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Andrew Connolly

Your Ref:

By email

Our Ref: EN020003

Date: 9 July 2012

Dear Mr Connolly

**EN020003 – King's Lynn B Power Station Connection Project
Draft Consultation Report**

I write with reference to your letter dated 15 June 2012 and the draft copy of the Consultation report enclosed therein in respect of the proposed King's Lynn B Power Station Connection Project. In your email you requested our comments on the draft document.

We have now considered the document provided and set out our initial comments on the draft report below.

Draft Consultation Report

Section 37(3)(c) of the Planning Act 2008 (PA2008) (as amended by the Localism Act 2011) requires an application for development consent to be accompanied by a consultation report which, under section 37(7) of PA2008 means a report giving details of: what has been done in compliance with sections 42 (duty to consult), 47 (duty to consult local community) and 48 (duty to publicise) of PA2008; details of relevant responses; and the account taken of any relevant responses. Relevant responses are defined in section 49(3) of PA2008.

The overall structure of the draft Consultation Report appears to be clear and logical, with the relevant chapter(s) giving: 'an account of the statutory consultation with prescribed and non-prescribed consultees, publicity, deadlines set, and community consultation activities undertaken at pre-application stage under primary legislation'; 'a summary of the relevant responses to the separate strands of consultation'; and 'an account taken of responses in developing the application from proposed to final form, as required by section 49(2)'. These considerations have been bullet-pointed, as suggested by the Planning Inspectorate Advice Note 14 in the chapter dealing with Stage Three (statutory) consultation.

Similarly, the 'executive summary' would seem to provide a suitable overview of the consultation process carried out, its historical context and any consequential changes to the

project before formal consultation (**it maybe useful, however, to insert the chronological dates for the three consultation phases within the tables provided in the 'executive summary', for ease of reference**).

The report also captures the non-statutory consultation on the route corridor and route alignment options outside of the requirements of PA2008, and has been set-out as distinct from duties under statutory consultation (**feedback reports for Stage 1 and 2 to be appended, the applicant has footnoted – pg 4**). However, in respect of drafting, the applicant should ensure the accuracy of any figures in graphs and tables.

The document has had regard to DCLG guidance as stated in the overview of Stage Three (statutory) consultation (pg 60). The Consultation Report should provide justification for any departures from the relevant DCLG guidance, and ensure the applicant is satisfied that the report accurately includes what responses were received and how the applicant responded.

Under Regulation 5(5) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, the Planning Inspectorate can request copies of all responses to consultation, and the applicant should be ready to provide these at short notice, preferably in both hard and electronic copy, in the event of such a request.

In accordance with the advice set out in the Planning Inspectorate Advice Note 14 the Consultation Report:

"should include a full list of the prescribed consultees.... If the prescribed consultees have been consulted on multiple occasions..., 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 Applications: Prescribed Forms and Procedures Regulations 2009 (APFP) then this should be robustly justified.

The list of organisations set out in schedule 1 of the APFP should be followed in terms of the order in which the consultees are presented."

It is also important to note that *"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."*

In preparing the submission documents the applicant might find it helpful to work through the section 55 Checklist which is appended to Planning Inspectorate Advice Note 6, available on the national infrastructure pages of the planning portal website.

I hope you find these comments useful at this stage of the process and that they will assist in preparation of the submission documents. You should however note that our comments are entirely without prejudice to any future decisions of the Secretary of State, including the decision under section 55 of the Planning Act 2008 to accept any application. Whilst a broad assessment has been made on the draft consultation report, it is for the applicant to satisfy themselves that the document complies with the requirements of primary and secondary legislation; and it will be the duty of the appointed Examining Inspector to review compliance at 'acceptance'.

Yours sincerely



Chris White
Case Manager
The Planning Inspectorate

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.