

## HINKLEY POINT C DEVELOPMENT CONSENT ORDER

### ADVICE SOUGHT FROM PINS REGARDING CHANGES

Dear PINS, Mr Ranger,

My name is Paul Gripton, of [REDACTED].

My e-mail is [REDACTED].

I seek advice from the Planning Inspectorate regarding the **legitimacy** of change applied for by the undertaker (EDF Energy) and approved by either the Discharging Authorities and/or the HPC Transport Review Group (TRG - a body set up under the HPC, S 106 agreement)

I appreciate Pins role is not to referee or enforce 'compliance' but one of the issues concerns the discharging authorities themselves possibly non-compliant with and responsible for, enforcement of compliance regarding the HPC Development Consent Order and the EIA Regulations.

Please note any text depicted as bold is by me for emphasis.

### INTRODUCTION

The changes involved approval of the –

- 'Discharge of Requirement' PW 10 Traffic Incident Management Plan (TIMP) by the 'discharging authorities' which appears to result in a new 'inappropriate' role for the TRG and possible non-compliance with the DCO by West Somerset and Sedgemoor District Councils and EDF Energy, due to the appearance it failed to comply with requirements necessary under the DCO to grant approval.
- Variation by the **TRG** to the HPC Construction Traffic Management Plan approving (for 21 months) an increase by 50%, for the average daily limit, from 500 to 750 HGV movements (averaged over a 3 month period)

There are 4 **fundamental** questions raised, through bodies seeking change outside the 2008 Planning Act regime.

1. Are the Discharging Authorities able to approve change under a Discharge of Requirement without considering and complying with the necessary Para 4 'test'? (See DCO Schedule 2 Para 4)
2. Are the Discharging Authorities able to transfer their role and functions (including their ability to approve and agree) to another body (TRG) contrary to the DCO interpretation, where the proposer (EDF Energy) has **significant voting rights on their own proposals**? (See Updated TIMP Section 5)
3. When applying the necessary Para 2.11 'test' (HPC S 106 agreement Schedule 11, Para 2.11) is the TRG incorrectly **enabling** their **ability to decide** (750 HGV variation) and possibly **circumventing the EIA regulations** and Directive by **applying mitigation prematurely** in order to affect the 2.11 test that seeks to identify materially new or materially different environmental effects from those assessed in the Environmental Statement?

4. When delivering Mitigation (approx. £4.3 million re- '750' HGV variation) must an undertaker (EDF Energy) or indeed the 'Councils', actually identify those specific environmental effects or impacts needing mitigating or where none are identified (but are considered potential effects) could the £4.3 million be perceived as a way of circumventing the EIA Regulations or as an 'inappropriate gift'?

I appreciate these are not insignificant questions and may need addressing by the district councils as the enforcing authorities but Pins should be aware of the issues affecting possible change to DCO circumstances outside of the 2008 Planning Act regime.

Avoiding change through the 2008 Planning Act route, that is the formal process involving a non-material change or a material change is understandable. However as I will show it can lead to a genuine 'conundrum'.

I apologise for the lack of brevity to my query but as you are aware the HPC DCO and associated issues are exceedingly involved, requiring explanation to avoid confusion.

#### **ADVICE SOUGHT**

1. *Are the discharging authorities and EDF Energy, non-compliant with the DCO and/or the EIA Regulations and Directive if they failed to comply with DCO provisions involving Discharge of Requirement PW 10 (TIMP) Traffic Incident Management Plan?*
2. *If it were shown that the Councils (as discharging authorities) and the undertaker were non-compliant, would West Somerset and Sedgemoor District Councils be responsible for 'enforcement' against themselves and EDF Energy?*
3. *Do the updated EIA Regulations 2017, apply to change/Requirement Discharges (involving HPC) undertaken after 16<sup>th</sup> May 2017, including the new provisions regarding 'risk to human health' and part 12 concerning 'objectivity and bias' regarding an authorities duty including the need for 'functional separation' and conflict of interest measures?*
4. *Should, the possibility of materially new or materially different environmental effects other than those assessed in the Environmental Statement be identified under subsequent requests for change/discharge, what response is required by the undertaker/authorities, including public involvement?*
5. *When considering if there are materially new or different effects,(with respect to EIA impacts/regulations) do the discharging authorities take mitigation into account or is the 'test' as stated in the DCO (Schedule 2 para 4) just to identify (unmitigated?) new or different effects than those included in the Environmental Statement? Whilst identifying and applying mitigation is important, basically is consideration of effects including mitigation preventing identification of significant effects and **circumventing the EIA regulations** and Directive, including the need for subsequent public participation and possibility to comment?*
6. *With regard to the updated TIMP and the 'new' Section 5 - Which now includes Significant Road Works as an incident and exceptional circumstance, consequently involving **compensatory** extended HGV delivery periods outside the **normal permitted limits** during*

*unsocial hours. – The Transport Review Group, (which contains significant EDF Energy representation and voting rights that they have used previously when deciding change on their own proposals) appear to have **usurped** the role of the discharging authorities contrary to the DCO, carrying out the role and decisions designated to the recognised discharging authorities. **Basically** are the discharging authorities (West Somerset and Sedgemoor District Councils) allowed to transfer their role and responsibilities for granting agreement or approval designated to them under the DCO to a group under which the proposer has a significant voting right (**with a history of using it**) on their own proposal?*

- 7. The TRG through the S 106 agreement appear to have a different, lower standard than that undertaken by discharging authorities under the DCO requirements when ‘testing’ their satisfaction that there are unlikely to be materially new or different environmental effects . Under the DCO authorities must be ‘satisfied’, which is an absolute obligation. The TRG under the S 106 agreement are required to be ‘reasonably satisfied’ which is a lower qualified obligation. Should the TRG test to the higher standard prescribed under the DCO if they are allowed to grant agreement/approval of exceptional circumstances under Requirement PW10?*

## **EXPLANATIONS REGARDING ADVICE SOUGHT**

These explanations are extensive to give an understanding of the issues.

### **THE DISCHARGE OF REQUIREMENT PW 10 (TIMP) IN 2017 BY SEDGEMOOR AND WEST SOMERSET DISTRICT COUNCIL’S**

It may seem, on the surface that a small change to the TIMP under PW 10, adding significant road works to the original list of incidents and as an ‘exceptional circumstance’ is uncontentious.

However -

The **subject-matter** of this discharge involves **fundamental** change to the role, effects and implementation of the TIMP under the recent amendment approved by the district councils.

Including -

- The apparent ceding by a discharging authority of its duties/role to the **TRG** where the proposer has a large influence and vote on its own proposals.
- Strong possibility of materially new or materially different environmental effects than those assessed in the Environmental Statement/EIA - (**‘Noise constraints’** mentioned in the Transport Assessment, previously **precluded** the consideration of permitting HGV delivery periods outside of 22:00 to 07:00hrs)
- **‘Human Health’** issues due to the potential for long term extended delivery periods allowing possibly **only 5 hours respite** per night.
- It also encompasses concerns raised by so called **‘Tail piece legislation’** and change being undertaken outside of the 2008 Planning Act regime as exemplified in the updated guidance in Pins advice note 15.
- The TIMP has become a **management tool** due to a new proactive role, including pre-planned ‘incidents’ rather than responding to incidents when they occur, by including

significant road works as an incident and exceptional circumstance, creating environmental effects through temporary but possibly long term extended HGV delivery periods.

- Introduces a new concept/concession of '**Compensatory**' extended delivery periods, outside the permitted delivery limits including 22:00 to midnight and 05:00 to 07:00 for HPC, HGVs.
- A possible **abuse** of the concession given 'exceptional circumstances' in regard to generally short term use to deal with incidents, rather than for long term traffic management purposes. – 28 months a possibility. When does an exceptional circumstance become the 'norm'?
- The TRG operates under the S106 agreement which has a lower standard than that required under the DCO- Reasonably satisfied rather than satisfied. A qualified less demanding requirement/test rather than an absolute test as in the DCO.

### **WHY POSSIBLE NON-COMPLIANCE**

The discharge of requirements under the HPC Development Consent Order is subject to –

DCO, Schedule 2 (Requirements) Paragraph 4, which States –

*“Where any requirement specifies **“unless otherwise approved”** by the discharging authority or requires the applicant to demonstrate the existence of exceptional circumstances **such approval shall not be given** or exceptional circumstances agreed except in relation to minor or immaterial changes where it **has been demonstrated** to the **satisfaction of the discharging authority** that the **subject-matter of the approval sought** or the undertakers proposed response to exceptional circumstances is unlikely to give rise to any materially **new** or materially **different** environmental effects from those assessed in the Environmental Statement”*

The updated TIMP recognises the change is not minor or immaterial.

WSC and SDC are the Discharging Authorities.

**Basically they appear to be non-compliant due to not carrying out the 'para 4 test' when approving the PW 10 discharge. As there was no demonstration, there was obviously no opportunity to allow for the 'Councils Satisfaction'. Therefore approval 'shall not be given'.**

### **APPROVAL SHALL NOT BE GIVEN**

EDF Energy's application to amend the TIMP, or Sedgemoor District Council's grant of approval failed to contain any demonstration or consideration/confirmation of satisfaction regarding the 'test' required under para 4 confirming this necessary action to enable approval.

SDC approval letter dated 30<sup>th</sup> June 2017 (Discharge of Requirement ref- planning application 96/17/00010) shows it was only the revised version of the updated TIMP (which contains no test information) that informed the decision and was considered acceptable, to approve the amendment and grant the Discharge of Requirement.

Associated Documents listed were –

- Application
- DCO Traffic Incident Management Plan May 2017

Neither of which included either a **demonstration** for the para 4 test by EDF Energy or a **consideration** of Satisfaction (by SDC) concerning the **'test'** required under the DCO Schedule 2, para 4.

When considering exceptional circumstances it was ascertained no demonstration had taken place - No application to date has apparently been submitted for exceptional circumstances due to significant road works. However there is the requirement for EDF Energy to demonstrate the 'test' in para 4 and the councils to be 'satisfied' due to the presence of "unless otherwise approved" and it simply has not taken place and therefore met.

It appears approval in line with the Para 4 'test' should not have been given and therefore EDF Energy and the district councils as the discharging authorities are possibly in the position of non-compliance with the DCO.

I have no doubt EDF Energy and the Councils will indicate that under Section 5 of the revised TIMP this test will be demonstrated and considered in the 'necessary environmental information' to be submitted by EDF Energy when they request confirmation from the **'TRG'** to identify significant road works and that exceptional circumstances exist.

(See Section 5 of the revised TIMP – Para 5.1.2, 5.1.3 and 5.2.1)

However this fails to comply with the requirement for approval of PW 10 discharge of requirement that **creates** the revised TIMP Section 5 Significant Road Works.

**Importantly –**

In addition to requiring the applicant to demonstrate the existence of exceptional circumstances and thus enabling deliberation of and possible satisfaction of the councils, that the undertakers proposed response to exceptional circumstances is unlikely to give rise to materially new or materially different environmental effects from those assessed in the Environmental Statement, para 4, has other requirements that need satisfying in regards to "unless otherwise approved".

#### **"UNLESS OTHERWISE APPROVED"**

Para 3 of Requirement PW 10 (TIMP) States –

"(3) The TIMP shall be fully implemented as approved throughout the HPC construction works **"unless otherwise approved"** by the relevant planning authority."

The relevant planning authority is interpreted in the DCO as West Somerset and Sedgemoor District Councils who are also the Discharging Authorities.

Thus PW 10, by including the golden phrase **"unless otherwise approved"**, is also subject to the 'test' required under DCO Schedule 2, **Para 4, before approval**, Not just in regard to the existence of exceptional circumstances but also through the presence of **"unless otherwise approved"**

**Approval shall not be given** unless it has been demonstrated to the satisfaction of the discharging authority that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

No demonstration – No possibility of satisfaction – No approval

If approval to the discharged requirement **should not have been given** presumably the previous 2012 TIMP still applies?

It is beyond my comprehension or knowledge to understand **as yet**, the ramifications of how or who will enforce this non-compliance.

However they can be confident whatever actions (including none) will be closely **scrutinised**.

### **FURTHER NON- COMPLIANT SITUATION**

However there is another situation regarding the same discharge of Requirement PW 10 that needs addressing.

This is the apparent role the TRG has apparently claimed under Section 5 of the updated PW10 and that the discharging authorities appear to have acquiesced to, **again non-compliant** with the DCO.

### **ROLE OF THE TRG APPEARS NON-COMPLIANT WITH THE DCO UNDER SECTION 5 OF THE REVISED TIMP**

The TRG wrongly believes the TIMP is an appendage to the S 106 agreement.

The TIMP appears not to be included in the S 106 agreement or listed in the ES as the TRG responsibility unlike 2 other transport management plans – CTMP, CWTP.

The TIMP is a management plan and ‘belongs’ to the DCO as Requirement PW 10. As stated in DCO PW 10 in para 3 it is subject to the relevant planning authority -

Who are also the discharging authorities which are defined/Interpreted under DCO Part 1 as -

**“Means the body responsible for giving any agreement or approval required by a requirement”**

It is established that the discharging authorities for PW 10 are West Somerset and Sedgemoor District Councils and therefore are the body responsible for giving any agreement or approval required under the DCO requirement PW 10

It should be recognised that the terms of the S 106 agreement were not for the DCO examination panel or the Secretary of State to agree. It was for the parties (EDF Energy and the Councils) to agree and determine. The TIMP was always under the DCO as a requirement not the S 106 and are distinctly the responsibility of the discharging authorities.

Unfortunately the **apparently mistaken approval** of the Discharge of Requirement controversially amending the TIMP so as to include Significant Road Works as an incident and exceptional circumstance (giving EDF Energy compensatory extended delivery periods including unsocial hours) also gives the TRG the role of approving and agreeing Section 5 of the amended TIMP contrary to the DCO.

Section 5 of the (**erroneously approved?**) updated TIMP States –

***5.1.2 – “Where EDF Energy considers that any road works are “significant”, for the purposes of paragraph 3.4.2. in advance of the road works commencing, written confirmation will be obtained from the Transport Review Group that exceptional circumstances exist and to implement any***

*approved changes to delivery hours as set out in Paragraph 3.4.4 or other changes as appropriate.”*

***5.1.3 – “The period of extended delivery hours and any proposed mitigation for example specific changes to vehicle numbers during peak periods and school travel times, will be set out in writing to the Transport Review Group, for consideration on a case by case basis alongside the necessary environmental information.”***

***5.2.1 – “The Transport Review Group will respond in writing to any requests to extend the delivery hours and any proposed mitigation (such as vary movements during peak periods and school travel times) during significant road works. Written confirmation of confirmation of exceptional circumstances existing, or reasons for non-acceptance, will be provided within 5 working days once all necessary information and evidence to support the request has been received by the Transport Review Group***

DCO Schedule 2 Para 2 makes clear –

“(2) Where under any of the requirements the approval or agreement of the discharging authority or another person is required –

- (a) The matter which requires approval or agreement must be submitted in writing for such approval or agreement; and
- (b) The approval or agreement must be given in writing.

As established and in line with the DCO, the discharging authorities are the district councils (WSC and SDC) and it is their responsibility to carry out the duties covered in para 2 above and not the TRG as depicted in the revised TIMP Section 5.

The TRG are acting as if they are the Discharging Authority and WSC and SDC are letting them.

It is clear from the above that the **TRG** appear to have **usurped** the role of the discharging authorities **as the body responsible for giving any agreement or approval required by a requirement** and the updated PW 10 is **non-compliant** with the DCO on this issue.

#### **WHY THE TRG SHOULD NOT ASSUME THE ROLE OF WSC, SDC, REGARDING THE TIMP**

- It is contrary to the DCO which stipulates the PW 10 discharging authorities for the role regarding, agreement or approval required by a **requirement**.
- The TRG may be influenced by **EDF Energy**, the proposer, who also has a **significant voting share on TRG decisions**. This is not merely theoretical as EDF Energy used their votes on their own proposal to vary (increase) the average daily HGV movements by 50% for 21 months. **This has been likened to a housing developer having half the votes on a development control committee when it considers the developers application.**
- Should the 2017 EIA regulations apply, allowing the TRG this role may be contrary to the new Part 12 on **objectivity and bias**, covering possible **‘conflicts of interest’ and fairness**.
- The TRG, under the S 106 agreement has a lower standard of ‘test’ regarding materially new or different environmental effects than that required under the DCO. (TRG ‘Reasonably Satisfied’, DCO ‘Satisfied’ which is an absolute obligation)
- The Discharging Authorities are independent Councils, subject to a code of conduct which requires high standards of **openness, probity and integrity**. They are accountable to the

public with established procedures to hold officers and councillors to account, unlike the TRG.

- The TRG have a **poor record of informing the forums** (before decisions), which were specifically created under requirement PW 18 to enable communities to consider and advise on transport issues. In particular the TRG are perceived as **deliberately by-passing** the forums on the TIMP and 750 decisions.
- The TRG approach to mitigation! (see later explanation)

### **THE ROLE OF MITIGATION UNDER THE 'Para 4' and Para 2.11 'TEST'**

The TRG formed their own version of the DCO 'Para 4' test under Schedule 11 (Transport) Para 2.11 of the S 106 agreement.

To understand why these paragraphs (tests) are included in both the DCO and the S 106 agreement, is their importance in meeting the requirements of the Environmental Impacts Assessment (EIA) regulations and Directive regarding identifying significant new and different environmental effects not assessed in the original ES.

The Environmental Statement details impacts and how they are evaluated and managed, and yes mitigated.

However the starting point involving change, is identifying a projects, unassessed environmental effects. This may not happen if they aren't identified due to any 'premature' application of mitigation.

The ES is the result of an EIA and is a key component of the decision process informing the Secretary of States approval of the HPC Development Consent Order.

One of the **fundamental objectives** of the EIA Directive is **public participation** and the ability of the public to be informed about the significant impacts created by a development and includes the right to comment.

Any change or subsequent application after the original ES and DCO has the possibility of creating new or different environmental effects. Some may be minor or immaterial effects but change which results in materially new or materially different effects need to be identified and possibly undergo the EIA process and regulations.

**Consent** for a project is given on the basis of the EIA identifying the material impacts.

It is important to identify and deliver mitigation but apportioning mitigation prematurely results in a danger that significant materially new or different effects and impacts by-pass/circumvent the appropriate EIA process and any essential public participation.

### **THE TRG APPROACH TO MITIGATION AND NEW OR DIFFERENT ENVIRONMENTAL EFFECTS**

The TRG approach to mitigation became apparent in the process undertaken during the variation to the Construction Traffic Management Plan that resulted in a 50% limit increase in average daily HGV movements to 750,

This was decided without any possibility of public consultation by the TRG, where **EDF Energy** exercised their **substantial number of votes**, surprisingly in favour of their **own proposal** to increase the daily average (to 750) of HGV movements.

The TRG applied their S 106 Schedule 11 para 2.11 version (being 'reasonably satisfied' rather than the DCO 'Satisfied') of the test which clearly resulted in them being reasonably satisfied that it was unlikely there were any materially new or materially different environmental effects in comparison with those assessed in granting the DCO.

The surprising thing about this decision on the increase was that EDF Energy agreed to pay mitigation of over £4,000,000.

This raises the question of just what impacts EDF Energy were seeking to mitigate?

I can testify to EDF Energy's hospitality and 'bonhomie' but even they I think would hesitate at a four million pound goodwill gesture for no reason.

However the report authored by the Chair of the TRG that informed the '750' decision revealed a surprising process.

Clearly a decision was made that it was unlikely there were any materially new or different effects but the report shows that this was only after the effects of mitigation had been imposed.

To illustrate this, the report includes the following –

Reasons for Recommendations –

*“To enable the construction of Hinkley Point C to progress, and that **appropriate mitigation is agreed to ensure** that the proposed amendment to the Construction Traffic Management Plan does not give rise to any materially new or materially different environmental effects in comparison with those assessed in granting the Development Consent Order”*

It appears from this, that mitigation is possibly being used as a **tool** to ensure materially new or materially different environmental effects are not identified possibly circumventing EIA regulations by making mitigation part of the 'test' applied under Schedule 11 para 2.11 of the S 106 agreement.

Approximately £4.3 million plus an implementation of the noise mitigation scheme (Double glazing?) as mitigation gives no indication of what effects were identified to require such a level of mitigation.

It should be noted that the same route has been operating for years now in parts, without the application of the noise mitigation scheme. Whilst this is welcomed, what are the effects which made this new need for 'double glazing'?

Either there were effects/impacts or there weren't. If there are the TRG need to tell the public what they are and why they **weren't identified in the '2.11 test'**?

Again mitigation appears to be used as a possible tool perhaps to enable the TRG to approve the increase to 750 HGV movements (The TRG cannot approve if they are not satisfied, sorry, reasonably satisfied that the amendment is unlikely to give rise to any materially new or materially different environmental effects in comparison with those assessed in granting the DCO). Paragraph 1.11 of the report confirms the use of mitigation to enable a TRG approval.

Para 1.10 of the report includes –

*“EDF Energy has confirmed that it is prepared to agree to mitigation measures which are directly related to the temporary increase in HGV movements (capable of being delivered within the duration of the temporary increase in HGV movements) and fair and reasonably related in scale and kind to the development (related to the **potential effects** and able to make a contribution to reducing the **effects of additional movements**)”*

Thus EDF Energy appear to recognise there may be potential effects and also that around £4.3 million is a contribution to reducing the effects of additional movements.

When seeking approval for a change, effects are always 'potential'. This does not prevent them from being identified.

Why didn't EDF Energy demonstrate to the TRG in the para 2.11 test these 'potential effects' that require such extensive mitigation?

But recognising there may indeed be effects, by mitigating them so as to remove them from the required '2.11 test' appears not to be an adequate demonstration for the test requiring 'reasonable satisfaction' to allow TRG approval.

Again it should be noted that surprisingly EDF Energy also participated in the vote to **approve its own proposal**.

### **SUMMARY OF MITIGATION ISSUES**

Of course it is accepted that mitigation is essential and has a role in reducing any impacts or effects.

However the appropriate identification of likely materially new or different environmental effects is a trigger for actions required under EIA regulations and conformity with the EIA Directive through its relationship with the 2008 Planning Act.

At question is, are the tests required to identify any materially new or different effects in accordance with the EIA regulations, or are they possibly being circumvented by applying mitigation before demonstration and consideration of the test.

Non-identification of unmitigated environmental effects (potential or otherwise) results in the possibility that applications for change following the approval of a DCO will not be scoped, examined or considered to the standard of the original Environmental Statement and therefore possibly not conforming with the EIA Directive or regulations.

Public participation may inappropriately be denied through non-consideration of significant environmental effects.

The potential for missing/not considering cumulative impacts or effects are also increased.

It is possible that the 50% increase in HGVs could have a cumulative impact due to the significant road works the TRG are so concerned about but clearly not enough to prevent any approval or be a consideration.

A concern remains that the process of TRG decision making, exhibited in the approved variation of the CTMP, may be allowed under the revised Section 5 of the TIMP contrary to the DCO obligations.

It appears that the '750' approval was acceptable with no new effects due to the 750 day limit was considered in the original ES therefore it is not understood as to why mitigation was deemed necessary unless –

- Other materially new or materially different environmental effects were identified but possibly inappropriately 'mitigated out'
- The 'mitigation' was possibly an 'inappropriate' goodwill gesture by EDF Energy.

## AVOIDING CHANGE THROUGH THE 2008 PLANNING ACT REGIME

Change through the 2008 Planning Act regime is I believe apparently best avoided if possible due to the complexity and length of the process. Significantly, it also entails public comment on a proposal.

Therefore to a developer, there are advantages to seek change if possible elsewhere.

One opportunity for change agreed by EDF Energy and the Councils is via the S 106 agreement which authorises the TRG to vary the Construction Traffic Management Plan.

This opportunity for the TRG to approve change (let us not forget the significant voting rights EDF Energy have on the TRG for voting on their own proposal) can only take place if the TRG are 'reasonably satisfied' that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

Therefore it appears there may be an incentive to understate or underreport any potential effects identified. Be clear I am not suggesting here, this applied to any TRG decision or approval sought.

However there remains the enigma of why mitigation of such magnitude was agreed for the HPC '750' variation when the TRG must have been reasonably satisfied the increase was unlikely to give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

I am sure Pins are aware of the possible effects the difficulties of change through the 2008 Act can engender and the resultant lack of public participation, change elsewhere promotes.

## CONCLUSIONS

It should be remembered that all these decisions have an impact somewhere and it is the already heavily affected communities appearing to pay the price for EDF Energy's changes.

I hope I have sufficiently evidenced my concerns and reasoned my request for advice.

It is appreciated Pins may not be able to help with all the requested advice but there is a need for Pins to be aware of concerns related to how the processes of change, are being conducted outside the formal 2008 Planning Act regime involving non-material or material change.

Of prime concern is how much the processes of change selected by EDF Energy and the Councils avoid any form of public participation.

Enforcement of any non-compliance will be interesting should the district councils (as the enforcer) themselves be deemed non-compliant.

To assist the Councils I include a reminder of their duty as the enforcer –

Part 8 of the EIA 2017 Regulations cover the duty to ensure objectives of the Directive are met.

*"35. Relevant planning authorities, in the exercise of their **enforcement functions**, must have regard to the need **to secure compliance** with the requirements and objectives of the Directive"*

Helpful I hope.

I understand this request for advice may be registered on Pins website under your admirable openness policy.

As it, and any advice given may be publicly available I intend to forward copies to the concerned bodies to enable their own consideration of the advice requested and evidence provided.

I must also add an acknowledgment of the respect I hold for both the councils and EDF Energy.

Should it be shown (as I believe I have) where they are non-compliant with the DCO, it is expected a resolution to the situation will be done in an open and transparent manner including informing the 'forums' before decisions are made to allow for communities to consider, comment and advise, more in line with PW 18 than previously.

Delivering a nuclear power station is a daunting project. Mistakes happen, as possibly here.

With respect, if there are issues, I ask EDF Energy and the Councils to acknowledge them, deal with them in an open credible manner, include not exclude impacted communities, move on and get the job done.

Mr Ranger in anticipation I thank you for your consideration and I am happy to provide you with any further clarification of the situation if required.

Regards,

Paul Gripton

24<sup>th</sup> September 2018