

The Planning Inspectorate
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PINS RECEIVED

26 OCT 2017

24 October 2017

Dear Sir or Madam,

Request for clarification in relation to Wylfa Newydd NSIP project

Since January 2015, North Wales Wildlife Trust has engaged with Horizon the developer of the Wylfa Newydd scheme. This has involved pre-application consultations, the new T&CPA Section 61z process as well as the related scoping and peer review of a draft EIA (March 2016), along with many meetings where Horizon staff have talked through elements of the proposed project. In October 2015 the volume of work lead NWWT to raise specific grant funds and contract a part time officer to deal with the project. This has enabled NWWT to engage more fully in the process, but we are now becoming very conscious of the expenditure of resources and apparent lack of progress in influencing what is supposed to be an iterative process of engagement.

All consultation and other responses have been directed to the developer and copied to relevant statutory stakeholders such as Natural Resources Wales (NRW) and Isle of Anglesey County Council (IACC). However we are becoming increasingly concerned, as we approach the rescheduled DCO submission date (March 2018), that there are still outstanding matters that need substantial and substantive amounts of detail both in terms of the processes and the proposal itself. We approach the Planning Inspectorate to raise these concerns and to seek clarification, if any can be provided.

The Rochdale Envelope and use of parameters plans in the HRA & EIA process

Horizon have made it clear that they intend to use this theoretical underpinning to the submission of the DCO. NWWT are familiar with the original Rochdale rulings (Milne and Tew vs Rochdale Council 1999 and 2000 respectively) and the evolving guidance provided by PINS in Advice Note 9 (PINS "Using the 'Rochdale Envelope'"). We are also fully cognisant of how the parameters approach may be helpful in design construction and variable project roll out timeframes, in order to provide implementation flexibility and respond to construction conditions. However, we are extremely concerned about its application within the Habitats Regulation Assessment process in relation to the Cemlyn Bay SAC, Anglesey Terns SPA and other Natura 2000 sites.

The assessment against 'worst case scenarios' is a useful tool in undertaking EIA and potentially HRA, but it frequently delivers outcomes with a considerable degree of uncertainty. In the case of Wylfa, in our view, this is compounded by the uncertainties of multistage and multi-element projects, in conjunction with degrees of unpredictability of individual and cumulative assessments of complex variable natural systems and their corresponding associated impact pathways, within and outside each project element or in combination with other proposals.



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It is our understanding that, in order to try to take account of this and essentially manage risk, the HRA has enshrined within its intention and legislative context the 'Precautionary Principle'. However, NWWT feel that in the case of Wyllfa Newydd it is becoming increasingly apparent that there is no obvious point within Horizon's scheme development that leads to an ability to trigger the Precautionary Principle and/or reach clear conclusions which would initiate the further Stages of the HRA process.

Without the ability to assess these points, the scheme is at a very high risk of being implemented without either:
(i) consideration of meaningful and practical additional mitigation (or potentially compensation) or
(ii) necessary assessment of alternative solutions to design elements to reduce the high risk uncertain impacts of the proposed scheme on Natura 2000 designated features.

Whilst this may be an unintended consequence of the approach adopted by the developer, it could result in catastrophic consequences for the Natura 2000 sites, which may essentially but inadvertently result in circumvention of the intentions of the HRA legislation.

The Inspectorate's view or guidance would be very much welcomed as to how the Precautionary Principle is invoked. Additionally, we seek advice and assurance as to how the Rochdale envelope and parameter plan approach can be used alongside the Habitats Regulations and result in a less high risk uncertain proposal and scheme implementation.

September 2017 partial release of draft DCO submission - The Pre-application process and the initiation of Statement of Common Ground discussions.

In mid-September (15th September 2017 – briefing note issued) Horizon started another round of what was sign-posted as pre-application discussions with key stakeholders, but with the dual purpose of facilitating Statement of Common Ground (SoCG) discussions. In our opinion this draft DCO release has muddled objectives and represents an additional burden on limited NGO resources. Over the subsequent weeks a considerable number of draft DCO documents have been released but, as far as NWWT are concerned, staff and volunteers cannot begin the process of review or assessment of this material until all the elements of the submission have been received and the project can be viewed in the round. Most importantly, this relates to the parameters plans of design of features, mitigation route map and the details of the landscape scheme including what will comprise the final landform – drainage layout, scale, location and height and slope dimensions, along with its phasing.

Whilst it has now been within the NWWT that resources can be released to enable staff & volunteers to engage with this process, there is significant concern that the process will need to be duplicated at DCO submission. Currently there is no apparent mechanism proposed by the developer to track changes in documents between this draft release and the formal submission.

NWWT have sought to clarify the muddled objectives with the developer in-line with PINS guidance on the DCO process. The PINS guidance notes (Note 8-1 v4 "Pre-application") indicate that the pre-application process is part of the iterative process of design by which stakeholders, interested parties and statutory bodies can advocate and influence change. It is, however, clear that the developer wishes to progress the discussion of Statements of Common Ground, which is more relevant to the examination process (note 8-4 v4 "examination"). Whilst it is acknowledged that the DCLG's guidance (Department for Communities & Local Government "Planning Act 2008: Guidance for the examination of applications for development consent" March 2015) indicates that discussions and presentation of SoCG can be initiated *voluntarily* prior to the submission of the formal DCO, it is NWWT's view that this stage cannot possibly be undertaken without cognisance of the full project in the round. It is NWWT's understanding that the SoCG is therefore more relevant in this particular case when the 'clock stops ticking' and elements of the scheme will be fixed and unlikely to be subject to further change (as indicated in Note 8-1 v4).

The projected timescales that have been proposed by the developer for the current process also appear to be extremely unrealistic, given that critical documents are yet to be finalised. However, we do not wish to be open to criticism and challenge by the developer and/or the Inspectorate during the Inquiry for lack of timely engagement

or cooperation with this most recent process and the formulation of SoCG. We welcome a view from PINS as to the status of this nature of engagement and the positioning of SoCG.

Development of the Landscape & final landform portfolio

It has become apparent that, outside the draft DCO document release but in parallel with it, Horizon wish to develop the LEMP/HMS (Landscape Environmental Management Plan and Habitat Management Strategy) predominantly through a stakeholder group as the final stages of the DCO submission progress – and potentially beyond into the DCO Examination phase. Whilst NWWT welcome opportunities to engage with Horizon on this, in our view the purpose of a stakeholder forum should be to help inform the *finer details of an already tabled overarching strategy*.

The LEMP has always been acknowledged by Horizon as a key mechanism for achieving mitigation, including no net loss of biodiversity. It is therefore essential that it is well conceived and considered within the framework of what development is proposed, together with the earth moving operation and is balanced against the policy drivers in relation to landscape, biodiversity, human environmental health matters (eg noise amelioration, amenity or visual screening) and phased site restoration (as per Minerals Planning). This in our view is not a document or strategy that could be designed via a multi-agency committee drawn from all the relevant disciplines. It is also a key element of any form of pre-submission review of draft DCO documents. We would welcome the Inspectorate's opinion as to the efficacy of this approach and the delayed production of one of the key critical elements of any proposal, namely the final landscape and landform associated with the construction, phased restoration of the site and the operational management of the estate to maintain the necessary mitigation.

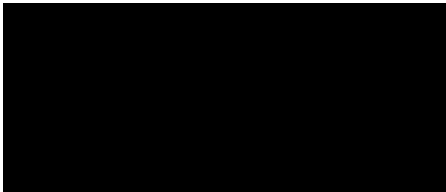
Summary & Conclusion

In summary and conclusion North Wales Wildlife Trust wish to be able to advocate and contribute effectively to the NSIPs planning process and have arranged resource allocation as comprehensively as possible. However, we have found our engagement with the process that the developer is instituting of particular and growing concern in relation to a number of matters. We seek advice from the Planning Inspectorate in order to achieve some clarity and potential direction going forward as to: -

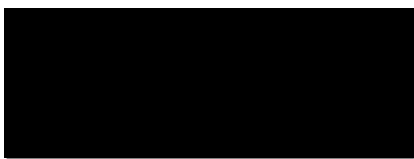
- how the Precautionary Principal is invoked. Additionally, how the Rochdale envelope along with parameter plans can be used alongside the Habitats Regulations and result in a less high risk uncertain proposal and scheme implementation.
- the status of the nature of engagement and the partial release of draft DCO documents and the positioning of SoCG within the current Wylfa Newydd DCO process.
- the efficacy of the approach to the development of the landscape strategy and the delayed production of one of the key critical elements of any proposal – the final landscape and landform associated with the construction, phased restoration of the site and the operational management of the estate to maintain any necessary mitigation.

North Wales Wildlife Trust are finding it increasingly difficult to resource and plan staff time relating to our engagement with the developer. We do not wish to be open to challenge or criticism about delays, lack of cooperation or apparent obstruction from either the developer or the Inspectorate as the scheme progresses to DCO submission and the Inquiry.

Yours sincerely,



Frances Cattanach
Chief Executive Officer



Roger Thomas
Chair