



Minutes

Title of meeting	Combined Consenting Forum	Time	14:00
Date	10 April 2013		
Venue	Temple Quay House, Bristol		
Chair	Sheila Twidle	Secretary	Hannah Pratt
Attendees	<i>Planning Inspectorate:</i> Sheila Twidle, Tim Hallam, Jessica Potter, Simone Wilding, Hannah Pratt <i>Joint Nature Conservation Committee:</i> Victoria Appleyard, Lisa Chilton (telecon) <i>Natural England:</i> Eric Steer, James Bussell <i>Marine Management Organisation:</i> Ross Hodson, Jayne Griffiths <i>Environment Agency:</i> Carol Bolt <i>English Heritage:</i> Shane Gould <i>Forestry Commission:</i> Alec Rhodes (telecon) <i>Natural Resources Wales:</i> Andy Hill, Sarah Wood, Kayna Tregay, Eleanor Smart, John Browne <i>Welsh Government:</i> Tamsin Brown <i>Major Infrastructure and Environment Unit:</i> Gary James	Copies to	All attendees
Apologies	<i>Marine Management Organisation:</i> Shaun Nicholson		

1. Update on Natural Resources Wales (NRW)

NRW provided an update on the new organisation, Cyfoeth Naturiol Cymru / Natural Resources Wales which became operational on 1 April 2013. This body has taken over the functions of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. The roles of NRW include:

- (i) regulatory
- (ii) advisory and prescribed consultees
- (iii) licensing and consenting

NRW has taken over some roles of the Welsh Government including marine licensing.

NRW has set up a central customer service centre to which queries in relation to all planning and development consent applications should be sent to (planning@naturalresourceswales.gov.uk and/or cynllunio@cyfoethnaturiolcymru.gov.uk); they will then be distributed internally as appropriate.

The Planning Inspectorate (PINS) queried whether any relevant consents under section 135 of the Planning Act 2008 in relation to Crown Land in Wales would be determined by the Welsh Government or by NRW on its behalf and how arrangements to obtain such consents would be dealt with in practice. It was agreed that this would be clarified through correspondence between PINS and NRW/Welsh Government.

2. Update on PINS

PINS explained that the functions previously included within the former PINS National Infrastructure Directorate were transferred, together with other parts of the Inspectorate, to two new successor directorates on 1 April 2013, these are:

- 'Technical Services' comprising teams which provide technical support to the whole of PINS, including Environmental Services; Legal; Quality, Knowledge and Information. The interim director is Richard Swede until approximately mid 2013. Helen Adlard will then become the permanent director, and
- 'Major Applications and Plans' (MAP) will handle national infrastructure applications, development plans, and in due course planning applications made to PINS under the 'special measures' proposals included in the Growth and Infrastructure Bill. The director of MAP is Mark Southgate.
- It was also explained that the lawyers providing advisory legal services to PINS had from 1 April 2013 been transferred to The Treasury Solicitor's Department.

None of these changes are expected to impact on the way PINS works with external stakeholders.

3. Update on Joint Nature Conservation Committee (JNCC)

JNCC explained that the team previously led by Mark Tasker has been split into two new teams:

- 'Head of Offshore Industry Advice' – led by Lisa Chilton and with four senior advisors (two non specialists, one ornithologist and one marine mammal specialist), and
- 'Fisheries, Species and Marine Protected Areas Advice' – led by Mark Tasker.

4. Consents Service Unit (CSU)

PINS provided an update on the CSU which will be based within MAP and which will become operational on 22 April 2013. The CSU will help developers (in England only) by facilitating early engagement between them and relevant regulatory bodies in relation to consents which are being sought outside the development consent for nationally significant infrastructure projects (NSIPs). The onus will be on developers to use the CSU if they so wish as this is not a compulsory process.

A Prospectus providing further detail on the role of the CSU and the consents to which it will apply will be published by PINS/DCLG in April 2013. *Post meeting note: European Protected Species Licences (EPS) will form part of the CSU remit.*

The CSU will be temporarily led by Adrian Harding, a secondee from the Environment Agency (EA) until the position is filled permanently, and will also comprise two secondees (one from Natural England, one from the EA).

5. Update on legislation and PINS advice notes

PINS explained that secondary legislation under the Planning Act 2008 came into force in April 2013, including those relevant to:

- consultation bodies
- changing section 150 consents
- infrastructure fees

New DCLG guidance regarding examination and associated development is anticipated shortly.

PINS will be updating existing advice notes to take account of recent legislative and other changes and for clarification, including:

- Advice Note 3 - EIA consultation and notification: to incorporate the changes to the list of EIA consultees following the amendments to the IP (Applications and Prescribed Forms and Procedures) Regulations from 6 April 2013
- Advice Note 11 - Working with public bodies in the infrastructure planning process: updating some annexes to reflect changes to specific bodies e.g. NRW, and
- Advice Note 12 - Transboundary Screening: minor revisions to reflect changes to the contact details of the European Economic Area States.

PINS requested that any suggested changes to annexes to Advice Note 11 should be directed to Tim Hallam.

JNCC stated that they would discuss internally the need for them to produce an annex to Advice Note 11.

6. PINS role in post development consent permission

Natural England (NE) queried whether a developer or a body responsible for discharging or approving matters under requirements could discuss and clarify the content of requirements with PINS post consent. PINS explained that the Planning Act 2008 was silent on which bodies are responsible for discharging or approving matters under requirements, and that PINS does not have a specific role in this regard. PINS stressed that bodies which are responsible for discharging or approving matters under requirements should ensure they discuss draft requirements with developers during the pre-application stage and make representations during examinations if they are still not happy with the wording of these. PINS noted that in discharging or granting approval under a requirement, a body must ensure that they do so within the parameters of what has been assessed and what consent has been granted for. There was also a brief discussion around the prescribed process for making post-consent changes to made Development Consent Orders.

7. Late pre-application consultation

NE raised their concerns over the short time period that some developers have been leaving between undertaking section 42 consultation and submitting their application to PINS. NE stressed that it is often not until reviewing the assessment of impacts that they understand the issues surrounding a project, and NE often has limited time to make their views known to developers on issues prior to submission.

PINS acknowledged this concern and explained that they often request copies of consultation correspondence during the acceptance stage to help determine whether and, if so, how a developer has had regard to statutory consultation.

As part of any pre-application discussions with developers, PINS and the Major Infrastructure and Environment Unit (MIEU) both stated they will continue to encourage sufficiently early engagement with relevant statutory bodies and will highlight to developers where they think a proposed timetable to seek to reach agreement is unrealistic.

8. AOB

NE explained that they are now operating a charging system for advice. They provide initial and statutory advice for free, but further advice (e.g. agreeing survey design and discussing result) is chargeable. MMO also confirmed their charging regime which is being introduced.

The group agreed that joint representations on applications from bodies (e.g. JNCC & NE, and NRW & NE) are usually seen as beneficial as they reduce the potential for contradiction. However PINS highlighted the need for caution where there may be aspects of a proposed project on which the bodies may wish to make separate representations and in any case to ensure, where joint representations are made, that such representations clearly state the opinions of each body particularly where views differ. The statutory bodies may also wish to ensure they have interested party status during examinations either by making a relevant representation after an application has been accepted or by conforming this in writing to the Examining Authority after an examination has started.

Actions

- PINS and NRW/Welsh Government to clarify through correspondence whether consents for Crown Land in Wales would be determined by NRW and how arrangements to obtain such consents would be dealt with in practice.
- JNCC to consider whether there is a need for a specific JNCC annex to AN11.
- PINS to look into providing attendees with a summary table of anticipated NSIP submission dates to assist with workload management.