

5 August 2011

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London
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RE Able UK - Able Marine Energy Park

Our reference: TR030001

Your reference: RKE/BDS/328740/1 & UKM/37042741.3

Dear Sirs

Thank you for your letter of 26 July 2011. As you will appreciate, we are not able to comment on much of the detail in your letter which relates to the merits and impacts of the proposed development. However, I can provide the following section 51 advice which, in accordance with our openness policy, will be published on our register of advice.

In determining whether or not to accept any application from Able UK it will be necessary for the appointed Commissioner to have regard to the applicant's consultation report. Within that document they will be expected to explain how they have complied with Chapter 2 of Part 5 of the Planning Act 2008 (the Act), specifically by identifying those parties who were consulted in accordance with section 42(a), (b) and (d) and how account has been taken of responses to consultation and publicity (section 49).

Furthermore, any application will need to be accompanied by an environmental statement which includes the information prescribed by Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, specifically including cumulative effects of the development taken with other developments in the vicinity. If the application were to be accepted it would be for the Examining Authority to determine whether or not further environmental information should be sought.

Finally, as you will be aware, it is for applicants to satisfy themselves that development consent is required for a proposal and that they should, if necessary, seek their own legal advice to inform this view. When deciding whether or not to accept an application the Commission must be satisfied, amongst other things, that development consent is required for any of the development to which the application relates (section 55(3)(c) refers). The application form requires a brief statement explaining why an application falls within the remit of the IPC by making reference to the appropriate section of the Act and applicants may wish to include a brief explanation of how any applicable thresholds in the Act are relevant. In the case of section 24, as you know, this would include why the facilities are expected to be capable of handling the embarkation or disembarkation of at least the

relevant quantity of materials. It is then for the Commissioner appointed, acting reasonably, to decide whether to accept the application on the basis of the information submitted by the applicant.

I hope that the above goes some way to providing you with clarity about the process ahead of the submission of an application which we understand is now anticipated to be due on 31st August 2011.

Yours faithfully

Mike Harris
Case Lead

The IPC gives advice about applying for an order granting development consent or making representations about an application (or a proposed application). The IPC takes care to ensure that the advice we provide is accurate. This communication does not however constitute legal advice upon which you can rely and you should note that IPC lawyers are not covered by the compulsory professional indemnity insurance scheme. You should obtain your own legal advice and professional advice as required.

We are required by law to publish on our website a record of the advice we provide and to record on our website the name of the person or organisation who asked for the advice. We will however protect the privacy of any other personal information which you choose to share with us and we will not hold the information any longer than is necessary.

You should note that we have a Policy Commitment to Openness and Transparency and you should not provide us with confidential or commercial information which you do not wish to be put in the public domain.