



Meeting Note

File reference	Offshore Consenting Forum
Status	Final
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Meeting with	Offshore Consenting Forum
Meeting date	12 April 2012
Attendees (Planning Inspectorate)	Sheila Twidle (Environmental Services Manager) Tim Hallam (National Infrastructure Legal Manager) Jessica Potter (Principal Case Manager) Helen Lancaster (Senior EIA and Land Rights Adviser) Hannah Pratt (EIA and Land Rights Adviser)
Attendees (non Planning Inspectorate)	Countryside Council for Wales (CCW) Kate Smith and Sarah Wood (by telephone) English Heritage Chris Pater Joint Nature Conservation Committee Lucy Greenhill Natural England James Bussell Marine Management Organisation (MMO) Ross Hodson (by telephone)
Location	Temple Quay House, Bristol

Meeting purpose	To discuss environmental and other issues related to proposed marine projects under the Planning Act 2008 (2008 Act) regime with key statutory consultees / consenting bodies.
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Summary of key points discussed and advice given	<p>1. MMO Marine Plan</p> <p>The MMO said that they had commenced work on the East Inshore and East Offshore plan areas (East marine plans) in April 2011. The MMO explained that their document entitled 'Draft vision and objectives for East marine plans' is currently being informally consulted upon (deadline 20 April 2012). The final draft plan will be consulted upon formally at the end of 2012/early 2013.</p> <p>In relation to the marine plan, the MMO has been undertaking a major data gathering exercise to collect baseline data. With regards to this, MMO has been in discussions with JNCC, Marine Scotland, and other statutory bodies, to establish baselines at a strategic level.</p>
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2. Habitats Regulations Assessment and the Planning Act 2008: Statutory Nature Conservation Bodies (SNCBs) concerns

The group discussed the content of a draft document produced by JNCC in conjunction with CCW and NE, which highlights their concerns over certain aspects of the pre-application and post-submission stages for offshore wind projects. The document was submitted to PINS on 10 April 2012. The following was discussed:

Pre-application consultation

Non-PINS attendees raised concerns that under Section 42 consultation, responses are sent directly to developers and not to PINS. PINS confirmed that consultees can copy responses to PINS, and can write directly to PINS with their concerns throughout the pre-application phase. The statutory nature conservation bodies (SNCBs) raised the concern that this would jeopardise their relationships with developers and would like to see more active involvement from PINS at this stage. PINS explained that, at the pre-application stage these are essentially matters for developers and consultees, PINS is able to attend meetings between developers and consultees to facilitate discussion, if required.

Acceptance stage

Non-PINS attendees raised concerns that they may have outstanding issues that are not resolved with developers during the pre-application stage, and that consultees are not given the opportunity to raise these issues during acceptance or provide their opinions as to whether or not an application should be accepted for examination. PINS explained the acceptance procedure considered whether an application is fit for examination in accordance with s.55 of the 2008 Act; it does not mean that all issues regarding an application have been assessed and found acceptable. Section 51 advice has been issued with previous acceptance decisions highlighting potential areas of risk that developers may wish to have regard to. PINS noted that there is a power during acceptance to request copies of all consultation responses (including emails and letters) under Regulation 5(5) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) and that this was regularly employed.

Examination

PINS explained that there is further opportunity to comment on an accepted application prior to and during examination by way of relevant representations, written representations and in the production of Statements of Common Ground (SOCGs). To help the Examining Authority in forming their initial principal issues, it would be useful for relevant representation to outline what the person making the representation regards as being the key issues in relation to the application, and the

principal submissions they propose making about it.

SOCGs are likely to be requested by the Examining Authority and will be timetabled in the Rule 8 letter. They should set out issues upon which the relevant body and the developer agree. It would also be helpful if they could set out any matters upon which the parties disagree. CLG guidance (Planning Act 2008: guidance for the examination of applications for development consent for nationally significant infrastructure projects) provides guidance on the production of SOCGs. In addition, whilst not directly related to the 2008 Act regime, the Planning Inspectorate Good Practice Advice Note 8 also provides guidance on SOCGs.

PINS explained that under the 2008 Act, as amended by the Localism Act 2011, statutory parties will no longer automatically be interested parties, and interested parties are now able to notify the Examining authority in writing at any point during the examination that they no longer wish to be an interested party.

Habitats Regulation Assessment

The relevant Secretary of State (S of S) will be the competent authority for the purposes of any habitats regulation assessment. The Examining authority will undertake a 'shadow assessment', which will be submitted to the S of S as part of the recommendation.

3. Additional information submitted once an application has been accepted for examination

PINS explained that if any additional information is provided by developers after application acceptance then should be done via the examination process. The first opportunity a developer has to formally submit additional information in relation to an application is at the preliminary meeting.

4. Renewable UK Workshop – Cumulative Impact Assessment

Renewable UK is applying to NERC for funding to produce best practice guidelines regarding cumulative impact assessment. The project will commence with a workshop attended by stakeholders including developers and statutory nature conservation bodies. The intention is that such guidelines would be agreed by Renewable UK, statutory nature conservation bodies, and other stakeholders such as the Crown Estate.

5. AOB

EH are holding a Marine Spatial Planning workshop on 22 May 2012 to discuss, amongst other matters, the implications of the Valetta Convention, EIA/SEA, and how the emerging marine plans will take account of the historic environment.

NE is planning to charge for some of its advice to developers

	<p>in the future. The approach to charging, and the level of the fees, will be set out by a specific project that will work within NE and with stakeholders over the next few months.</p> <p>On 1 April 2012, Defra established a Major Infrastructure and Environment Unit (MIEU) to assist developers in complying with the Habitats Directive. MIEU will act as a facilitator between SNCBs and developers. The Forum will consider how best to work with MIEU.</p> <p>Consideration will be given to holding a meeting combining the Offshore Consenting Forum and the Terrestrial Consenting forum.</p>
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Specific decisions/ follow up required?	<ol style="list-style-type: none"> 1. JNCC to revise the draft document highlighting their concerns over certain pre-application and post-submission stages for offshore wind projects following the meeting and agreed to review the paper in the light of the clarifications at the meeting and submit for further discussion. 2. EH to liaise with PINS regarding PINS attendance at the Marine Spatial Planning workshop. 3. PINS offered to provide talks to staff of the organisations represented at the forum to provide greater clarity on the 2008 Act process. All to provide details of areas where they seek clarification of the process and their availability to PINS.
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Circulation List	<p>All attendees</p> <hr/> <p>Plus</p> <ul style="list-style-type: none"> • Andrew Hill (CCW) • Tammy Smalley (NE) • Shaun Nicholson (MMO) • Sally Holloway (Environment Agency) • Polly Groom (Cadw) • Deanna Groom (Royal Commission on Ancient and Historical Monuments of Wales)
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