

16 March 2010

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Ms Anna Pickering  
710  
City Tower  
Piccadilly Plaza  
Manchester  
M1 4BE

Our ref. TR01002

Dear Ms Pickering,

**PLANNING ACT 2008: SECTION 42, 46 AND 47  
A556 KNUTSFORD TO BOWDON**

I am writing to confirm the points we discussed in our telephone conversation on 10 March 2010 and to thank you for your email dated 11 March 2010 in which you anticipate submitting the scoping request to the Commission after Easter this year.

In accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, before adopting a scoping opinion the Commission must consult the bodies prescribed in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) and must exercise judgment when identifying consultation bodies based on the information received from an applicant with the scoping request.

When meeting their statutory pre-application obligations, applicants must carry out their own investigations and take legal advice as appropriate in order to comply with the requirements of section 42 (a), (b), (c) and (d) (duty to consult) of the Planning Act 2008 (the Act). The consultation bodies (prescribed by Schedule 1) identified by the Commission as part of the EIA scoping consultation exercise are the same bodies as those prescribed under section 42(a) and the Commission will shortly be publishing advice to clarify the Commission's understanding in relation to Schedule 1 of the APFP Regulations which I hope you will find helpful. In the meantime we are currently compiling a draft list of consultation bodies in anticipation of receiving your scoping request. This draft should be available within the next two weeks. As discussed I will email you a copy of the list and inform you if the timescale is likely to change.

An applicant must notify the Commission under section 46 (duty to notify Commission of proposed application) of the Act on or before commencing formal section 42 consultation. Please also be aware that when notifying the Commission of the proposed application, section 46 of the Act requires the applicant to supply the Commission with the information which it intends to use when consulting under section 42 of the Act. As discussed in our telephone conversation, the letter from Mohammed Swapan to the Commission dated 15 December 2009 was accompanied by two leaflets used for previous consultation regarding this scheme. If the documents submitted with the letter of 15 December 2009 are not the documents which are being used for the section 42 consultation you would need to resubmit the section 46 notification with the section 42 consultation material attached. Mohammed Swapan's letter also confirms the Agency's intention to provide an environmental statement – this determines that the development is EIA development

(Regulation 4 (2) (a) of the EIA Regulations). As you know, when receiving notification under Regulation 6 (1) (b) of the EIA Regulations (of an applicant's proposal to provide an environmental statement) the Commission must notify the prescribed consultation bodies. This is to facilitate the preparation of the environmental statement by making consultees aware of their duty to make available information to the applicant which may be relevant to the preparation of the environmental statement. Would you also please confirm in writing therefore whether the Agency is notifying the Commission under Regulation 6 (1) (b).

I am aware that you intend to consult under section 42 and 47 (duty to consult local community) of the Act simultaneously. I refer you to the "Options for pre-application programme" section within IPC Guidance Note 1 on pre-application stages, for advice on timings of the consultation under section 42 and 47 of the Act; this document can be found in the "Advice and Guidance" section on our website. The website can be accessed on the following link: [www.independent.gov.uk/infrastructure](http://www.independent.gov.uk/infrastructure).

If you have any queries about this matter, please contact me on 0303 444 5065.

Yours sincerely

**Kathryn Powell**  
**Case Officer**

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Email: [kathryn.powell@infrastructure.gsi.gov.uk](mailto:kathryn.powell@infrastructure.gsi.gov.uk)

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