



Your Ref:

Our Ref: EN010049

Date: 7 March 2014

Dear Mr Kelton

Planning Act 2008 (as amended) – Section 51

**Application by Tidal Lagoon (Swansea Bay) plc for an Order Granting
Development Consent for the proposed Tidal Lagoon Swansea Bay**

Response to letter received during the acceptance period

Thank you for your letter dated 3 March 2014 in relation to the above application.

You will note that on 6 March 2014 the Secretary of State decided that this application satisfies the tests under s55 of the Planning Act 2008 (PA 2008) and it has therefore been accepted to proceed to examination. In reaching this decision the Secretary of State has:

- in respect of section 55(3)(e) had regard to the matters set out in section 55(4), and concluded that the applicant has complied with Chapter 2 of Part 5 of PA2008; and
- in respect of section 55(3)(f), had regard to the extent to which those matters set out in section 55(5A) have either been complied with or followed, and concluded that the application (including accompaniments) is of a satisfactory standard.

We note the matters raised within your letter and accompanying attachments which were considered as part of the decision made under s55. We would like to respond to the specific points you raised as follows.

Pre-application consultation

There is no requirement within the legislation (PA 2008 and related secondary legislation) for applicants to consult on all or indeed on any specific draft application documents prior to submission. Whilst pre-application consultation on certain draft application documents is encouraged, consultation on the draft Development Consent

Order (DCO) or Environmental Statement (ES) are not requirements that have to be tested at the acceptance stage.

It is important to note that the draft DCO is not finalised at submission and opportunities exist to influence its content during the examination stage. In most cases a draft DCO will go through several iterations during the examination period in response to representations from interested parties.

The applicant has a duty to consult upon the Preliminary Environmental Information Report (PEIR) prior to submitting an application. It has been concluded through the s55 acceptance process that this has been evidenced and we have articulated this, for example, in section 2.10 of the s55 checklist which is now published:

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/projects/EN010049/2.%20Post-Submission/Procedural%20Decisions/Tidal%20Lagoon%20Swansea%20Bay%20s55%20Acceptance%20Checklist.pdf>.

Environmental Statement

We note the matters you have raised in respect of the ES. The Secretary of State has decided that on balance the ES submitted with the application has satisfied the acceptance tests set out in the relevant legislation. We would refer you to sections 3.3(a) and 3.3(g) of the s55 acceptance checklist as examples of where such matters have been evidenced.

Opportunities to influence the application

From reviewing the matters raised in your letter, I would suggest that a number of the points you make could be submitted into the examination of this application by making a relevant representation. The form for submitting a relevant representation is now available on the Swansea Bay project pages on the National Infrastructure pages on the Planning Portal website:

<http://infrastructure.planningportal.gov.uk/projects/wales/tidal-lagoon-swansea-bay/?ipcsection=overview>. The period for making a relevant representation closes on 11 April 2014 at 11.59pm.

By submitting a relevant representation you will become an interested party in the examination as set out in the Infrastructure Planning (Examination Procedure) Rules 2010. This status provides you with the opportunity to give your views to the Examining Authority (ExA) on the Environmental Information, draft DCO and other matters during the examination of the application within the examination timetable. In addition, the matters raised in your relevant representation will be considered by the ExA in carrying out its initial assessment of principal issues for examination. The Environmental Information will also be examined, through the consideration of written, and where necessary oral, representations from interested parties.

Further advice has been provided by the Inspectorate in the suite of advice notes eight, which can be accessed on the Planning Portal webpage:
<http://infrastructure.planningportal.gov.uk/legislation-and-advice/advice-notes/>.

Whilst advice provided under s51 of PA 2008, such as that contained in this letter is publically available, your letter of 3 March 2014 will not be submitted into the

examination or otherwise published. Therefore, to ensure that the points you raised can be properly considered by the ExA we would suggest you to submit them into the examination as part of your relevant representation.

I trust that this provides some helpful information on how views from Fish Legal and any other person can be put forward in respect of this application. Please do not hesitate to contact me should you have any queries.

Yours sincerely

Katherine Chapman

Katherine Chapman
Case Manager

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.