

IPC Meeting Note

Status	Final
Author	Helen Adlard

Meeting with	Department of Energy and Climate Change
Meeting date	17 November 2011
Attendees (IPC)	Helen Adlard, Tim Hallam, Nicola Mathiason, Lynne Franklin, Luke Barfoot, Robert Hanson, Paul Hudson, Emrys Parry
Attendees (DECC)	Adam Brown, Gareth Leigh, Tony Keegan and Oliver Ennis
Location	IPC Office, Bristol

Meeting purpose	Future working arrangements concerning draft development consent orders (DCO)
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Summary of outcomes	<p><u>Background</u></p> <p>DECC outlined the process they follow when processing s36 consent applications as background to understanding how they might work with the IPC and PINS in the future on DCOs.</p> <p>Except in the case of offshore developments, the s36 consent itself is usually relatively short, most often conditions attaching to s36 consents have fallen into two categories: aviation related matters or carbon capture readiness matters. Most detail is contained in conditions attached to the deemed planning permission. DECC consents team draft the conditions and statutory consultees and LPAs are consulted on these without prejudice to the final decision. There are often two to three iterations and DECC lawyers are also involved.</p> <p>In off-shore applications where a marine licence (or equivalent) is granted, the conditions attaching to this licence will be drafted by the MMO.</p> <p>If a public inquiry is held into an application, the Inspector, whether or not s/he is recommending consent be granted, would put forward recommended conditions for any consent the SoS was minded to grant. The consents team</p>
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may advise the SoS on the conditions. Advice often relates to precision in drafting, whether the condition is within the available powers and specifically regarding monitoring arrangements.

The consents team operates to ensure propriety is maintained in the Department's dealings with developers and other interested parties, so as to avoid any actual or apparent bias in the decision-making process. In particular, steps are taken to avoid discussions between developers and others with Ministers about the merits of individual applications, which could prejudice Ministers' proper consideration of the summary of arguments that have been made by all parties for and against granting consent prepared by the consents team. .

PA 2008 issues discussion

Extension to a generating station: an extension may involve 'development' without any increase in capacity, for example at Sizewell a dry fuel store was consented as an extension but the capacity of the station did not increase. With regard to capacity increases, it is not uncommon to find consents for gas fired power stations, for example, to allow a 5% upwards tolerance on generating capacity.

Offshore Rochdale envelope: DECC assesses the worst case across all permutations of likely significant impacts within the EIA. They take into account the cumulative impacts of any previously consented developments or applications in the planning system or at the pre-application stage at the IPC. An Appropriate Assessment (AA) under Habitats Regulations will ensure detailed appraisal of any impacts of an application both alone and in combination. DECC considers 6 months is usually insufficient to complete the required iterations for EIA or AA and acknowledge it is important therefore to have progressed these matters to a significant degree with statutory consultees prior to an applicant submitting a PA2008 application for examination.

Future process on DCOs

Propriety issues: Agreed it was important to ensure propriety in the handling of questions IPC/PINS might wish to raise with DECC about proposed applications (or more generally about novel approaches to DCO drafting), whilst recognising the division of responsibilities once the Localism Act 2011 comes into force, when DECC Ministers would be the decision-makers on future energy sectors PA2008 applications. These are matters on which lawyers would be likely to advise and it was suggested that

	<p>either lawyers liaise during the pre-application stage, or through case leaders at that stage depending on the issue to be addressed.</p> <p>Regarding future advice to be issued in relation to PA 2008 process, DECC would wish to be involved only if advice was to be issued that directly affected DECC Ministers' functions.</p>
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Follow up action required?	Further liaison to take place between HA and AB on propriety issues.
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