



3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: enquiries@infrastructure.gsi.gov.uk

Mr Pointer

Chair PCBA
By email

Your Ref:

Our Ref: EN010024

Date: 21 March 2014

Dear Mr Pointer

Planning Act 2008 (as amended)

Application by Navitus Bay Development Limited for an Order Granting Development Consent for the proposed Navitus Bay Wind Park

Queries regarding adequacy of consultation

Thank you for your email in relation to the Planning Inspectorate's process for deciding whether or not to accept an application for examination and specifically how representations may be made about the adequacy of a developer's pre-application consultation. I understand that your questions relate to for the proposed Navitus Bay Wind Park project and that you have previously written to us to express concerns about the developer's pre-application consultation for this project.

The proposal is currently at the 'pre-application' stage of the Planning Act 2008 (PA 2008) process for nationally significant infrastructure projects. The Planning Inspectorate is expecting the Development Consent Order application to be submitted in April 2014.

I respond to your questions about the process surrounding adequacy of consultation (AoC) and how the decision is made either to accept, or reject, for examination an application for a Development Consent Order below.

- **Who makes the final decision on acceptance/rejection of an application for examination, and what is the timeframe for the decision?**

The Planning Inspectorate, on behalf of the Secretary of State for Communities and Local Government, makes the decision about whether or not to accept an application for examination. The Secretary of State has 28 days from the date of submission to decide whether the application meets the required standards to proceed to examination. This will include an assessment of whether the applicant has complied with all the relevant pre-application procedures including having regard to

consultation responses.

The requirements that must be satisfied in order for an application to be accepted for examination are set out in s55 of the PA 2008. s55(4) of the PA 2008 states that in making its decision about whether or not to accept an application the Secretary of State must have regard to (amongst other things) any adequacy of consultation representation received from a local authority consultee. For this reason, once an application is submitted to the Planning Inspectorate, we invite the host and neighbouring local authorities to submit a representation about whether the applicant has complied with its duties under sections 42, 47 and 48 of the PA 2008

- **To whom should the representations be sent?**
- **When should the representations be submitted (bearing in mind that the individual may not know whether an LPA has included the individual's concerns until after a Consent Order application has been submitted)?**
- **How should the representations be submitted and what should they contain?**
- **How & by whom are the representations considered in the acceptance of the Consent Order application process, i.e. during the stage when a decision is taken on whether to accept the application for examination?**

Under the legislation there is no provision for parties other than the relevant local authorities to make adequacy of consultation representations to the Planning Inspectorate. We note that you have submitted representations to the Inspectorate about the developer's pre-application consultation and these will be retained on file. The concerns detailed in your recent correspondence will be made available to the decision maker when considering the decision about whether or not to accept the application under s55 of the PA 2008.

As we have previously advised, you should inform the developer about your concerns as soon as possible and allow time for a response. At this stage you may also wish to notify the local authority, as they may wish to incorporate your view into their adequacy of consultation representation, once an application is submitted to us. As outlined above, the local authorities' views on the adequacy of consultation form a statutory part of the s55 assessment. We would suggest that you contact the relevant local Authority and the developer to find out the best way to communicate with them. Should you decide to submit further representations to the Planning Inspectorate about the adequacy of the developer's consultation we will place your representations on file and make them available to the acceptance decision maker. If you wish to do so we would encourage you to do send any representations to us before the application is submitted to us. It will be for the Secretary of State to decide the weight to give any views received based on the individual facts of the case.

Issues related to the merits of the application can only be considered during the examination of an application. If the application is accepted for examination, the PA 2008 provides an opportunity for individuals, organisations and groups to register as 'interested parties' and to submit a 'relevant representation'. Developers are required to advertise the acceptance of an application and the period within which a relevant representation must be made - this period must be at least 28 days. Relevant representation forms must be completed online or in paper copy and at the relevant time the forms will be available on the Planning Portal's Navitus Bay Wind Park project

webpage: <http://infrastructure.planningportal.gov.uk/projects/south-east/navitus-bay-wind-park-formerly-isle-of-wight>

Relevant representations should indicate whether an individual, organisation or group supports or opposes a scheme and highlight any issues that they may wish to make further detailed representations on later in the examination process. All relevant representations will be read by the appointed Examining Authority in conjunction with the application documents and may influence the Examining Authority's initial assessment of the principal issues for examination.

- **What is the process for challenging a decision made to accept/reject an application for examination?**

The process for legal challenges relating to applications for orders drafting development consent are set out in s118 of the PA 2008. s118 provides that a decision under s55 not to accept an application may be challenged. There is no provision for a decision to accept an application under s55 to be challenged under s118.

I hope this advice is clear. Please do not hesitate to contact me should you have any further queries.

Jackie Anderson

Case Manager
Major Applications and Plans

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.