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David Savage
Parish Council Coordination Group
By Email

Your Ref:

Our Ref: EN020007

Date: 4 April 2017

Dear Mr Savage

I am writing in response to your email of 21 February 2017 in which you raised a number of questions, to which I have responded below in turn.

1. Can residents make written submission to PINS on the adequacy of the consultation?

Once an application is submitted to the Planning Inspectorate, we invite the host and neighbouring local authorities to submit a representation about whether the applicant has complied with its duties under sections 42, 47 and 48 of the Planning Act 2008.

Under the legislation there is no provision for parties other than the relevant local authorities to make adequacy of consultation representations to us. We would therefore encourage you to send your comments to the local authorities to allow them to incorporate your view into their adequacy of consultation representation.

2. What are the criteria for PINS to evaluate the acceptance of the DCO?

The criteria can be found in Section 55 of the Planning Act 2008; in summary, they are that the required pre-application consultation has been carried out, and that the application documents are of a satisfactory standard to allow us to examine the application. It is a procedural test, and is not a judgement on the scheme itself. A link to the s55 checklist can be found [here](#) as an appendix to [Advice Note 6](#)

3. How can we be assured that the Consultation has been appropriately assessed and is there any independent validation?

The application will be accompanied by a Consultation Report. When an application is submitted, the Inspectorate will review that report and any evidence submitted to support it, and decide whether or not the consultation has been adequate and whether regard has been had to responses. As referred to above, we seek the views

of the host and neighbouring local authorities before we make that decision, and we will not accept the application for examination unless we are satisfied that the pre-application consultation has been carried out as required.

- 4. Is the outcome to accept the DCO a straight forward Yes or No? Or can acceptance with conditions by PINS be based on addressing any gaps or issues?*

The decision to accept an application for examination is not a judgement on the scheme itself. A decision that an application is of a satisfactory standard to be examined does not mean that the DCO has been accepted.

- 5. The issue of cumulative development impact on this area undertaken as part of the Energy Coast strategy – will PINS take note of such wider issues, which may sit outside of the DCO?*

The examination will consider any matter that the Examining Authority (the Inspector or Inspectors appointed to examine the application) considers may be relevant or important to the decision on the application. I can assure you that if the application is accepted for examination, the appointed Examining Authority will carefully scrutinise the proposals and test it against the relevant National Policy Statement on electricity transmission infrastructure. In broad terms, the role of the Examining Authority will be to weigh the impact of the proposals against the Government's policy on new transmission lines. The recommendation made by the Examining Authority to the Secretary of State about the project will be evidence based, taking account of all matters they decide are relevant and important. The Secretary of State (an elected Minister) will make the final decision about whether or not to grant development consent. The examination is held in public and all documents and any oral evidence provided and submitted to the Examining Authority is published during the course of the examination.

- 6. With ongoing issues associated with the future partners within the Moorside development (specifically Toshiba) – does PINS consider the financial stability of the overall project?*

A project will need to show that it is financially viable. If an application seeks powers of compulsory acquisition of land or rights, then it must be accompanied by a Funding Statement explaining how such acquisition will be paid for. In addition, the examination will consider anything considered to be important or relevant.

- 7. Will alternative options which sit outside of the Preliminary Environmental Information Report (PEIR), be allowed appropriate inspection by PINS?*

The PEIR describes the scheme as it exists in draft; before an application has been finalised in form. The application will be accompanied by an Environmental Statement, which will describe the likely significant environmental effects of the proposal.

Anything considered by the Examining Authority to be relevant and important to the

decision will be subject to examination.

8. *How does PINS engage with Ofgem, and specifically the current consultation and the issues surrounding any financial concerns which fall within the scope of the Regulator?*

Ofgem will be notified if an application is accepted for examination and will be invited to submit any comments they wish to make to the examination. The Examining Authority can ask questions directly of anyone if they feel it necessary to do so.

9. *Is it expected that Ofgem will be called or be asked to present: i) its assessment of the proposed routes ii) And the outcomes of its consultation?*

Since no application has yet been made, and no Examining Authority has been appointed, It is not for me to comment on what they may ask or of whom.

10. *Will PINS provide full and open access to the submission of the NG papers and documents supporting the DCO and provide sufficient time well advance of the hearings to enable a fair opportunity to scrutinise the information?*

All submissions made to the examination will be published on our website as soon as practicable. If an application is accepted for examination, those who register to participate will be invited to a Preliminary Meeting, where there will be an opportunity to make submissions on the proposed timetable for the examination.

11. *Will PINS enable challengers to the DCO access to all the underpinning data, in subsequently discounted by NG?*

All information submitted will be published on our website. Unless a direction is made by the Secretary of State relating to matters of national security, the Examining Authority will not consider anything that is not published.

12. *Are there prescribed rules in making written submissions?*

When an application is accepted for examination, those interested in participating in the examination will be able to make a Relevant Representation meaning you become an Interested Party.

Interested parties are given important entitlements before, during and after the examination process. These include the right to be invited to a preliminary meeting; the right to require, and be heard at, an open-floor hearing; the right to be heard at an issue- specific hearing, if one is held; the right to be notified of when the Examining Authority has completed its examination; and the right to be notified of the reasons for the decision. More information about registering to become an interested party can be found in our [Advice Note 8.2 How to register to participate in an Examination](#)

The Examination Timetable will set out what needs to be submitted and when it

should be received by the Planning Inspectorate. It is important that all representations are received by the specified date, to allow the Examining Authority to progress with the Examination and to give all participants an equal opportunity to read and comment on other Interested Parties' representations, if appropriate.

The Examining Authority may disregard a representation if it considers that it is vexatious or frivolous, or if it concerns the merits of national policy, contained in National Policy Statements. The role of the Examination is not to debate the merits of National Policy Statements that have already been consulted on, laid in Parliament and designated as Government policy.

*13. What are the rules of attendance at the Hearing Days and Open Floor sessions?
Are there any limits on numbers?*

Anyone who has registered to participate in the examination may speak at an open floor or issue specific hearing. Anyone potentially affected by compulsory acquisition of land or rights may speak at a compulsory acquisition hearing. Any other party may speak at the discretion of the Examining Authority, which in practice is normally given. The Examining Authority has control over all events, and may need to set a time limit or similar to make sure that everyone is heard. As this is a public process, anyone may attend any event.

14. How do the Inspectors decide who can speak?

If you wish to attend and speak at hearings, you will be asked to notify the Planning Inspectorate in advance, by the deadline specified in the Examining Authority's letter.

Each person who wishes to speak will be invited by the Examining Authority to make their oral representation. To ensure that everyone has a chance to speak, the Examining Authority might as mentioned above, set a time limit for each person and may ask questions based on what has been said. This can be done either through an issue specific hearing or an open floor hearing.

15. What is the likely location for the Examination Hearing?

That is a matter for the Examining Authority, but parties who have registered to participate in the examination will be invited to a preliminary meeting, where they can make submissions on appropriate venues or timings for hearings.

16. Are challengers to the DCO able to call experts to the hearings? If so are there any limitations to be noted?

It is for the Examining Authority to decide whether to allow persons other than those categorised as interested parties to participate in the examination of the application, including expert witnesses. The Examining Authority is able to call expert witnesses to give evidence on specific points at hearings. They may also consider requests from the applicant and other interested parties to call expert witnesses in support of

representations they make about the application.

It should be noted that cross-examination is not normally appropriate at hearings. However, the process is principally written and so there is always sufficient opportunity to submit any expert written evidence that may be necessary. In certain circumstances the Examining Authority may allow an interested party, or his/her representative, to question a person making oral representations at a hearing (i.e. allow cross-examination).

The Examining Authority will carefully consider all requests from parties for cross examination. It will ensure that parties are not denied the opportunity to ask questions where the answers are required in order to complete their cases. Where the Examining Authority permits one party to cross-examine another, there is no presumption that reciprocal rights will apply. It will be for the Examining Authority to determine where this procedure is necessary.

17. What is the process for responding to papers and including timescales for response?

This is a matter for the Examining Authority. Parties who register to participate in the examination will be invited to the preliminary meeting, where the draft timetable for the examination will be discussed. Any requests for amending this timetable should be put to the Examining Authority at the preliminary meeting.

18. Are there any procedures to ask for additional time?

During the examination, submissions that the timetable should be amended can be made to the Examining Authority at any time. Whether or not they agree to do so is a matter for the Examining Authority. However, it should be noted that the Examining Authority themselves are under a legal duty to complete their examination within 6 months, and they cannot extend this period.

I hope this information is of use and it responds to your queries.

Yours sincerely

Kay Sully

Kay Sully
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 National Infrastructure Planning 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.