



## Adequacy of Consultation Representation Proforma

Under *Section 55(4)(b) of the Planning Act 2008* (as amended) (PA2008) the Planning Inspectorate, on behalf of the Secretary of State, must take any adequacy of consultation representation (AoCR) received from a local authority consultee into account when deciding whether to accept an application for development consent, and this will be published should the application be accepted for examination.

An AoCR is defined in s55(5) in PA2008 as “a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48”.

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| <b>Project name</b>      | Xlinks Morocco-UK Power Project  |
| <b>Date of request</b>   | 22 November 2024   |
| <b>Deadline for AOCR</b> | 6 December 2024  |
| <b>Return to</b>         | <a href="mailto:XLinks@planninginspectorate.gov.uk">XLinks@planninginspectorate.gov.uk</a> |

Please complete the proforma outlining your AoCR on the above NSIP.

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| <b>Local Authority</b> | Torrige District Council |
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In the opinion of the local authority, has the applicant complied with the legislative requirements listed below?

*Please note that this is specifically about the statutory consultation(s) undertaken.*

| <b>Assessment of Compliance - Required</b> |     |
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| <b>S42 Duty to consult</b>                 | Yes |
| <b>S47 Duty to consult local authority</b> | Yes |
| <b>S48 Duty to publicise</b>               | Yes |

If you would like to give more detail on any of the above, please do so below.

*Please keep it as succinct as possible and refer to facts and evidence related to consultation, rather than the merits of the application.*



Additional comments - *Not compulsory*



## S42 Duty to consult

*The applicant must consult the following about the proposed application –*

*(a) such persons as may be prescribed,*

*(aa) the Marine Management Organisation, in any case where the proposed development would affect, or would be likely to affect, any of the areas specified in subsection (2),*

*(b) each local authority that is within section 43,*

*(c) the Greater London Authority if the land is in Greater London, and*

*(d) each person who is within one or more of the categories set out in section 44.*

*Subsection (1)(a) refers to ‘such persons as may be prescribed’. These persons are listed in Schedule 1 to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.*

### **Torridge DC Response**

A list of those consulted has been provided in the Consultation Report and appears to comply with those of relevance listed in Schedule 1.

In addition, the Marine Management Organisation were consulted in accordance with Section 42 (1) (aa) of the Planning Act 2008. The Councils were directly consulted via a S42 consultation which included the submission of a Preliminary Ecological Impact Assessment (PEIR) as part of the consultation documents. Torridge District Council responded to the S42 consultation on the 19th of July 2024.

There is no requirement to consult the Greater London Authority as the order limits of the XLinks DCO application do not fall within Greater London, therefore subsection (1)(c) is not engaged.

Subsection (1)(d) of section 42 requires XLinks to consult each person who is within one or more categories set out in section 44.

A list of landowners and statutory undertaker consultation has been provided in the Consultation Report. A table has been provided which details the landowners consulted, it is not possible from this information to see if every person set out in section 44 has been consulted and therefore no comments are provided by the Councils on this point.



Section 45 of the Act 'timetable for consultation under section 42' requires that the applicant notifies the consultee of the deadline for receipt of comments in relation to the consultation which must not be earlier than 28 days after the consultation documents are received.

The Councils can confirm that in relation to consultation with the Councils the requirements of section 45 of the Act have been met.



## **S47 Duty to consult local authority**

- (1) The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.*
- (2) Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.*
- (3) The deadline for the receipt by the applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.*
- (4) In subsection (3) "the consultation documents" means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection (2).*
- (5) In preparing the statement, the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3).*
- (6) Once the applicant has prepared the statement, the applicant must—*
  - (za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,*
  - (a) publish, in a newspaper circulating in the vicinity of the land, a notice stating where and when the statement can be inspected, and*
  - (b) publish the statement in such manner as may be prescribed.*
- (7) The applicant must carry out consultation in accordance with the proposals set out in the statement.*



## ***Torrige DC Response***

Torrige District Council were given access to an early draft of the Statement of Community Consultation (SoCC) for review on the 11<sup>th</sup> of November 2023. Following this exercise, the applicant made changes to the draft SoCC which included as follows:

- *Clarifying the distribution zone for consultation publicity;*
- *Clarifying the purpose of deposit points;*
- *Clarifying the number of exhibitions proposed as part of the consultation;*
- *Clarifying the proposed use of social media as part of the consultation;*  
*and,*
- *Clarifying the scope of direct engagement with consultees.*

The Applicant wrote to Torrige District Council, Devon County Council, and North Devon Council, on the 25<sup>th</sup> of March 2024 enclosing a copy of the draft SoCC and requesting comments by the 22<sup>nd</sup> of April 2024. Torrige District Council did not raise any concerns with the amended SoCC.

By preparing a SoCC and consulting the relevant local authorities with the 'consultation documents', Xlinks has complied with subsections (1), (2), (3) and (4) of section 47. The Council is also satisfied that Xlinks generally complied with subsection (5) with comments raised regarding the SoCC being given due 'regard' as required.

In accordance with subsection (6)(za), the Council agrees that Xlinks made the SoCC available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land.

The Council is satisfied these newspapers 'circulate in the vicinity of the land' as required by subsection (6)(a). Subsection (6)(b) also requires the SoCC to be published 'in any other manner as may be prescribed'. It was detailed within the SoCC and revised SoCC that the statement would also be available to view at several other locations between specified dates.

Subsection (7) requires Xlinks to undertake the consultation in accordance with the details set out in the statement. The Councils have



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|                              | <p>no reason to question that Xlinks has carried out the consultation in accordance with the SoCC.</p>  |
| <b>S48 Duty to publicise</b> | <p><i>(1) The applicant must publicise the proposed application in the prescribed manner.</i></p> <p><i>(2) Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the applicant of responses to the publicity.</i></p> <p><i>Part 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 sets out how to ‘publicise the proposed application in the prescribed manner’ in order to comply with subsection (1).</i></p> <p>The view of the Council in respect of this matter is included below.</p> <p>The Consultation Report provides copies of the section 48 notices in Appendix I-1 that were published within the following sources:</p> <ul style="list-style-type: none"><li>• <i>London Gazette</i></li><li>• <i>The Guardian</i></li><li>• <i>Fishing News</i></li><li>• <i>Lloyds List</i></li><li>• <i>North Devon Gazette</i></li></ul> <p><b><i>Torridge DC Response</i></b></p> <p>The publication of the proposed application as set out in the Consultation Report complies with subsection (1).</p> <p>The press notice published provided a deadline for the receipt of responses to the consultation and therefore complied with subsection (2) of section 48. The Applicant has provided the District Council with the notices that were published in various national newspapers and the local newspaper, the North Devon Gazette.</p> <p>Torridge District Council considers the notices provided demonstrate that the Applicant has complied with the requirements set out in Part 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, and Section 48 of the Planning Act 2008 (as amended).</p> |



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| <b>Any other comments</b> | <p><b><i>Torrige DC Response</i></b></p> <p>It is understood that it is for the Planning Inspectorate to determine whether the applicant has complied with the requirements of the Planning Act 2008. Notwithstanding this, TDC has no reason to question the consultation exercise undertaken.</p> <p>We would note that a Statement of Common Ground has not been submitted with the DCO application. This is an agreed approach between Devon County Council, Torrige District Council, and the applicant, recognising that were a SOCG provided now this would be based on responses from consultees on draft management plans which may have been subject to change. The Council will use its opportunity to submit a Relevant Representation to confirm its concerns on the application, including whether it supports or objects to the proposal.</p> <p>There has been a wider concern throughout the pre-application stage as to whether the Councils have been engaged in meaningful consultation. The Council has generally found there to be a lack of detail during the pre-application stage. In this respect, it has been difficult to understand and frontload the full impacts of the proposal, as details have often been deferred to submission, or were not being provided in a timely manner to allow a full discussion prior to submission.</p> <p>Notwithstanding this, the District Council recognises the time pressures associated with submitting a DCO and looks forward to engaging regarding the Statement of Common Ground over the coming months.</p> |
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