



Meeting note

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Date	22 January 2014
Meeting with	Local authorities affected by the emerging application for an offshore wind farm by Navitus Bay Development Ltd (NBDL)
Venue	First Floor, Temple Quay House, Bristol
Attendees	Local authorities (LAs) Pete Errington – Hampshire County Council Don Gobbett & Ken Buchan – Dorset County Council Steve Davies, Andrew Woodland & Mark Smith – Bournemouth Borough Council David Groom – New Forest District Council Rob Ainslie – New Forest National Park Authority Rebecca Landmann – Borough of Poole Alan Davies & Sylvia Leonard – Purbeck District Council Russell Chick – Isle of Wight Council The Planning Inspectorate (PINS) Richard Price – Case Manager Kay Sully – Senior Case Manager Ruth Jones – Assistant Case Officer
Meeting objectives	PINS to provide an overview of the National Infrastructure process in accordance with the Planning Act 2008 (PA2008) and in particular, the role of LAs. A copy of the presentation can be found here: http://infrastructure.planningportal.gov.uk/Document/2380175
Circulation	All attendees

Summary of key points discussed and advice given:

PINS explained its openness policy and its duty to publish any advice issued under Section 51 of the PA2008 to its website and that any advice issued under s51 would not constitute legal advice upon which the attendees, or others, could rely.

The LAs provided brief introductory comments explaining their collaborative working relationship in relation to the emerging application by NBDL. It was stated that relevant LAs were looking to share the workload and maintain common approaches in relation to pre-application engagement and submissions to the forthcoming examination.

PINSPINS gave a presentation summarising the PA2008 process, with focus on the role of LAs, a copy of the presentation can be accessed at the following link; INSERT LINK

PINS highlighted to the local authorities that a key feature of the decision-making process under the PA2008 was its 'front-loaded' nature; with thorough Pre-application duties placed on developers. It was explained that National Policy Statements (NPSs) provide the policy framework for Nationally Significant Infrastructure Projects (NSIPs) under the PA2008 regime; and that where a relevant NPS (or NPSs) has been designated, relevant applications must be in compliance with it. PINS described its role as procedural advisor to all parties at the Pre-application stage; where any issues on the merits of an emerging application should be provided directly to developers. Notes of any meetings between PINS and NBDL have been published to the relevant National Infrastructure page of the Planning Portal website under s51 of the PA2008. It was explained that as part of its advisory role, PINS offers a service to developers to review draft application documentation ahead of formal submission. The LAs present at the meeting confirmed that a draft iteration of the Development Consent Order (DCO) had been sent to them recently, and that commentary on its content would likely be provided by them to NBDL by the end of January 2014.

Acceptance and Adequacy of Consultation Representations

PINS summarised its duties under s55 of the PA2008 in relation to the 28 day statutory period within which it must make a decision, on behalf of the relevant Secretary of State (SofS), whether to accept an application to proceed to be examined. It explained that at the beginning of the acceptance period, relevant LAs would be invited to make representations to PINS about the adequacy of a developer's pre-application consultation. Two weeks prior to the submission of an application, relevant LAs would be sent a 'warm-up' letter requesting electronic contact details and providing them with advanced warning of a submission; enabling appropriate internal preparations to be put in place. On the first day of the acceptance period, those authorities would then be sent a link to an electronic version of the Consultation Report submitted with the application documents. They would then have 14 days within which to provide an 'adequacy of consultation representation' to PINS for consideration against the acceptance tests in s55 of the PA2008 and in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regs). PINS, on behalf of the SofS, must have regard to these responses in making its decision on whether to accept the application to be examined. Adequacy of Consultation Representations should state whether the applicant has complied with its pre-application duties under Part 5 Chapter 2 of the PA2008.

Pre-examination and Relevant representations

PINS explained that applicants are required by s56 of the PA2008 to advertise when an application has been accepted for examination. This notification is also required to provide details of the period within which anybody can register to become an interested party by making a 'Relevant representation'; which must be a minimum of 28 days.

PINS described the status of LAs under s43 of the PA2008 and highlighted that host authorities ("B" and "C" authorities) are automatically afforded interested party status. LAs sharing a boundary with a host authority ("A" and "D" authorities) will be sent an invitation to the Preliminary Meeting (known as the the Rule 6 letter) and thereafter the ExA's procedural decision and the first round of written questions (known as the 'Rule 8' letter); but would need to request interested party status in

writing to remain involved with the examination. . Alternatively, boundary authorities will be able to secure interested party status prior to this by making a relevant representation. PINS agreed to provide further clarification to attendees on the "A B C D" test following the meeting.

PINS explained the practicalities of submitting a relevant representation, and summarised what such a representation could contain. It was emphasised that the role of relevant representations was for parties to provide a statement of headline issues, of around or up to 500 words, which would inform an appointed ExA's initial assessment of principal issues'. Written representations which may be provided later in the examination afford interested parties the opportunity to expand on the content of their relevant representation, should they wish to.

Examination - Local Impact Report(s) (LIR(s)), Statements of Common Ground (SoCG) and s106

PINS explained that the PA2008 makes provision for a primarily written process for the examination of applications for development consent. It also makes provision for oral representations to be made at Open-floor, Issue Specific, and Compulsory Acquisition hearings, and PINS explained the mechanisms by which these could be caused to be held. Written submissions to an examination may be made in the form of written representations; Responses to an ExA's written questions (including those timetabled in rounds and responses to an ExA's requests for any further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2009); Local Impact Reports (LIRs); and Statements of Common Ground (SoCGs).

PINS explained that LIRs differ from Written Representations as they may cover a broad range of local interests and impacts, for example economic and social impacts; rather than solely those specific to planning. PINS enquired about the approach the LAs would be taking in terms of LIR submissions. The LAs stated that the working group had discussed this at length, and that it was at present likely that separate LIRs would be submitted; with each adopting a common format.

PINS highlighted that it would be unable to become involved with any negotiations or discussions in relation to s106 planning obligations. A deadline for receipt by the ExA of any planning obligations would be set within the examination timetable, and interested parties would be provided with the opportunity to comment upon them. PINS advised that the LAs should begin discussions with the developer in relation to planning obligations as early as possible to ensure agreements are in place by the appropriate deadline. The LAs requested examples of other applications which had included s106 planning obligations. PINS advised that all examination documents, including planning obligations, for all current and legacy projects were available to view on the National Infrastructure pages of the Planning Portal website.

Recommendation, Decision and Post-decision

PINS explained that all interested parties are notified of the close of an examination under s99 of the PA2008. It was emphasised that an appointed ExA may choose to close an examination before the statutory 6 month period has expired; where it concludes that it has gathered sufficient information upon which to base its report and recommendation to the relevant SofS. Upon the close of an examination, an ExA has 3 months to write its report and recommendation to the SofS, who themselves then have 3 months to consider this recommendation and make a decision to grant or refuse development consent. When the decision is made, PINS will notify all interested parties of it.

PINS described the Post-decision period, including a 6 week period within which claims for Judicial Review could be brought. An overview of the role of LAs in relation to discharging requirements was provided. PINS advised that consideration of requirement discharge should begin early in the process, with mechanisms demonstrated for example within Statements of Common Ground.

Discussion and AOB

The LAs queried what rights of entry were available to the applicant and other parties, such as themselves, within the Order limits in the onshore environment. The authorities explained that this query was in relation to a desire to walk the proposed onshore development route with the applicant in order to corroborate evidence and identify landscape features. PINS explained to the LAs that the PA2008 makes provision for Rights of Entry under s53, and stated that further advice specific to the local authorities' query would be provided following the meeting.

PINS drew attention to recent s51 advice which had been issued in response to a query about the status of the Isle of Wight Council in relation to the application by NBDL under the PA2008 (<http://infrastructure.planningportal.gov.uk/projects/south-east/navitus-bay-wind-park-formerly-isle-of-wight/?ipcsection=advice&ipcadvic=fca1ee1cd1>) . The advice issued by PINS confirmed that as none of the proposed development was within the administrative boundary of the Isle of Wight, and as it does not share a boundary with any of the 'host' authorities identified by PINS from the GIS shape file provided by NBDL; the Isle of Wight Council was not a s43 local authority as prescribed by the PA2008 and therefore the consultation report would not automatically be shared during the acceptance stage. PINS caveated however that this would not preclude the Isle of Wight Council from requesting to PINS that the consultation report was shared with it at the beginning of the acceptance period, or that any adequacy of consultation representation from them would not be considered by PINS (on behalf of the SofS) in making its acceptance decision.

PINS emphasised that as the Isle of Wight Council was not a s43 local authority, in order to secure interested party status it would need to make a relevant representation at the appropriate time.

During the meeting, in light of this advice, Isle of Wight Council has requested to be included in the request of adequacy of consultation to which PINS has agreed and will make contact in advance of the submission for the appropriate contact details.

In relation to the submission of a report on local impacts from the Isle of Wight, PINS advised that an appointed ExA may also invite representations to be provided by LAs not covered by s56A of the PA2008, and that these could comprise the same type of information that would be included in a LIR. The weight attributed to any such statement would be at the discretion of that ExA.

Specific decisions / follow up required?

The Planning Inspectorate to provide the following to local authorities:

- Link to The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
<http://www.legislation.gov.uk/uksi/2009/2264/contents/made>

- Clarification on status of LAs under s43 tests (the A, B, C, D test);

We will be better placed to provide a definitive statement about LA statuses against the A, B, C and D tests once the new GIS shape file comes in at acceptance however we are currently reviewing the draft documents submitted by NBDL which includes their draft consultation report so this will help clarify the landfall/onshore red line narrowed

- Advice on the scope of Planning Performance Agreements (PPAs) under the PA2008 process;

We are looking into this

- Advice in relation to Rights of Entry under s53 of the PA2008
We are obtaining legal advice on this
- Best practice examples of SoCG and LIRs

PINS is currently looking at providing a pool of these so we are identifying these now and will forward these in the final version of these notes – in the meantime, all examination documents are published and available on our website;

<http://infrastructure.planningportal.gov.uk/projects/>