issues to consider are the need to consider impact on development plan and the last point should read that “Applicants ‘must’ be able to assess” – rather than the current wording that the Applicant ‘may assess’.

Q13: Do you think the draft ports NPS gives appropriate guidance to decision-makers on how they should consider alternatives when it comes to particular projects?

The requirement under legislation for the Environmental Statement (ES) to include a consideration of alternatives is acknowledged but the NPS fails to recognise this procedure as an important part of the process of site selection and justification for the proposed port development. The ES and the identification of alternatives, is a fundamental element in site selection and impact assessment and not a separate process to be considered alongside the pre-application procedures for the application.

Section 2.25.4 states that: “The ES should identify existing and proposed land uses near the project, any effects of replacing an existing development or use of the site with the proposed project or preventing a development or use on a neighbouring site from continuing. Applicants may also be able to assess any effects of precluding a new development or use proposed in the development plan.”

On a more strategic note, the draft NPS places a heavy reliance on the ES to provide the IPC with all the supporting information and assessment required. This seems to be a theme which runs throughout the entirety of the document.

Q14: Do you think the draft ports NPS gives appropriate guidance on how the cumulative and in-combination/synergistic impacts of port development should be considered by decision-makers?

The cumulative impact of major development projects is not restricted just to port proposals or to those that fall above the threshold for consideration by the IPC. Cumulative impacts may arise as a combination of a variety of proposals, such as a nuclear power station, renewable energy development, port expansion and tidal barrage being proposed on one estuary. Proper consideration of such impacts would be better served by the production of a national spatial planning framework for major development rather than the production of a series of separate and unrelated NPSs for different sectors.

Q15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers

Applications to the IPC for ports over the NSIP threshold:

In relation to the IPC, the draft NPS fails to provide suitable guidance for its decision making for a number of reasons:

- It fails to make the case for over-riding national interest because it fails to identify some locations as more suitable than others. Without priority being given to certain locations (albeit expressed in regional or sub-regional terms) it is unlikely that concerns of local adverse impacts will ever be outweighed by arguments of national need.
- It fails to recognise the importance of international, national, regional and local development plans either currently in place or in the future.
- It fails to provide investors in either public or private sectors sufficient certainty about the location of future port investment. Ports and the cost of related infrastructure provision are so significant in the future of the UK and its regions' economies that the market-led approach is entirely unacceptable.

The future Marine Management Organisation for port applications under the NSIP threshold:

The draft NPS recognises the importance of the Marine Policy Statement (a cross-sectoral high level planning document) and of future marine plans in balancing benefits against adverse impacts, however the failure of the draft NPS to direct and help coordinate investment noted above applies equally for proposals below the threshold. Similarly there will be applications for consent which go to local authorities for which this document will be a material consideration but there is little guidance on how those considerations should be applied.

Q16: Do you think the draft ports NPS considers all of the significant potential impacts of port development? If not, what do you think is missing and why?

The draft NPS fails to consider the demands of good design (appearance of buildings and other installations, lay-out and materials, and the making of place). It also fails to consider any social impacts at all (even though there is a section dedicated to it).

The section on social impacts has an entirely different approach towards the relationship between the NPS, development plans and PPG2. Whilst headed 'Social Impacts' the section only covers open space, green infrastructure, sport and recreation. This is considered inadequate.

Q17: It is a requirement of the Planning Act that a NPS must give reasons for the policy set out in the statement. Do you think the draft ports NPS fulfils this requirement?

While the NPS is clear about its justification of unspecified additional capacity and its preference not to indicate the location of new development, these arguments are not persuasive and fail to provide decision makers with sufficient guidance on which to make future decisions.

Q18: It is a requirement of the Planning Act that the Secretary of State must have regard to the desirability of achieving good design. Do you think that the draft ports NPS fulfils this requirement?

No, the RTPI believes the draft NPS does not meet this requirement. Good design of ports is crucial whether located in urban or rural contexts. This requires the consideration of the design of buildings and other installations, their lay-out, the use of materials and the surrounding area which contributes to the creation of place. The RTPI does not understand why the draft NPS fails to refer to the DfT's own advice on master plans. All port developers should be required to draw up master plans and these should be central to the assessment of local impact and to utilise the services of Design Review Panels provided by CABE and its affiliates.

Q19: To what extent do you think the methodology used to assess the sustainability of the draft ports NPS is appropriate?

There are a number of inadequacies in the process as set out in the answers below. Most significant is the inappropriate use of alternatives and their assessment as explained in the answer to question 26.

Q20: Do you agree that the environmental component of the AoS constitutes a SEA for the purposes of Directive 2001/42/EC?

The RTPI has no comment with regard to this question.

Q21: Has the AoS considered all the relevant plans, policies and programmes?

The AoS fails to consider international, national and regional transport network plans as well as PPS12 (which interprets national planning policy at the local level). As a consequence inadequate weight is attached to the Development Plan in weighing the merits of schemes.

Q22: Has the baseline analysis in the AoS missed or misrepresented any environmental, social or economic data?

The RTPI has no comment with regard to this question.

Q23: Are there any additional key sustainability issues relevant to the Ports NPS that need to be considered in the AoS?

The AoS presents a very atomised view of community and society. For example characteristics of the way in which communities work such as neighbourhoods, settlement pattern, journey to work, patterns of movement, service areas, public use of spaces and places are not considered and where issues are identified, e.g. social cohesion and access to social networks, they are not really explained or addressed in the AoS.

Q24: Are the AoS objectives and sub-objectives as set out in the AoS framework appropriate?

The RTPI has no comment with regard to this question.

Q25: Are there any incompatibilities between the main NPS objectives and the AoS objectives which have not been identified in the AoS?

The RTPI has no comment with regard to this question.

Q26: To what extent do you think the alternatives covered are appropriate? Are there any additional alternatives that should be included?

The RTPI's view is that the section on alternatives is inadequate. Many of the options identified are wholly unrealistic. For example, the 'no support for development' alternative is unimaginable as is the 'not subsidising port investment' option. In other dimensions of alternative consideration, for example 6, mitigation, the extreme position of 'no mitigation' is not posed presumably because of the lack of realism.

More particularly in some of the alternatives a third, middle way is identified, but not in others. There is no logic to this. For example in issue 1, market versus central planning the absurdities of the two extremes are recognised and a third approach, 'market-led with mitigation' is posed. For issue 2, 'locational v non- locational NPS' a third option of an NPS based on commercial initiative together with central policy guidance on preferred location is not considered and yet this is precisely the nature of documents such as the Wales Spatial Plan which will guide port developments in Wales. The advantages of the 'middle way' to the economy as a whole and to those planning public and private long term investment are evident and set out in answer to questions 1 & 2. This alternative should not only have been considered but also adopted.

In issue 3, 'support versus no support' the opposite end of the spectrum to no support is state driven port development, but again this is not considered because it is unrealistic presumably. The preferred option of government support is a middle way between the two extremes.

In issue 4, the chosen option is 'non-subsidy' of port development but this is premised on a highly selective view of what 'non-subsidy' means. It does not appear to exclude Government investment in road and rail infrastructure, educational and health services and local government services in the locality of the port all of which are supported out of general taxation. Again the alternatives proposed are highly contentious as being realistic and the selected alternative as being deliverable.

For issue, 5 the two extremes of 'promoter decides versus consideration by decision-maker' are not really the two ends of a spectrum that might range from laissez-faire to state dictated. Consideration by a decision maker is not an extreme but the very position that the Planning Act 2008 has established. The variation described in option C is merely one aspect of the decision maker's decision making process and not an option at all. The choice of option A is bizarre in that it is the NPS, the Government's document that is the determinant of the need for new development, in line with the requirements of the 2008 Act.

Issue 6 again poses an unrealistic option i.e. 'mitigation of impacts to minimum requirements' which as the text admits would almost certainly attract a refusal from the IPC because it implies unacceptable adverse impact. This dimension of alternatives was not worthy of consideration.

Issue 7 poses two unrealistic options 'developer funding' versus 'state funding' neither of which could be contemplated realistically in a society where port development is inextricably related to considerations of economic, environmental and social consequences in a mixed economy where some public goods are publically funded and other utilities are privately funded. The beneficiary pays approach, a third way conjured between the extremes is realistic, if poorly defined.

In summary the consideration of alternatives is inadequate being based on numerous wholly unrealistic options and in some cases, but not all, on more realistic but poorly defined third options, leading to an inconsistency of approach. In at least one case, issue 2, a realistic third way involving spatial planning, and the basis for the 2008 Act, is not chosen even though it is consistent with current good practice (see the Wales Spatial Plan) and would rescue the draft NPS from its currently highly flawed state.

Q27: To what extent do you think the approach taken to the assessment of alternatives is suitable?

For the reasons set out above in response to question 26, the approach to the assessment of alternatives is inappropriate, unconvincing and inadequate.

Q28: Do you agree with the results of the assessment of alternatives?

No, there is no objective evidence that appropriate alternatives have been considered, that the evaluation has been suitably conducted and consequently the conclusions are entirely unjustified.

Questions 29 to 32:

The RTPI has no comment with regard to these questions.

Q33: To what extent do you think the approach to monitoring is sufficient to monitor the sustainability effects of the NPS?

As is often the case in monitoring the emphasis is placed on that which is measurable. Equally important is the extent to which the existence of the NPS has influenced the decisions of promoters, consultees and decision makers. The purpose of the NPS is to guide those involved in making and assessing applications to the IPC as well as providing certainty to the sector. This should be judged as much by the unnecessary activity that is averted by its existence as by the measurable outcomes of applications made. While this may appear more difficult, an appraisal of the decision making of companies, utility providers and government agencies through an analysis of their published reports will provide an indication of the extent to which the presence of the NPS is influencing their decisions.

Similarly in as much as the NPS is designed to guide decision making on infrastructure projects falling below the threshold size, the decisions of local authorities, the Planning Inspectorate, the MMO and others, should similarly be evaluated to determine the extent to which the principles of the NPS are being upheld beyond the NSIP consenting regime.

Questions 34 to 36:

The RTPI has no comment with regard to these questions.