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Mr Andy Coupe  
Somerset County Council  
County Hall  
Taunton  
Somerset  
TA1 4DY

Your Ref:

Our Ref: EN01001

Date: 13 November 2020

By email: [ajcoupe@somerset.gov.uk](mailto:ajcoupe@somerset.gov.uk)

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Dear Mr Coupe

## **Planning Act 2008 (as amended)**

### **Hinkley Point C (Nuclear Generating Station) Order 2013**

Thank you for your letter of 17 July 2020 regarding the abovementioned project, sent on behalf of the Joint Councils. I apologise for the length of time taken to respond to you on the points raised by the Joint Councils, which has been partly due to the unprecedented workload generated by the pandemic.

In answering the Councils' points we have also consulted with colleagues in the Department for Business Energy and Industrial Strategy (BEIS) on matters that concern post decision processes that The Planning Inspectorate (PINS) were not involved in. This has also impacted on responding to you in a timelier fashion.

I set out responses below to the points raised in your letter:

### **Will PINS [the Planning Inspectorate] publish all information provided by EDFe for obtaining a screening opinion regarding any proposed change to the DCO [Development Consent Order] for the HPC [Hinkley Point C] Project?**

If a screening opinion is sought from the Secretary of State, PINS will publish the information that is submitted by EDF Energy (EDFe) on the HPC project page of the National Infrastructure Planning website:  
<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/hinkley-point-c-new-nuclear-power-station/>.

### **Will PINS publish all pre-application advice provided to EDFe regarding the materiality of any proposed change to the DCO for the HPC Project?**

PINS is required to publish any advice provided about making an application or making a representation about an application in accordance with s51 of the Planning Act 2008. However, it is for the Secretary of State to determine the materiality of any

changes sought to an application, and therefore how the application for a change should be determined, PINS will not provide advice to applicants about the materiality of a change at the pre-application stage.

**How would PINS advise the Joint Councils to manage any information or requests from EDFe concerning any proposed change to the HPC Project workforce profile, taking into account The Environmental Information Regulations 2004?**

In the absence of the application documentation and in advance of the Secretary of State's decision about the process for determining any application for a change, it is not appropriate for PINS to advise the Joint Councils about how they should manage requests from EDFe with regard to a change in the workforce profile. The Joint Council must seek their own legal advice in this regard.

**Did the relevant Secretary of State certify the ES [Environmental Statement] as part of the DCO for the HPC Project? If not, then is this of any consequence to managing the proposed changes to the HPC Project workforce profile that require a review (voluntarily or otherwise) of the ES by EDFe?**

The HPC DCO was made in 2013, however we understand that the Department's original consenting team are no longer in post. Despite diligent enquiries it has not been possible to ascertain what documents were certified by the Secretary of State at that time and returned to the developer, EDFe. Certified copies of the documents were provided to the relevant local authorities, West Somerset District Council (now Somerset West and Taunton Council) and Sedgemoor District Council in accordance with the Explanatory Note requirement in the DCO, and we recommend that you consult those councils and/or EDFe.

The processes set down in the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 will be used by the Secretary of State and PINS to manage the process of evaluating the environmental information supplied as part of any application for a proposed change to the DCO.

**Given the delays to the HPC Project and the 2011 date of the ES, how valid will the assumptions made in ES be in assessing likely significant effects from any proposed change to the workforce profile?**

Neither PINS nor the Secretary of State are able to answer this in the absence of the application documents. However, Reg 16(2)(i) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 requires updates to the information that relate to the application where this is necessary. The Joint Councils should seek their own legal advice as to the extent to which the information in the original ES will need to be updated.

**To what extent will/ should the cumulative effects of all post-decision changes to the HPC Project be considered in any current assessment work for the proposed changes to the HPC Project workforce profile?**

Reg 16(2)(i) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 requires an applicant to provide a statement which explains the extent of the change with the initial application

documents, as part of their change application. PINS' expectation is that the statement would need to reflect all of the changes to the initial DCO that have been consented/approved at the time any application is made. The Joint Councils will need to take their own legal advice with regard to the extent to which cumulative effects can/should be considered in advance of the application being submitted.

**If the assumptions made in the ES remain valid, on what basis should an addendum to the ES for the HPC Project be secured and how should this be process managed?**

PINS' expectation is that the statement which explains the extent of change with the initial application documents would include changes to the information, including the assumptions, in the ES. This may manifest itself as an ES addendum but in the absence of the application documents PINS cannot speculate on this. If the applicant seeks pre-application advice based on draft application documents PINS would publish the advice we give under s51 of the Planning Act 2008. Any advice we provided in those circumstances would explicitly avoid fettering any consideration by the Secretary of State about the materiality of the change sought, in advance of that decision being made by the Secretary of State. The processes set down in the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 will be used by the Secretary of State and PINS to manage that process.

**Should the assessment of the proposed changes to the HPC Project workforce profile conclude different mitigation is required than the mitigation currently secured through the DCO and S106 [section 106 of the Town and Country Planning Act 1990] agreement, how should this process be managed?**

It will be for EDFe to ensure that any application that contains new or different mitigation measures, also explains how these are to be secured in the proposed changed DCO. EDFe and the Joint Councils would need to discuss any changes to the s106 agreement and manage that process within the terms of that agreement. The Secretary of State or the appointed Examining Body, whichever is relevant according to the determination procedure, will make procedural decisions about how and when the Joint Councils and other interested parties to the application, can comment on the application documents. The processes set down in the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 will be used by the Secretary of State and PINS to manage that process.

**A number of related DCO management documents for the HPC Project are included in the S106 agreement and will likely require amending as part of any proposed changes to the HPC Project workforce profile. Given the extent of the number of documents that may require revision, should a new S106 agreement be submitted to the Secretary of State for approval?**

It will be for the Joint Councils and EDFe to consider whether a new or amended s106 agreement is required, and for EDFe to coordinate that with the preparation of their application documents. To this end the Joint Councils should seek their own legal advice. If a new or amended signed s106 agreement is submitted as part of the application or in response to a procedural decision made by either the Secretary of State or the appointed Examining Board, then they will have regard to it.

I hope these responses go some way to advising you on the matters you raise, acknowledging that until an application is submitted, it is very difficult to be more specific.

In accordance with s51 of the Planning act 2008 this letter and the Joint Councils letter will be published on the HPC project page of the National Infrastructure Planning website.

Yours sincerely

*Mark Wilson*

**Mark Wilson**  
**Operations Manager – Energy**

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