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Daniel Bates
Vattenfall Wind Power Ltd
By email only

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Your Ref:

Our Ref: EN010084

Date: 23 July 2018

Dear Mr Bates

Planning Act 2008 (as amended) – Section 51

Application by Vattenfall Wind Power Limited for an Order Granting Development Consent for the Thanet Extension Offshore Wind Farm

Advice following issue of decision to accept the application for examination

On 23 July 2018 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content, and consider how appropriate action might be taken in response.

Consultees identified on a precautionary basis

Given the individual circumstances of this case, and taking a precautionary approach, the Inspectorate suggests that the Applicant may wish to include the bodies listed in box 6 of the checklist amongst those on whom they serve notice of the accepted application under s56(2)(a) of PA2008, unless there is a specific justification why this is not necessary.

Section 44 consultees

The list of parties consulted under S44 that was supplied with the consultation report does not completely reflect the information within the submitted version of the Book of Reference. Please see box 10 of the checklist for further information regarding this.

The Applicant should consider whether the list of parties consulted under S44 is consistent with the book of reference, and should ensure that each person within the categories in S57 of PA2008 is notified of the acceptance of the application.

It is important that all persons with an interest in land, or who might be entitled to make a 'relevant claim', are able to participate in the process. To ensure this occurs we strongly advise that a full audit is carried out before you give notice of the deadline for the submission of relevant representations under s56 of PA2008, in order that there can be certainty that all relevant persons (including those within s56(2)(d)) have been notified and are afforded the opportunity to submit a relevant representation. The Examining Authority (ExA) may ask for the position to be clarified at or before the Preliminary Meeting.

Book of Reference

A definition of "relevant claim" is used in s44 and s57 PA 2008, as follows:

- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (c. 56) (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
- (b) a claim under Part 1 of the Land Compensation Act 1973 (c. 26) (compensation for depreciation of land value by physical factors caused by use of public works);
- (c) a claim under section 152(3).

The third possible relevant claim relates to claims for compensation in cases where there is no right to claim in nuisance because of a defence of statutory authority. It was added to the PA 2008 by s135(9) of the Localism Act 2011 with effect from 1 April 2012.

Part 2 of the Book of Reference (Doc 4.3) shows two columns, which correspond to limbs (a) and (b) in the definition, but the third type of relevant claim is not shown.

Similarly, the Consultation Report (Doc 5.1) at para 5.3.21 only refers to claims under Part 1 of the Land Compensation Act 1973 (limb (a) of the definition) when discussing the identification of Category 3 consultees. There is no mention of the two other types of claim.

The ExA will need to be satisfied that all three possible types of relevant claim were considered when seeking to identify Category 3 parties. The applicant is advised to prepare to be asked to provide evidence on this point.

Environmental Statement

It is noted that Chapter 2 of the ES states that although the transitional provisions of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations) apply, the ES has been prepared in accordance with the requirements of the 2017 EIA Regulations.

The Applicant's attention is drawn to Regulation 36(4)(c)(ii)(j) which amends the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 such that the deadline for representations is not less than 30 days for EIA development. The Inspectorate advises that the deadline for submitting relevant representations on the Proposed Development should be set to comply with this requirement

Minor errors and omissions

There are minor errors and omissions across the Application documents, as reflected in box 30 of the acceptance checklist.

Please provide updated Land Plans that can be read which include:

- All relevant landmarks as described in Column 2 ('Description of Land') of the BoR e.g. Pegwell Bay Country Park, Sandwich Road, Ebbsfleet Roundabout and the A256 to be reflected on the relevant Sheets associated to the Land Plans.
- Insets to assist the reader.
- All plots on the individual sheets to be provided with the correct plot reference and colour code which is consistent with the other application documents.

Submission of updated documents

With regard to the issues identified above, it would be helpful and assist the examination process if any other information, clarification documents or amendments made to the application documents were submitted to the Inspectorate no later than 10 working days before the Preliminary Meeting (PM), to enable them to be published on the project page of our website before the PM.

Please pay close attention to the advice set out in this letter and act on it accordingly. This will contribute towards a more efficient examination and give any future ExA comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours Sincerely

pp Robert Ranger

Kate Mignano
Case Manager

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