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Mr Ben Lewis (Director)
GVA
One Kingsway
Cardiff
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Your Ref:

Our Ref: EN010062

Date: 14 July 2014

Dear Mr Lewis,

Internal Power Generation Enhancement for Port Talbot Steel Works application by Tata Steel Limited

Draft Documents – Planning Inspectorate comments on Consultation Report, draft DCO, Explanatory Memorandum and the Book of Reference

Further to our meeting on 8th July 2014 and on the basis of the draft documents provided to us, please see our comments attached. The comments are without prejudice to any decision made under section 55 of the Planning Act 2008 (as amended) or by the Secretary of State on any submitted application.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

Tracey Williams

Tracey Williams
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.

Draft Consultation Report and Appendices - summary of Planning Inspectorate comments

The Port Talbot Steelworks (Power Generation Enhancement) Order

The applicant has made PINS aware that statutory consultation is currently ongoing with individuals with an interest in the land which were not discovered until recently. The account/results of this consultation are therefore not included in this version of the report.

Overall, the applicant has shown in this Consultation Report that all statutory requirements have been adhered to throughout their consultation; additionally, the different stages of consultation are clearly defined throughout the report and are easy to read.

In the interest of clarity, there are sections of the report to which we (PINS) recommend that the applicant make the following amendments in their final version of the Consultation Report and accompanying Appendices.

Consultation Report

- Page 10 of the Consultation Report (*'Consultation Approach'*) refers to *'Guidance'* (Paragraphs 1.24 and 1.26) – it may be helpful to define which guidance was used and if it was statutory or non-statutory (not *'formal'* as referred to in Para 1.26).
- Throughout the report, references have been made to consultation activities which have been evidenced in documents provided within the Appendices. But links to these documents have not been referred to in the relevant paragraphs of the Consultation Report. It would be helpful if these were referenced. For example;
 - Paragraph 1.31, page 11 of the Consultation Report describes non-statutory consultation activities including a Stakeholder Workshop held 6 December 2013. The report of this workshop has been provided in Appendix 26 but no reference has been made to this in the narrative within the Consultation Report.
 - Paragraph 1.33, page 11 of the Consultation Report refers to the article in the Tata Steel's Community Magazine *'SA13'* – This has been provided in Appendix 3 but there is not a reference in the Consultation Report of this.
 - Paragraph 1.40, page 13 of the Consultation Report states: *'The consultation process began on 22 January 2014, when a letter was sent to all s42 consultees informing them of the consultation.'* A

copy of the letter has been provided in Appendix 6 but not referenced in the Consultation Report.

- Therefore it would be helpful to include a sentence within the relevant paragraph which refers to the document in the appendices. For example, 'A copy of the letter has been provided in Appendix 6'.
- Paragraph 8.42 of the Consultation Report (Overview of Responses) states: *'On 23rd May 2014, Natural Resources Wales confirmed (by letter) that it was "satisfied that the proposal can comply with the requirements of Welsh Government guidance TAN15: Development and Flood Risk (July 2004) and we would have no further comments to make with regard to flood risk". However the Grid of Responses (Appendix 1) states: 'It is noted that a hydraulic model and accompanying Flood Consequences Assessment (FCA) is being undertaken and that the full details and results will be submitted as part of the ES. Continued dialogue is required in this regard and NRW would be happy to review and provide comment on the model and FCA prior to a formal submission to PINS.'*
- The Planning Inspectorate note that the Grid of Responses needs amending to reflect the latest position indicated in the Consultation Report and that was confirmed in a teleconference with you on 16th June 2014.
- Paragraph 5.12 of the Consultation Report indicated that Appendix 5 lists the persons identified as s42 (1)(d) consultees for the purposes of the proposed development, and identifies which of the above categories they fall within. However, Appendix 5 lists the persons identified under S42 (1)(d) but does not identify which of the categories they fall within.
 - Planning Inspectorate Advice Note 14, advises that *'a short description of how S43 of the Act has been applied in order to identify the relevant local authorities should be included. This could be supported by a map showing the site and identifying the boundaries of the relevant local authorities'*
 - Although not a statutory requirement it may be helpful to include a description of how s43 of the Act was applied to identify the local authorities, as advised above.
- In Chapter 8 of the Consultation Report 'Overview of Responses' the responses are provided according to the key themes aligning with those set out within the EIA which appears to be a clear and well-structured approach. However this section of the report may also benefit from

further clarification of what stage of the consultation process these comments were received in response to.

- Paragraph 8.56 of the Consultation Report 'Overview of Responses' refers to a member of the local community who was concerned about the impact of the site on their property particularly reducing sunshine in the garden and on the house and the impact on roof-mounted photovoltaic panels. Paragraph 8.58 then states that a full written response was provided to the local resident concerned over the impact of the proposals on their solar panels. However, I cannot find reference to this comment in the Grid of Responses and suggest that you provide your '*full written response*' within the appendices.
- Table 9.1 *Compliance with Requirements*, in page 106 of the Consultation Report states that '*Tata Steel notified PINS on 26 September 2013 that an ES would be submitted with the proposed application.*' The letter referred to in this paragraph has been saved on file at the Planning Inspectorate and it is dated as 25 September 2013. Additionally, it may be helpful to provide a copy of this letter within the Appendices.

Appendices

- The Index of Appendices has been provided at the beginning of the Consultation Report. To make it easier to navigate around the document we suggest that an index is also provided at the beginning of the Appendices.
- The Grid of Responses (Appendix 1) requires further clarity. We advise that you clearly define who the response is from and what stage of the consultation process the comment originates from, for example s42, s47 and s48 of the Act.
- Within Appendix 5 *List of S42 consultees* it would be clearer if the relevant categories were defined in this list (currently it is a just a list of names, no reference to what section of the Act they were consulted under). Also it may be helpful if the organisations were defined with more detail, some do not state exactly which organisation they belong to.
- Planning Inspectorate Advice Note 14 advises that '*The list of organisations in schedule 1 of the APFP should be followed in terms of the order in which the consultees are presented*' - it is unclear if the applicant has followed this guidance in compiling Appendix 5 and it would be helpful if the individuals listed were labelled.

- Advice Note 14 also states: '*Where compulsory acquisition forms part of the draft DCO the consultees who are also included in the book of reference for compulsory acquisition purposes should be highlighted in the consolidated list of prescribed consultees*'. There are individuals/organisations listed under Category 3 of the Book of Reference but they have not been listed in Appendix 5.
- In Appendix 11 document *Community leaflet distribution audit* has not been included.
- The SOCC provided in Appendix 22 has 2 pages (6 and 7) missing. According to the copy the Inspectorate has on file, published the same date as shown in Appendix 22 (15 July 2013) these relate to who the applicant will consult with, and what consultation activities they will conduct. We advise that all documents provided within the Appendix are complete at the stage of formal submission.
- We advise the applicant to provide within the appendices a copy of the letter sent to the Planning Inspectorate on 25 September 2013 which confirmed that an Environmental Statement would be submitted as part of the application. Table 9.1, p.106 of the Consultation Report (Table of Compliance with Requirements) states that the applicant notified PINS on 26th September 2013 that an ES would be submitted with the proposed application. However the copy of the letter we have saved is dated as 25 September 2013.
- We advise that before formal submission you allow sufficient time to thoroughly review the final Consultation Report for accuracy and to ensure that all documents referred to within the Consultation Report are provided as an appendix.

Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's comments
Work Instructions Annexe	Pre-Application Work Instructions Stage 1	Must include an account of the statutory consultation, publicity, deadlines set and consultation undertaken under S42, 47 and 48	Yes - Chapter 5 P.41 - 46 (S42), Chapter 6 P.47 - 67 (S47), Chapter 7 P.69 (S48)	S42 statutory consultation is still ongoing at present. The Consultation Report has been divided into sections which provides accounts of the consultation undertaken under S42, 47 and 48
Work Instructions Annexe	Pre-Application Work Instructions Stage 1	Must include a summary of the relevant responses to the consultations	Yes (p.73 - 92 Consultation Report)	Chapter 8 of the Consultation Report provides a summary of the responses received as a result of the S42, 47 and 48 consultation activities. These responses have been categorised according to issue and provide summaries of comments from respondents (stat consultee or member of public) and the applicant's response to the comment. A response grid has been provided in the Appendix.
Work Instructions Annexe	Pre-Application Work Instructions Stage 1	Must include the account taken of responses in developing the final application	Yes (p.12 of the Consultation Report)	Paragraph 1.35 of the Consultation Report states that <i>'Feedback from non-statutory consultation has helped shape the scope of the ES ensuring that key identified issues, such as visual impact, air quality and emissions, and water abstraction and outlet, have been comprehensively examined through the EIA process.'</i>

Work Instructions Annexe	Pre-Application Work Instructions Stage 1	A list of the responses received, grouped together in categories (eg S42)	No	Annex 1 (Grid of Responses) - has been organised under issues. Responses received from statutory parties have been identified. However other responses have been given a number. I assume these are responses from members of the public recieved under s47 or s48 of the Act. AS Data protection applies for clarity I suggest this is indicated in the grid
Work Instructions Annexe	Pre-Application Work Instructions Stage 1	The list should also group together responses which led to a change of the proposals	No	Annex 1 (Grid of responses) has not been referenced to indicate this
Advice Note 14	P.3	Explanatory text should set the scene and provide an overview narrative.... It would assist if a quick reference guide in bullet point form is included	Yes (p.5 of the Consultation Report)	The Executive Summary in Chapter 1 of the Consultation Report (p.5) provides a background of the applicant, a summary of the proposed development and an overview of the consultation activities undertaken. It is not in bullet point form.
Statement of Community Consultation (S47 SOCC)				
Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's comments
Planning Act	Section 47 (1) (6)	Duty to prepare a SOCC under S47 (1) of the Act and to publish it under S47 (6) of the Act	Yes, p.47 Para 6.5. Appendix 22	Para 6.5 of the Consultation Report confirms that the applicant ' <i>produced a SoCC to provide details of purpose, scope and methods of consultation, and then consulted with the local community in line with commitments set out in the SoCC.</i> ' A copy of the SOCC published 15/7/13 is provided in Appendix 22 (However pages 6 and 7 are missing)

Planning Act	Section 47 (2)	Duty to consult each local authority on a SOCC under S47 of the Planning Act	Yes (p.50 of the Consultation Report)	Para 6.15 confirms: <i>'The draft SoCC was formally submitted to NPTCBC on the 14 October 2013 for review and comment in accordance with s47(2).'</i>
Pre-app DCLG guidance	Paragraph 14 p.6	Produce a Statement of Community Consultation, in consultation with the local authorities, which describes how the applicant proposes to consult the local community about their project and then carry out consultation in accordance with that statement	Yes: Notice in South Wales Evening Post (Appendix 9), Tweets issued during stat consultation (Table 6.2), Community leaflet (Appendix 10), SA13 (Appendix 12), details of project website (Para 6.44), details of public exhibitions (Table 6.3 and Paras 6.62 - 6.71), details of Stakeholder Workshop/Meetings (Paras 6.72-6.78) Feedback materials (Para 6.96), account of consultation with hard to reach groups 6.79-6.92), staff/supplier engagement (Appendix 4 (staff magazine The Journey), Paras 6.93 - 6.95)	All activities listed in the SOCC (Appendix 22) have been included in the account of consultation activities Ch 6 or the Appendix

Pre-app DCLG guidance	Paragraph 14 p.6	Make the Statement of Community Consultation available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land where the development is proposed, as required by S47 of the Planning Act and	Yes (p.51 of the Consultation Report)	Para 6.20 of the Consultation Report lists where copies of the SOCC was made available for inspection from 15th January 2014, this includes online and 7 local community centres listed. Para 6.21 states that a notice was published in accordance with S47(6)a of the Act in the South Wales Evening Post on 15th January confirming where and when the SOCC could be inspected. A copy of the notice has been included in Appendix 9.
Advice Note 14	P.4	When more than one SOCC was prepared...the updated SOCC(s) should be included together with a narrative about why the SOCC was reviewed and updated'	Yes (p.51 of the Consultation Report)	Paras 6.17 - 6.19 of the Consultation Report describe how the SOCC changed following consultation with NPTCBC due to an amendment in the consultation timetable. A table has been provided in Appendix 8 which outlines these changes.
Advice Note 14	P.4	Copies of the published SOCC as it appeared in local press should be provided along with...which local newspapers it was published in and when'	Yes (Appendix 9 and 22, p.52 of the Consultation Report)	A copy of the SOCC has been provided in Appendix 22 of the Consultation Report Appendix. Para 6.21 of the Consultation Report states: ' <i>a notice stating where and when the SoCC could be inspected was published in the local regional paper, the South Wales Evening Post, on the 15 January 2014</i> ', this has been provided in Appendix 9 of the Consultation Report Appendix.
Advice Note 14	P.4	It would be helpful to provide a summary of the rationale behind the SOCC methodology'	Paragraphs 6.13-6.16, p.50	Paragraphs 6.13 - 6.16 (p.50) of the Consultation Report provide a summary of the rationale behind the SOCC methodology
Statutory Publicity (S48)				
Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's comments

Planning Act	Section 48	Duty to publicise under section 48 of the Act	Yes, Appendix 21	S48 Notice published meets all statutory requirements as set in S48 of the 2008 Planning Act and APFP Regs, see notice as provided in Appendix 21
APFP Regulations	APFP Regulations 2009 Chapter 4	The applicant must publish a notice....(a) for at least 2 successive weeks in one or more local newspapers circulating the vicinity in which the proposed development would be situated (b) once in a national newspaper (c) once in the London Gazette	Yes, p.70, Table 7.1	S48 Notice advertised in South Wales Evening Post 27th Jan and 3rd Feb 2014, The Times 27th Jan 2014, London Gazette Jan 27th 2014, also in Western Mail on 27th Jan 2014 (p.70, Table 7.1 of the Consultation Report)
Advice Note 14	P.4	A copy of the S48 notice as it appeared in the local and national newspapers, together with a description of where the notice was published and confirmation of the time period given for responses should be included in the report	Yes	Copies of the S48 Notice as it appeared in the London Gazette (dated 27/01/14), the Times (dated 27/01/14) and South Wales Evening Post (2 copies dated 27/01/14 and 03/02/14) have been provided in Appendix 21 of the Consultation Report Appendix. Part 7 of the Consultation Report describes where the notice was published (Table 7.1 p.70) and the deadline given for responses, Friday 14th March 2014, (Para 7.11 p.71) the notice provided in the Appendix confirms this date as correct.

Advice Note 14	P.4	Applicants should also provide confirmation that the S48 notice was sent to the prescribed consultees at the same time the notice was published'	Yes, Paragraph 7.9, p.70	Paragraph 7.9 of the Consultation Report states that the prescribed consultees and the relevant local authorities were sent a copy of the S48 notice on Thursday 23rd January 2014, 4 days before the notice was first published (Monday 27th Jan 2014)
Advice Note 14	P.4	A description of the consultation material used and how the prescribed consultees were able to access it would also be useful. The S48 publicity is best dealt with as a separate section within the report'	Yes, p.69, Part 7/Paragraph 5.15, p.43	The S48 Publicity is dealt with in a separate section of the report, p.69, Part 7 Section 48 Publicity (Consultation with the Wider Public). Para 5.15 of the Consultation Report lists the consultation documents sent to the prescribed consultees and states that they were sent with a letter 22/01/14
Consultation with the prescribed consultees (S42)				
Legislation/Advice Note/Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Planning Act	Section 46	Duty to notify PINS of the proposed application on or before commencing consultation under S42	Yes, Table 9.1, p.97/ Paragraph 1.15, p.8	Table 9.1 of the Consultation Report (Table of Compliance with Requirements), p.97, confirms that PINS were sent ' <i>a letter and all consultation documents on 22 January 2014</i> '. Para 1.15 of the Consultation Report confirms: ' <i>Tata Steel consulted statutory consultees (under s42 of the Act) from 27 January 2014</i> '

Planning Act	Section 42 (a)	Duty to consult prescribed consultees, under section 42 (a) of the Act	Yes, Chapter 5, p.41	Chapter 5 of the Consultation Report describes the consultation activities undertaken as well as listing the prescribed consultees
Planning Act	Section 42 (b)	Duty to consult each local authority that is within section 43, under section 42 (b) of the Act	Yes, Chapter 5, p.42, Appendix 5	Chapter 5, Paras 5.8 and 5.9, p.42 of the Consultation Report describes how the applicant consulted with NPTCBC and 6 other neighbouring local authorities. A list of these has also been provided in Appendix 5
Planning Act	Section 45	Notification of the deadline for receipt of responses under S45 (1) of the Act. This deadline must not be earlier than 28 days under section 45 (2) of the Act	Yes, Paragraph 5.14, p.43	Para 5.14 of the Consultation Report confirms: ' <i>Consultation under s42 ran for 47 days from 27 January 2014 to 14 March 2014</i> '. The S42 notification letter included in Appendix 6 confirms these dates as correct.
Planning Act	Section 42 (d)	Duty to consult each person within one or more of the categories set out in section 44 of the Act	Yes, Paragraph 5.11, p.42, Appendix 5	<p>5.11 <i>Tata Steel identified the persons within the following 3 categories set out in section 44 of who are required to be consulted under section 42(1)(d):</i></p> <p><input type="checkbox"/> <i>Category 1 (freeholders, leaseholders, tenants and occupiers)</i></p> <p><input type="checkbox"/> <i>Category 2 (mortgagees, other persons interested in the land and persons with the power to sell & convey or release the land) and</i></p> <p><input type="checkbox"/> <i>Category 3 (those who are or might be entitled to bring a "relevant claim" for compensation as a result of implementation of the DCO or use of the land post-implementation of the DCO).</i></p> <p>5.12 <i>Appendix 5 lists the persons identified as s42(1)(d) consultees for the purposes of the proposed development, and identifies which of the above categories they fall within.'</i></p>

Planning Act	Section 42	Duty to consult the Marine Management Organisation under s42 (1) (aa) of the Act, in any case where the proposed development would effect (1) (2) (a) waters in or adjacent to England up to the seaward limits of the territorial sea	N/A	N/A
Advice Note 14	P.3	Consultation with the prescribed consultees (s42): This includes prescribed statutory bodies, local authorities consulted under S43 of the Act and those with an interest in the land consulted under S44 of the Act. These separate strands of prescribed consultees should be clearly identified	Yes, Chapter 5, p.41-46	Chapter 5 of the Consultation Report ' <i>Consultation with Section 42 Consultees</i> ' describes how the S42 consultees were defined under separate categories: ' <i>prescribed consultees (s42(1)(a))</i> ', ' <i>local authorities within s43 (s42(1)(b))</i> '; and ' <i>persons with an interest in land under s44 (s42(1)(d))</i> '.

Advice Note 14	P.3	The applicant should include a full list of the prescribed consultees as part of the consultation report. If the prescribed consultees have been consulted on multiple occasions, perhaps at different phases of the consultation, then this should be explained. If the applicant's list of prescribed consultees varies in any way from the list of organisations set out in schedule 1 of the APFP Regulations 2009 then this	Partially, Appendix 5	Full list of prescribed consultees provided in Appendix 5 but the categories to which each consultee belongs to have not been identified.
Advice Note 14	P.3	The list of organisations in schedule 1 of the APFP should be followed in terms of the order in which the consultees are presented	Partially, Appendix 5	Yes but unclear (see Appendix 5) - needs identifying clearly by referring to schedule 1 of the APFP regs
Advice Note 14	P.3	A short description of how S43 of the Act has been applied in order to identify the relevant local authorities should be included. This could be supported by a map showing the site and identifying the boundaries	No	P.42, chapter 5 of the Consultation Report ' <i>local authorities within s43 (s42(1)(b))</i> ;' refers to S43 of the Act ' <i>5.9 In addition to NPTCBC, Tata Steel consulted with the six neighbouring local authorities within the definitions set out in s43 of the Act.</i> ' but does not describe how it was applied in order to identify the relevant local authorities. A map has not been supplied.

Advice Note 14	P.3	It is important that those with an interest in the land consulted under S44 of the Act are identified as a distinct element of the wider S42 consultation	Yes, Paragraph 5.11, p.42	5.11 Tata Steel identified the persons within the following 3 categories set out in section 44 of who are required to be consulted under section 42(1)(d)' - further consultation under S44 currently ongoing, details not provided in this version of the Report.
Advice Note 14	P.3	Where compulsory acquisition forms part of the draft DCO the consultees who are also included in the book of reference for compulsory acquisition purposes should be highlighted in the consolidated list of prescribed consultees	No	List of prescribed persons in Appendix 5 does not differentiate which category they belong to. No reference to compulsory acquisition mentioned in the Consultation Report or Appendix.
Non Statutory 'informal' consultation				
Legislation/Advice Note Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Advice Note 14	P.4	Applicants may have been engaged in non-statutory consultation, for example, high level consultation with statutory bodies may have been undertaken when identifying options and in advance of formal consultation under the provisions of the Act.	Yes, Chapter 4, p.33	P.33, Chapter 4 of the Consultation Report, <i>Non-Statutory Consultation</i> describes the non-statutory consultation undertaken with statutory bodies NPTCBC, NRW and Glamorgan-Gwent Archaeological Trust (GGAT). Paragraph 4.5; <i>'Engagement focused chiefly on the development concept and the likely scope of the required technical investigations at this point.'</i>

Advice Note 14	P.4	Any consultation not carried out under the provisions of the Act should be clearly indicated and identified separately in the report from the statutory consultation. This does not necessarily mean that informal consultation has less weight than consultation carried out under the Act, but identifying statutory and non-statutory consultation separately will assist when it comes to determining	Yes, Chapter 4, p.33	The applicant's account of non-statutory consultation activities is provided in a separate section of the Consultation Report, Chapter 4, p.33, <i>Non-Statutory Consultation</i>
EIA Regulations consultation				
Legislation/Advice Note Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
EIA Regulations 2009	Regulation 11	Notice of Preliminary Environmental Information under Regulation 11 of Infrastructure Planning (Environmental Impact Assessment) Regulations 2009	Yes, Paragraph 6.67, p.62. Appendix 23	Paragraph 6.67 of the Consultation Report states that the PEIR was provided as part of the Consultation materials. The SOCC, provided in Appendix 22 states ' <i>To ensure that this SOCC and the consultation materials (including the Preliminary Environmental Information Report) are available and accessible to people living and working in the local communities, hard copies will be available for inspection throughout the statutory consultation period at the locations listed below:</i> ' The Supporting Environmental Information Report is provided in Appendix 23

Pre-App DCLG Guidance	Paragraph 14	Applicants are required to ..identify whether the project requires an environmental impact assessment; where it does, confirm that they will be submitting an environmental statement along with the application, or that they will be seeking a screening opinion ahead	Yes, Table 9.1, p.106	Table 9.1, p.106 of the Consultation Report (<i>Table of Compliance with Requirements</i>) states that the applicant notified PINS on 26th September 2013 that an ES would be submitted with the proposed application. Have checked copy of letter saved on PINS internal system, which is dated 25th September 2013. This letter has not been provided as an Appendix
Advice Note 14	P.5	Applicants may wish to draw attention to consultation responses received under the EIA process, but any reference to this consultation should be kept separate from the statutory consultation carried out under the provisions of the Planning Act 2008	No	Chapter 4, p.33 of the Consultation Report provides an account of the consultation undertaken with statutory bodies which <i>helped influence the proposed scope of the Environmental Impact Assessment (EIA)</i> . All responses have been provided in the Grid of Responses in the Appendix but are not defined by categories. Chapter 8, p.72 of the Consultation Report provides an Overview of Responses but does not clearly define what stage of consultation the responses are from
Technical Consultation				
Legislation/Advice Note Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments

Pre-App DCLG Guidance	Paragraph 21	Applicants will often need detailed technical input from expert bodies to assist with identifying and mitigating the social, environmental, design and economic impacts of projects, and other important matters. Applicants are therefore advised to discuss and agree a timetable with consultees for the provision of such inputs	Partially, Paragraphs 4.5 & 4.8 p.33 & 34	Paragraph 4.5 states that 'Tata Steel began engagement with key stakeholders in March 2013 , including NPTCBC, NRW and Glamorgan-Gwent Archaeological Trust (GGAT). Engagement focused chiefly on the development concept and the likely scope of the required technical investigations at this point.' Paragraph 4.8 states that ' Following the issue of NPTCBC's informal comments on the draft scoping report, further consultation and dialogue was undertaken with Officers on the technical assessments identified in the draft scoping report. This took place between November 2013 and March 2014 and related to matters of highways, air quality, noise, ecology, hydrology, flood risk and landscape and visual impact.' A specific timetable is referenced but not
Responses to Statutory Consultation				
Legislation/Advice Note Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Planning Act	Section 49	Duty to take account of responses to consultation under section 49 of the Act	Yes, Appendix 1, Chapter 8 p.72	The Grid of Responses provided in Appendix 1 of the Consultation Report includes a column providing a summary of the regard of the applicant to the response. Chapter 8 of the Consultation Report (<i>Overview of Responses</i>) breaks down responses from consultation into issues and for each provides a summary of Tata Steel's responses to the comments.
Planning Act	Section 47	Duty to have regard to the responses under S47 (5) of the Act	Yes Appendix 1	As above, Grid of Responses includes summary of the regard the applicant has given to the responses. However responses to S47 consultation are not clearly defined.

Advice Note 14	P.5	If the level of response was significant it may be appropriate to group responses under headline issues	Yes, Paragraph 8.13, p.74	The applicant has listed responses under ' <i>key themes that align with those contained in the EIA (plus an additional section on site position and layout in line with the consultation questions)</i> ' (8.13 of the Consultation Report, p.74)
Advice Note 14	P.5	Care must be taken to ensure that in doing this the responses are not presented in a misleading way or out of context from the original views of the consultee.	Yes, Appendix 1, Chapter 8 p.72	The full account of each response is provided in Grid of Responses in Appendix 1 of the Appendix. Key points from these are given in the Overview of Responses in Chapter 8 of the Consultation Report. The applicant has provided summaries of comments from both stat consultees and members of publics
Advice Note 14	P.5	Where this approach (issues led) has been adopted it should be clearly identified and explained in the main body of the report, including any safeguards and cross checking that took place to ensure that the responses were grouped	Yes, Paragraph 8.13, p.74	Chapter 8, para 8.13 states that ' <i>To facilitate a comprehensive analysis, comments have been broken down into key themes that align with those contained in the EIA (plus an additional section on site position and layout in line with the consultation questions)</i> '.
Summary of Responses				
Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Advice Note 14	P.5	A list of the individual responses received should be provided and categorised in an	Yes	See below

Advice Note 14	P.5	The summary of responses...can save a significant amount of explanatory text. We advise that applicants group responses under the three strands of consultation as follows: S42 prescribed consultees (inc S43 and S44), S47 community consultees and S48 responses to statutory publicity	Yes Chapter 8, p.72	Responses have been grouped under issues, each issue containing summary of the response from stat consultees, the response from the local community and members of the public as well as Tata Steel's response to these comments
Advice Note 14	P.5	The list should also make a further distinction within those categories by sorting responses according to whether they contain comments which have led to changes to matters such as siting, route, design, form or scale of the scheme itself, or to mitigation or compensatory measures proposed, or have led to no change.	Yes, Chapter 8, P.72	The applicant has not taken this specific approach, however if response has led to change/no change this is referred to in their Response to the comments
Advice Note 14	P.5	A summary of responses by appropriate category together with a clear explanation of the reason why responses have led to no change should also be included, including where responses have been received after deadlines set by the applicant.	Yes, Chapter 8, P.72	Responses to consultation have been provided categorised by issues aligning to those provided in the EIA, and the response by the applicant to the comments.

Advice Note 14	P.5	While it is advisable for applicants to seek to resolve as many areas of disagreement and concern with consultees as possible, it is recognised that this is not always possible. It is important that where a resolution has not been reached, the reasons why are set out clearly in the summary.	N/A	N/A, no reference to this scenario
Advice Note 14	P.5	The schedule in Annex A is indicative, but sets out an approach which the Planning Inspectorate would find helpful.	Partially Appendix 1	Applicant has partially followed this approach - grid of responses contains the summary of responses & regard had to response. Change Y/N column has not been completed, Consultee column is partially completed and requires further clarity.
Phased Approach				
Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Advice Note 14	P.5	Where a phased approach to consultation was undertaken then this can be reflected in the structure of the report and in the summary of responses. For example, it may be advisable to have a separate commentary and summary schedule of responses sheet for each phase of consultation carried out.	Yes Paragraph 1.26 p.10	Phased approach to consultation not taken: <i>'Taking into account the location and nature of the proposed development as well as formal Guidance, it was felt that one stage of statutory consultation was likely to be appropriate, supported by non-statutory consultation, which included a stakeholder workshop'.</i>

Local authority responsibilities				
Legislation/Advice Note/Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Advice Note 14	P.6	Relevant local authorities will be requested by the Planning Inspectorate to provide an adequacy of consultation statement upon the submission of the application. Given the short 28 day timescale allowed for the acceptance stage it is particularly useful if applicants provide local authorities with early sight of the consultation report to inform their views.	Not at this stage	Applicant to be advised of the benefit of sharing consultation report to local authorities prior to submission to gain an indication of the local authorities views on the adequacy of consultation.
Advice Note 14	P.6	For its part the Planning Inspectorate will seek to provide advice to local authorities about preparing for the submission of the application and will encourage applicants to share drafts of the consultation report with local authorities as early as possible. The Planning Inspectorate will make the submitted consultation report available to local authorities as soon as possible after submission by way of a web link.	N/A	N/A at Pre-App. Applicant to be advised of this
Request for Responses				

Legislation/Advice Note/Guidance	Paragraph/Page Number	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments
Advice Note 14	P.6	Given the statutory timescale for the Secretary of State to issue a decision at the acceptance stage (28 days), it is important that the consultation report is clear and that the Secretary of State can quickly identify whether applicants have met all the statutory requirements.	Partially	Statutory requirements have been followed however amendments to assist with clarity are required - grid of responses is unclear (origin of responses needs to be defined), references to linking key documents provided in the Appendix to be included in relevant paragraphs of the Consultation Report
Advice Note 14	P.6	If there is any uncertainty about this, the applicant may be asked to provide a copy of all of the consultation responses that have been received at the pre-application stage. Applicants would be wise to prepare for this eventuality in any event in view of the tight timescale at the acceptance stage. The acceptance stage cannot be suspended or extended pending the submission of	N/A at present	Applicant to be made aware of this
Data Protection				
Legislation/Advice Note/Guidance	Paragraph/Page No	Requirement on applicant/best practice	Has the document fulfilled the requirement	Case Officer's Comments

Advice Note 14	P.6	Applicants should ensure that the consultation report complies with the Data Protection Act 1998 and that the addresses and other contact information of private individuals are treated appropriately within the context of this statutory process. Applicants should ensure that the consultation report has been fully redacted and is fit for public consumption before submitting it.	Yes Paragraph 8.11 p.73	Details of members of the public have been redacted: '8.11: <i>'...in accordance with the Data Protection Act, comments received from members of public are not attributed and have been summarised and categorised to provide a comprehensive response.'</i>
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Appendix C

Port Talbot Steelworks

**Table - Examining authority's first questions relating to the drafting of the DCO
(principally addressed to the applicant but comments from other interested parties are welcomed)**

<i>Abbreviations used</i>			
<i>2008 Act</i>	<i>The Planning Act 2008</i>	<i>MP</i>	<i>Model Provision (in the MP Order)</i>
<i>A</i>	<i>Article</i>	<i>MP Order</i>	<i>the former Infrastructure Planning (Model Provisions)(England and Wales) Order 2009</i>
<i>DCO</i>	<i>Proposed DCO</i>	<i>R</i>	<i>Requirement</i>
<i>EM</i>	<i>Explanatory Memorandum</i>	<i>SI</i>	<i>Statutory Instrument</i>
<i>ES</i>	<i>Environmental Statement</i>	<i>SoS</i>	<i>Secretary of State</i>

Q No.	Article (A)/ Requirement (R)		Question
1.	A2	<i>Interpretation Definition of "authorised development" "...and <u>any other development</u> authorised by this Order which is development within the meaning of section 32 of the 2008 Act"</i>	What other development does the applicant consider will be authorised by the Order?
2.	A2	<i>Interpretation Definition of "maintain"</i>	The definition is very widely worded and could include extensive works not anticipated as part of the authorised development or environmental statement. Why is this considered to be required? Previous DCOs have included "...but not so as to vary from the description of the authorised development in Schedule 1 and only to the extent assessed in the environmental statement". Would this be appropriate here?
3.	A11	<i>Discharge of Water</i>	Should the references to the Environment Agency be to Natural Resources Wales?

Q No.	Article (A)/ Requirement (R)		Question
4.	A13	<i>Compulsory Acquisition of Rights</i>	The DCO has no provision for the acquisition of land, only rights over the land. Is this sufficient? Should “new rights” be “the new rights”?
5.	A13	<i>Incorporation of the mineral code</i>	Should a provision similar to MP17 (Compulsory acquisition of land - incorporation of the mineral code) be included, given the possible presence of coal on the site?
6.	A17	<i>Private Rights</i>	The article is worded so as to extinguish <u>all</u> private rights and restrictive covenants affecting Order land owned by the undertaker. Previous DCOs have provided for this blanket extinguishment to be limited (allowing rights to remain) following the service of a notice by the undertaker. Why is it considered necessary to extinguish all rights in this case? A17(2) refers to the suspension of private rights, which is not provided for in A17(1). Could suspension rather than extinguishment be more appropriate in some cases, and should this approach be provided for?
7.	A18	<i>Statutory undertakers</i>	Should the plan referred to be the Land Plan?
8.	Schedule 1	<i>Authorised development</i>	In the description of Work No. 2, should “the cable with either” be “the cables will either”?

Appendix D

PINS comments on draft Explanatory Memorandum and Book of Reference

Explanatory Memorandum

For the EM, Pins comments will largely be as for the DCO. In addition, there are a few typographical errors.

- 4.13 Should refer to article 8 and Schedule 3
- 4.23 Should refer to Article 17, not 16

Book of Reference

- Looking at the Land Plan you have provided we have been unable to identify the land plots referred to, even though it appears there are only 3 of them.
- None of the plots have the area in square metres included, which is required as per the guidance. Generally, the plot descriptions are very minimal and would be clearer if expanded.
- In part 1, rather than “Category 1 Owners” and “Category 2 Owners”, it would be clearer to include the category with the statutory definitions. For example, “Owner, Lessee, Tenant (whatever the tenancy period), or Occupier” for Category 1, “Person interested in the land, has the power to sell and convey the land, or to release the land” for Category 2.
- In part 2, the addresses for service must be repeated. Also, there is a third category of person who might make a relevant claim – those under Section 152 (3) of the Planning Act 2008 – which is currently missing.
- The guidance recommends that the BoR should cross refer to the relevant articles in the DCO – these are not currently included.
- In part 3, the addresses for service must be repeated. It would be clearer to have a description of the affected interest.
- In part 5, following changes in the Growth & Infrastructure Act, special parliamentary procedure will no longer apply where the land being acquired is held by a local authority or a statutory undertaker, as per Annex A para 3 of the guidance. Unless open space/commons land is affected (which I don't think is the case here), it is fairly rare for part 5 to contain anything, so I would recommend this be checked.
- Formatting points

- Generally, the table would be easier to read if it were formatted with defined sub-rows, for example with a party in each row/column, rather than uneven rows as currently
- Empty rows at the end of Part 1 need removing
- Empty categories currently marked with dashes (for example, part 4) should have instead include wording – “None identified”, for example