

By email.

IPC Reference Number: EN010036

5 March 2012

Dear Sir/Madam,

APPLICATION FOR THE PROPOSED KENTISH FLATS WIND FARM EXTENSION, KENT

Notice of decisions about examination procedure confirmed following the Preliminary Meeting - Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010 (the Examination Rules)

This letter is to inform you about the procedural decisions that I have made following the Preliminary Meeting¹ held at Whitstable Castle, Tower Hill, Whitstable on 22 February 2012. It also provides information regarding the examination timetable and the written questions that I am asking the parties to this examination. Finally it includes a schedule of corrections and amendments to the submitted draft Development Consent Order for consideration by the applicant and other parties as appropriate. This letter is being sent to all Interested Parties and others invited to the Preliminary Meeting (whether or not they attended the Preliminary Meeting).

1. Procedure decisions and timetable

I am very grateful for all the contributions made at the Preliminary Meeting, and have considered them carefully. A copy of the formal procedural decision made and the timetable that I have determined as the Examining Authority is enclosed with this letter at Annex A².

In response to points raised at the Preliminary Meeting I have made a number of other decisions regarding the procedure to be adopted, as follows:

- I have delayed the issue date for this letter to give additional time for detailed consideration of the points made, including comments in relation to the Appropriate Assessment.
- Additional time has been given for the completion of
 - Responses to the Examining Authority's written questions³;
 - Written Representations (including summaries of any Written Representations of more than 1500 words)⁴,
 - Local Impact Report (LIR) from relevant local authorities⁵; and
 - Statements of Common Ground⁶.

¹ PA 2008 s89 and Rule 9

² Rule 8(2) and Rule 9

³ Rule 8 (1)(b)

⁴ Rule 8(1)(a) and Rule 10(1) and (2)

⁵ Rule 8(1)(j)

⁶ Rule 8(1)(e)

- Specific deadlines have been set for the submission of ornithological monitoring data and of additional analysis information in relation to the effects of the London Array development (in isolation and in combination) to be provided by London Array Limited, having regard to the timing of that work.
- Other deadlines have been adjusted accordingly.
- Arrangements for the submission of drafts of the Development Consent Order and comments upon them have been refined in the light of comments received.
- The order and scheduling of hearings has been amended to take into account detailed submissions received at the Preliminary Meeting.
- The scheduling and process for comment on the draft shadow Appropriate Assessment has been specified within the timetable.

A recording of the proceedings at the Preliminary Meeting has been published on the Infrastructure Planning Commission website. A note of the meeting will also be made available for inspection on the web-site and at the venues listed in Annex B by 7th March 2012⁷.

2. Written questions

I have decided that it will be necessary to ask a number of written questions and to receive further information regarding matters that I consider relevant to the application. These written questions are set out in Annex C. **Responses must be received by 5th April 2012.**

3. Schedule of DCO Corrections and Amendments

As part of my report to the Secretary of State, I must supply a draft Development Consent Order in the event that he decides to grant consent. This is regardless of my eventual recommendation regarding this application after closure of the examination. Therefore, in addition to the written questions set out at Annex C, a schedule of detailed suggested corrections and amendments is included at Annex D.

Any comments regarding the content of the Annex D schedule should be received by the deadline set out in the timetable. At the Preliminary Meeting, the Applicant's representative expressed a wish to author any further drafts of the DCO. Accordingly, within the same timescale, the Applicant is invited to submit a revised draft DCO taking into account these corrections and amendments as appropriate, together with any appropriate amendments arising from my written questions.

4. Written representations

I invite all Interested Parties to submit written representations and evidence regarding any matters concerning the application, and representations already submitted, in accordance with the enclosed timetable. Written representations may include, but need not be limited to, responses to my written questions. Any written representations additional to responses to my written questions must also be received by the IPC by 5th April 2012.

For the avoidance of doubt, representations can deal with any relevant matter, not just the matters set out in my initial assessment of Principal Issues, nor only the matters raised by Interested Parties at the Preliminary Meeting.

⁷ In accordance with Rule 7(2) the note of the proceedings must also be made available to anyone who is not an Interested Party but who attended the Preliminary Meeting. The note of meeting will be available on our website and at the venues listed in Annex B from 7th March 2012.

Please send your representations to Kentishflatsext@infrastructure.gsi.gov.uk or to the address at the top of this letter quoting reference **EN010036**, and your unique reference. Please note that if you are submitting a written representation you must identify those parts of the application with which you agree and those parts with which you do not agree, giving reasons⁸.

5. Principal issues

The purpose of my assessment of Principal Issues was to assist in developing the lines of enquiry, which will evolve during the examination. The Issues may also guide Interested Parties in structuring their representations. All representations received will be considered in the examination. There is no requirement that I must carry out any further re-assessment of the Principal Issues during the examination of this application.

6. Methods of examination

The examination will primarily take the form of consideration of written representations about the application, including all written evidence to be received as set out in the attached timetable. Notwithstanding this point, hearings about the specific issues related to the draft Development Consent Order including Requirements, any s106 Undertakings, Local Impact Reports and other issues as set out in the timetable will be held because I have decided it is necessary to include the consideration of oral representations to ensure adequate examination of these issues.

A number of Interested Parties have indicated in their Relevant Representations form a wish to attend an Open-floor Hearing. A separate letter confirming details of the hearing venues will be issued in due course. All Interested Parties are invited to provide formal confirmation of the hearings at which they wish to speak. All hearings will be held in public. Anyone will be able to attend to observe proceedings if they wish to do so, but only registered Interested Parties and anyone else with specific approval from the Examining Authority will be permitted to speak.

7. Availability and inspection of representations and documents

Following receipt of any written representations, responses to Relevant Representations and to written questions, Local Impact Reports, comments or any other documents or information about the application, the IPC is under a duty to make these available to all Interested Parties and to anyone who requests an opportunity to inspect and take copies of them. In order to comply with that duty, the IPC is notifying all Interested Parties that it will, at each stage of the examination set out in the timetable and as soon as practicable, make these available by publishing them on its website and providing an opportunity for inspection and copying⁹ at the locations set out in Annex B.

8. Changes to the timetable

As indicated at the Preliminary Meeting, changes to the timetable may be required from time to time. If the timetable set out in Annex A needs to be changed for any reason, I will write to you and any other person who was invited to the Preliminary Meeting and inform you of the changes. You will be notified if the date, time or place of any hearing has changed, except in the event of an adjournment¹⁰. You may also find it helpful to track any developments in the

⁸ Rule 10(4)

⁹ Rule 21

¹⁰ Rule 13(4)

examination process on the IPC website in case changes have to be made at short notice and/or there is a delay in correspondence reaching you.

9. Deadlines for receipt of documents and requests for hearings

It is important to note that if written representations, responses to Relevant Representations and to written questions, Local Impact Reports, further information or requests for hearings are not received by the dates specified in the timetable, I may, as the Examining Authority, disregard them¹¹. I also draw your attention to the possibility of the award of costs against Interested Parties who behave unreasonably. It should be noted, however, that having regard to the broad consensus established at the Preliminary Meeting the process now accommodates any additional information arising from the London Array Phase 2 Grampian application and associated Appropriate Assessment data and analysis, provided the deadlines specified in the timetable at Annex A are met. For information, the IPC's Costs Policy is available on the IPC website. The Planning Inspectorate will have a costs policy that will apply on the abolition of the IPC.

10. Further information

Interested Parties will continue to receive notifications from the IPC about the examination throughout the process.

Information regarding the integration of the IPC into the Planning Inspectorate is also enclosed with this letter.

If you have any queries please write to the Case Leader (Simone Wilding - at the address on the front of this letter) or email: Kentishflatsext@infrastructure.gsi.gov.uk

Yours faithfully,

Glyn Roberts
Commissioner - Examining Authority

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.

Before sending information to the IPC, please consider our Openness Policy, which can be viewed on our website or a copy will be provided free of charge on request

¹¹ Rule 10(8) Rule 13(2)

Annex A

Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010

Procedural Decision regarding an application for the proposed Kentish Flats Wind Farm Extension, Kent IPC Reference Number: EN010036

Following the Preliminary Meeting held on 22 February 2012, the Examining authority has made the Procedural Decision set out below:

Timetable for Examination of the Application set on 5 March 2012

Item	Matters	Due Dates
1	<p>Preliminary Meeting and start day of the Examination</p> <p>If the Preliminary Meeting is held on two or more days the start day is the later or latest of those days</p>	22nd February 2012
2	<p>Deadline for receipt by the Examining Authority of:</p> <p><input type="checkbox"/> Data related to the monitoring of the London Array offshore wind farm.</p>	14th March 2012
3	<p>Deadline for receipt by the Examining Authority of:</p>	5th April 2012 (NB – submissions

¹² Rule 8 (1)(b) – see Annex C to this procedural decision letter

<ul style="list-style-type: none"> <input type="checkbox"/> Responses to the ExA's Written Questions¹² <input type="checkbox"/> Responses to the submitted draft Development Consent Order and the Schedule of DCO Corrections and Amendments¹³ issued by the ExA. <input type="checkbox"/> Applicant's revised draft Development Consent Order. <input type="checkbox"/> Written Representations (including summaries of any Written Representations of more than 1500 words)¹⁴ <input type="checkbox"/> Local Impact Report (LIR) from relevant local authorities¹⁵ <input type="checkbox"/> Statements of Common Ground¹⁶ regarding: <ul style="list-style-type: none"> ○ Biological Environment and Ecology, (including data contained in Applicant's HRA report). ○ Fish and Fishing 	<p>and documents received by this deadline will be posted to the IPC website by 16th April due to the Easter break. This point is taken into account in the timetable)</p>
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¹³ See Annex D to this procedural decision letter

¹⁴ Rule 8(1)(a) and Rule 10(1) and (2)

¹⁵ Rule 8(1)(j)

¹⁶ Rule 8(1)(e)

¹⁷ S93(1)PA 2008 Rule 8(1)(f) and Rule 13(1)

¹⁸ S91 PA 2008 and Rule 8(1)(k)

	<ul style="list-style-type: none"> ○ Radar, navigation and search and rescue, and ○ other SoCGs to be submitted by the Applicant <p><input type="checkbox"/> Any analysis and assessment information emerging from the monitoring of London Array</p> <p><input type="checkbox"/> Notification of wish to be heard at an Open-floor Hearing by Interested Parties¹⁷</p> <p><input type="checkbox"/> Notification by Interested Parties of wish to make oral representations at any Issue specific hearings¹⁸</p>	
4	<p>Deadline for receipt by the Examining Authority of:</p> <p><input type="checkbox"/> Supplementary Statement of Common Ground¹⁹ regarding interpretation, analysis and assessment of additional information emerging from the monitoring of London Array</p>	18th April 2012
5	Notification by Examining Authority of date	25th April 2012

¹⁹ Rule 8(1)(e)

²⁰ S93 PA 2008 and Rule 13(3)(a)

	<p>time and place for:</p> <p><input type="checkbox"/> Open-floor Hearing²⁰ if required</p> <p><input type="checkbox"/> Issue-specific hearing(s)²¹</p> <p><input type="checkbox"/> Accompanied site visit²²</p>	
<p>6</p>	<p>Deadline for receipt by the Examining Authority of any written comments regarding:</p> <p><input type="checkbox"/> Responses to the ExA's written questions²³</p> <p><input type="checkbox"/> Relevant Representations²⁴</p> <p><input type="checkbox"/> Written Representations²⁵</p> <p><input type="checkbox"/> Statements of Common Ground²⁶</p> <p><input type="checkbox"/> Local Impact Reports²⁷</p> <p><input type="checkbox"/> Any additional information emerging from the monitoring of London Array.</p> <p><input type="checkbox"/> The Applicant's revised draft Development Consent Order and any other contributions regarding the</p>	<p>11th May 2012</p>

²¹ S91 PA 2008, Rule 13(3)(a) and Rule 8(1)(h)

²² Rule 16(3)

²³ Rule 8(c)(ii) and (d)(ii)

²⁴ Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b)

²⁵ Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b)

²⁶ Rule 8(b)(k)

²⁷ Rule 8(b)(j)

	Schedule of Corrections and Amendments issued by the ExA.	
7	Examining Authority's site inspection in the company of Interested Parties ²⁸	14:00 29th May 2012
8	First Hearing regarding Development Consent Order requirements, related Local Impact Report matters and Deemed Marine Licence (venue to be confirmed)	10:00 30th May 2012
9	Hearing regarding biological environment, ecology and fishing (venue to be confirmed)	14:00 30th May 2012
10	Hearing regarding Habitats Regulations aspects and information to support the Appropriate Assessment (venue to be	10:00 31st May 2012

²⁸ Rule 16(3)

	confirmed)	
11	Hearing regarding identified specific issues including visual effects, radar effects, marine archaeology and damage to property around cable landfall and transition pit (venue to be confirmed)	14:00 31st May 2012
12	Deadline for receipt by the Examining Authority of: <input type="checkbox"/> Written summaries of any case put at any preceding Hearing ²⁹ <input type="checkbox"/> Applicant's final draft Development Consent Order	7th June 2012
13	Open Floor Hearing ³⁰ (venue to be confirmed) Reserve session for any additional hearing required (venue to be confirmed)	10:00 12th June 2012 14:00 12th June 2012
14	Second Hearing on Development Consent Order, requirements and related Local Impact Report matters (venue to be	10:00 13th June 2012

²⁹ Rule 8(1)(k)

³⁰ Rule 13(3)(a)

	confirmed)	
15	<p>Deadline for receipt by the Examining Authority of:</p> <p><input type="checkbox"/> Written summaries of any case put at the Open Floor Hearing and the second DCO Hearing ³¹</p>	19th June 2012
16	<p>Deadline by which the Examining Authority will issue for comment:</p> <p><input type="checkbox"/> Examining authority's final draft Development Consent Order³²</p> <p><input type="checkbox"/> a draft shadow Appropriate Assessment</p>	29th June 2012
17	<p>Deadline for receipt by the Examining Authority of:</p> <p><input type="checkbox"/> Any written comments on the final draft Development Consent Order that any Interested Party wishes to make³³.</p> <p><input type="checkbox"/> Any written comments on the draft</p>	16th July 2012

³¹ Rule 8(1)(k)

³² Rules 17 and 8(1)(k)

³³ Rules 17 and 8(1)(k)

	Appropriate Assessment that any Interested Party wishes to make.	
<p>The Examining authority is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the start day (s98 PA 2008). This means that the examination must be closed by 23rd August at the latest, but may close earlier at the ExA's discretion.</p>		

Annex B

Notification to all Interested Parties of the availability of representations and documents for inspection and copying in accordance with Rule 21

Following receipt of any written representations, responses to questions, comments or any other documents or information about the application, the IPC will, as soon as practicable, make these available by publishing them on its website and providing an opportunity for inspection and copying.

On the IPC's website at www.independent.gov.uk/infrastructure following the links: *Projects — South East – Kentish Flats Extension.*

For inspection and copying at:

- Whitstable Harbour Office
Whitstable
Kent
CT5 1AB

Copying Charges: 10p per A4 sheet (black and white) 20p per A3 sheet (black and white).

Opening Hours: 09:00 to 13:00 Monday to Friday.

- Canterbury City Council Offices
Herne Bay
Herne Bay
CT6 5NX.

Copying Charges: 10p per A4 sheet (black and white) 20p per A3 sheet (black and white).

Opening Hours: 09:00 to 15:00 Monday to Friday.

- Canterbury City Council Offices
Canterbury
Military Road
Canterbury
CT1 1YW.

Copying Charges: 10p per A4 sheet (black and white - 25 sheets and over) 20p per A3 sheet (black and white).

Opening Hours: 09:00 to 15:00 Monday to Friday.

- Medway Council
Dock Road
Chatham
Kent
ME4 4T

Copying Charges: 80p per A4 sheet (black and white) and £1.60 per A3.
Opening Hours: 09:00 to 15:00 Monday to Friday.

- Swale Borough Council
Swale House
Sittingbourne
Kent
ME103H

Copying Charges: 20p per A4 sheet (black and white) plans and drawings at A3 £3 and A4 £2.
Opening Hours: 09:00 to 15:00 Monday to Friday.

- Thanet District Council
Cecil Street
Margate
Kent
CT9 1X

Copying Charges: 10p per A4 sheet and 20p per A3 sheet
Opening Hours: 09:00 to 15:00 Monday to Friday.

- Rochford District Council
3-19 South Street
Rochford
Essex
SS41B

Copying Charges: 10p per A4 sheet and 50p per A3 sheet.
Opening Hours: 09:00 to 15:00 Monday to Friday.

- Southend-on-Sea Borough Council
12th Fl, Civic Centre
Victoria Avenue
Southend-on-Sea
SS2 6ER

Copying Charges: up to 100 pages – Free; over 100 pages – 10p per A4 sheet.
Opening Hours: 09:00 to 15:00 Monday to Friday.

- Castle Point Borough Council
Kiln Road
Benfleet
Essex
SS7 1TF

Opening Hours: 09:00 to 15:00 Monday to Friday.

- Infrastructure Planning Commission
Temple Quay House
Bristol
BS1 6PN

Copying Charges: 10p per A4 sheet (black and white) other sizes at additional cost.

Opening Hours: 10:00 to 16:00 Monday to Friday

(Copying charges quoted are indicative costs as at March 2011.)

Annex C

Planning Act 2008 - Examination Into Development Consent Order Application For Proposed Kentish Flats Wind Farm Extension

Examining Authority's Written Questions

IPC Reference Number: EN010036

The examination of a Development Consent Order application under the Planning Act 2008 is primarily a written procedure. These written questions explore the Principal Issues identified in the Rule 6 letter issued before the Preliminary Meeting. The issues are set out under headings organised in alphabetical order. The note that follows the question in brackets indicates the party/ies to which the question is primarily directed, but it is open to other parties to contribute regarding that question if they wish to do so.

A. BIOLOGICAL ENVIRONMENT & ECOLOGY

- Q.A.1 Can the Interested Parties concerned with nature conservation issues (**Natural England, RSPB, Kent Wildlife Trust, London Array Ltd and the Applicant**) provide a Statement of Common Ground to clarify the areas of agreement and disagreement in relation to the environmental and habitats assessment information submitted in support of the application? It would assist the Examining authority if the responses to the questions in this section could be agreed by the relevant parties or, if there is any disagreement, that the reasons for that disagreement can be set out in detail.
- Q.A.2 To what extent does the applicant's Environmental Statement rely on work undertaken for the original Kentish Flats Offshore Wind Farm? Is this data relevant to the examination of this application in terms of the scope of its survey work, its age and the extent of its reference to cumulative effects with projects elsewhere in the Outer Thames Estuary and any relevant coastal areas?
(Applicant, Natural England)
- Q.A.3 Are there adequate explanations for disparities noted by Natural England between the assessment of cumulative effects prepared in the Environmental Statement and HRA report for this application on the one hand and those prepared for other recent projects or current applications in or close to the Outer Thames SPA? If so, what are they and do they create or lead to uncertainty regarding the sufficiency and adequacy of information available to carry out an Appropriate Assessment?
(Applicant, Natural England, London Array Ltd)
- Q.A.4 Noting the IPC s51 advice given regarding the Vattenfall draft HRA report in the pre-application stage, were any comments or information sought by the Applicant from the London Array Ornithological Review Group prior to the application's submission and, if so, what response was received?
(Applicant)

- Q.A.5 Can the representatives of London Array Limited please confirm precisely which organisation controls any updated London Array HRA data including LA Phase 1 ornithological monitoring data and the related assessments? A deadline has been set within the examination timetable for submission of the London Array data and analysis but this must be regarded as a backstop date. Earlier submission would be of assistance to the Examining authority and parties to the examination. Can London Array Ltd confirm on what dates the data and the related assessments and analysis documentation will be submitted?
(Applicant, London Array Ltd., Natural England)
- Q.A.6 The cumulative assessment described in the Applicant's HRA report includes both cumulative disturbance effects and cumulative collision and mortality risks to the Red Throated Diver (RTD) population. In relation to effects on the RTD population are these the main factors that need to be considered? Are there any other matters of significance that should be taken into account in the cumulative assessment?
(Natural England, RSPB, KWT, London Array Ltd, Applicant)
- Q.A.7 Having regard to the brief comments made regarding this subject at the Preliminary Meeting, can the relevant parties confirm their view as to whether the information contained in the application and supporting information is sufficient to support the applicant's conclusion that there will be no significant effects on the integrity of the Outer Thames Special Protection Area (SPA)? Please explain in detail the reasons for the view held. **(Natural England, Applicant, London Array Ltd)**
- Q.A.8 Paragraphs 8.3.7-8.3.9 of the Vattenfall HRA report set out the methodological approach adopted to the cumulative assessment. Is this methodology robust? If there are any weaknesses in the approach adopted what are they? How significant are any weaknesses identified to the final conclusion reached regarding the type, scale and significance of any likely effects?
(Natural England, RSPB, Kent Wildlife Trust, Applicant, London Array Ltd.)
- Q.A.9 In relation to predicted RTD collision risk of 0.1 collisions per year (applying a precautionary 98% avoidance rate) – equivalent to a 0.01% rise over the existing Outer Thames SPA population baseline mortality - the applicant's HRA Assessment, para 8.2.6 (supported by detailed calculations in the ES) has concluded that '*such a negligible magnitude (collision mortality) effect would not be significant and would not adversely affect the integrity of the SPA*'. Are the Environmental Statement calculations sufficient and is the related HRA report conclusion robust and well-justified? **(Natural England, RSPB, KWT, London Array Ltd, Applicant)**
- Q.A.10 In relation to the disturbance effects upon SPA species during the construction phase, paragraph 8.2.7 of the Applicant's HRA report indicates that the lower numbers of birds in the potential impact zone of the wind farm extension would mean that the need for the constraint on piling of the turbine bases (which had not been allowed from mid-November through to mid-March for the original Kentish Flats wind farm) '*would not be as necessary as it had been for that development*'. The applicant further suggests that analysis of the timing of occurrence of divers within 2km of the wind farm extension '*has shown that use of the zone is very low indeed during November and March...with 24% of records in December, 34% in*

January and 37% in February. These points seem to imply a short period of RTD over-wintering in this part of the SPA. Is this finding accepted and if so what are the implications for the content of the proposed DCO and in particular regarding the need for any constraints on operations including piling of the turbine bases? Do the draft DCO requirements or the draft conditions included in the Deemed Marine Licence that forms part of the submitted draft Development Consent Order adequately address this issue?

(Natural England, RSPB, KWT, Applicant, MMO)

Q.A.11 A range of figures for disturbance effects are provided for the operational phase of the proposed KFE development in paras 8.2.8-8.2.13 of the applicant's HRA report. Is there agreement with the figures and calculations presented? If not what specific disagreements exist and why?

(Natural England, RSPB, Kent Wildlife Trust, Applicant, London Array Ltd)

Q.A.12 In paras 8.2.14-8.2.17 of the applicant's HRA report conclusions are presented regarding potential effects on RTD food supply, barrier effects on RTD and loss of habitat. Are these points accepted and if not why not?

(Natural England, RSPB, Kent Wildlife Trust, Applicant, London Array Ltd)

Q.A.13 Having regard to their location within the area of the SPA (and taking into account other existing or proposed wind farms within or near the Outer Thames Estuary) para 8.3.5 of the HRA report suggests that: *'Kentish Flats and the two phases of the London Array site are therefore the key sites for the cumulative assessment (though detailed consideration is also given to Gunfleet Sands 1/11), with much the largest part of any cumulative effect likely to come from the London Array project'*. Is this assertion accepted, and if not why not? If it is not accepted what other data/analysis is required in order to provide adequate information to support an Appropriate Assessment?

(Natural England, RSPB, Kent Wildlife Trust, Applicant, London Array Ltd)

Q.A.14 The Kent Wildlife Trust has raised the issue of potential impacts from the development upon marine mammals, especially Common and Grey Seals and Harbour Porpoises. Are there likely to be any significant water quality, noise or electromagnetic effects on such animals, including any protected species of mammals? The applicant has addressed marine mammal impacts in s11 of the ES. Are the applicant's assessments of the type and severity of impacts, including cumulative effects, reasonable? Any response should take into account other relevant developments that are built, under-construction or planned. Is any mitigation of potential effects in relation to marine mammals proposed by the Applicant sufficient and deliverable?

(Natural England, RSPB, KWT, Applicant, London Array Ltd, MMO)

Q.A.15 Can any of the potential effects of the proposed KFE development on the Biological Environment and Ecology (including designated species and sites, offshore ornithology, benthic and inter-tidal ecology, marine mammals and natural fish and shellfish) be demonstrated to be significant and adverse when considered in isolation or cumulatively with the effects of other relevant built, under-construction or planned developments? If so, what are they and how robust is any evidence supporting this view?

(Natural England, RSPB, KWT, Applicant, London Array Ltd)

Q.A.16 Can any adverse impacts upon the Biological Environment and Ecology anticipated from the proposed development identified be adequately mitigated, and if so how? Please summarise your response in table form if possible.

(Applicant, Natural England, RSPB, Kent Wildlife Trust)

Q.A.17 More specifically, the Applicant's Habitats Regulations Assessment report (Document 3.4) acknowledges that the project is likely to have a significant effect on the population of the Red Throated Diver. Para 9.1.6 of the applicant's HRA report sets out the final conclusion that: *'the Kentish Flats Extension, either alone or in combination, will have no significant effect and no effect on the integrity of the Outer Thames Estuary SPA'*. Does the information provided and the content of the application (including the supporting documentation) demonstrate beyond reasonable doubt that this conclusion is well-justified and robust? Please provide a detailed explanation of the reasons behind your view regarding these matters. Appropriate supporting evidence should be used where available to illuminate any response.

(Natural England, RSPB, KWT, Applicant, London Array Ltd)

Q.A.18 Would the proposal under examination here result in any harm to protected species (including the Red Throated Diver) or designated areas (including the Outer Thames Estuary SPA) and/or any positive effects? If so is effective mitigation of negative effects practicable and does the application provide adequately for it? Please set out your response in detail.

(Applicant, Natural England, RSPB, KWT, London Array Ltd)

Q.A.19 Are any of the potential residual effects after mitigation on the Biological Environment and Ecology – including designated species and sites, offshore ornithology, benthic and inter-tidal ecology, marine mammals and natural fish and shellfish - so significant and adverse as to warrant rejection of the application? In this question 'potential effects' must be considered both in isolation or cumulatively with the effects of other relevant built, under-construction or planned developments. Please provide detailed information and evidence to support the reasoning behind any views expressed. **(Applicant, Natural England, RSPB, Kent Wildlife Trust, Applicant, London Array Ltd)**

B FISH AND FISHING

- Q.B.1 The **Applicant and relevant organisations representing local fishermen** are requested to provide a **Statement of Common Ground** to clarify areas of agreement and disagreement in relation to the application under examination. (NB - For the avoidance of doubt the completed Statement should be submitted by the deadline set out in the examination timetable). It would be of assistance to the Examining authority if the statement addressed the questions targeted to the Applicant and **parties representing local fishermen** set out in this section of the Written Questions.
- Q.B.2 Section 12.3 of the Environmental Statement describes the methodology used to assess the potential effects of the proposed development on fishing. Do the data sources set out at 12.3.1 to 12.3.2 address the KFE site directly or do they focus principally on the existing adjoining wind farm site? Is there any evidence that the data sources relied upon by the applicant are not relevant or appropriate as the basis for the application? Are there any significant omissions in the baseline information that might affect the assessment of any significant effects?
(Natural England, RSPB, KWT, London Array Ltd, Applicant)
- Q.B.3 What proportion of fishing vessels operating regularly within the KFE site area are equipped with AIS and are the AIS plots shown in Fig 13.10 of the Environmental Statement reasonably typical of where most fishing activity in the area takes place?
(Parties representing local fishermen, Applicant)
- Q.B.4 Is the pattern of fishing activity shown in Fig. 13.8 and Plates 13.1 and 13.2 of the Environmental Statement consistent with that shown in Figure 13.10? Should any other significant or intensive fishing activity not shown on the AIS plots be taken into account in the examination? **(Parties representing local fishermen, Applicant)**
- Q.B.5 Are there likely to be any significant water quality, noise or electromagnetic effects on commercially exploited fish and shellfish species? What are likely to be the effects of piling noise and vibration on the natural fish and shellfish resource?
(Parties representing local fishermen, Applicant, MMO, Environment Agency)
- Q.B.6 What are likely to be the effects of the proposed KFE development on the main benthic and demersal species targeted by legal fishing activity on the KFE site? Would any such effects also apply to non-commercial marine species? Would any effects impact upon protected fish species?
(Parties representing local fishermen, Applicant, MMO)
- Q.B.7 Is there a risk of significant adverse effects upon identified shellfish fisheries from disturbance of toxic sediments during construction of the proposed wind farm extension? Table 7.6 of the Environmental Statement appears to indicate that background sediment contamination levels for copper, nickel and mercury from the adjoining Kentish Flats Wind Farm site are found at levels just below but very close to sediment quality guideline values. What effect might construction and decommissioning activities have on these sediments and on any shellfish fisheries in the vicinity?
(Parties representing local fishermen, Applicant, MMO, Environment Agency)

Q.B.8 Is there any indication that faecal coliform levels within areas occupied by the shellfish fisheries or other important fisheries might be adversely affected by sedimentary re-suspension arising as a result of construction or decommissioning activities? For example, might there be any implications for the timing of cable installation?

(Applicant, Environment Agency)

Q.B.9 Kent Wildlife Trust has suggested a requirement to reduce the electric fields generated by the wind farm cables and thereby the impact on Elasmobranchs (e.g. Thornback Rays and other relevant species). Some Interested Parties who are fishermen have raised concerns over the impact on fishing of starfish infestation attracted by such fields. How are these concerns addressed in the application, including the development details and/or the provisions of the submitted draft Development Consent Order? Is there any justification for amendments to the application in order to address these matters and, if so, what?

(Natural England, KWT, Parties representing local fishermen, Applicant)

Q.B.10 What formal legal rights do fishermen require in order to harvest the resources of the Kentish Flats Extension area? Do any individual fishermen or companies hold licences or dedicated legal rights to fish in the specific area covered by the Kentish Flats Extension application?

(Parties representing local fishermen, Applicant, MMO)

Q.B.11 Has any progress been made in discussions between the Applicant and fishermen since the submission of the application? If so can the Applicant please provide additional information regarding these discussions?

(Applicant, Parties representing local fishermen)

Q.B.12 What changes to the fishing activities and incomes of local fishermen are likely as a result of the construction of the Kentish Flats Extension? Please provide details of the reasons for your conclusions.

(Parties representing local fishermen, Applicant)

Q.B.13 Section 13.6 of the Environmental Statement appears to suggest that different types of fishing methods might be acceptable and productive within the KFE area. However it also implies that the terms of the Development Consent Order, when taken together with the practical effects of the construction of the wind farm extension, would result in prohibition of or constraints upon certain types of trawling and potting within this area. What are likely to be the effects on commercial fishing operations and are they likely to be significant? Please refer to evidence in responses.

(Parties representing local fishermen, Applicant, MMO)

Q.B.14 Are the provisions of the submitted application, including the draft Development Consent Order, its Deemed Marine Licence and any Development Consent Obligation, satisfactory in terms of the safeguards and mitigation provided in relation to likely effects on fishing e.g. in relation to safeguarding and/or mitigation of potential effects upon herring spawning grounds, recognised oyster beds and shellfish grounds?

(Parties representing local fishermen, Applicant, MMO).

Q.B.15 When the KFE project is considered in the round, is it likely that as a result of the proposed development there would be any significant adverse effects on fish or fishing? Taking the Applicant's proposed mitigation measures into account, would any harm from residual effects to commercial fisheries arising from the proposed development (when considered in isolation or cumulative with other relevant built, under-construction or planned developments) be so great as to warrant refusal of the Development Consent Order? If there are likely adverse effects on fish and fishing but they are not so great as to justify refusal, has adequate provision for mitigation of adverse effects been made within the draft Development Consent Order (including Deemed Marine Licence, requirements, any development consent obligation etc)? If not, what additional or different mitigation is required?
(Parties representing local fishermen, Applicant, MMO)

C. LANDFALL POINT

- Q.C.1 Are all the off-shore and on-shore construction and decommissioning effects likely to be of significance properly identified in the application?
(Hampton Pier Yacht Club, Applicant, MMO, Canterbury CC, Kent CC)
- Q.C.2 Is the concern expressed regarding potential damage close to the landfall point and cable transition pit justified? How much damage to the areas and property close to these points might be created during construction and decommissioning?
(Hampton Pier Yacht Club, Applicant, Canterbury CC, Kent CC)
- Q.C.3 Why does the geographical scope of the Development Consent Order include such a wide area around the landfall and cable transition pit, apparently including the whole of the public car park serving users of the pier, the Yacht Club and nearby businesses and activities? Can the spatial scope of the DCO be adequately justified?
(Applicant, Hampton Pier Yacht Club, Canterbury CC, Kent CC)
- Q.C.4 What is the anticipated lifespan of the various elements of the proposed project and what is the most likely timing of any replacement or upgrade of these elements? Might any maintenance operations lead to damage around the landfall area or elsewhere?
(Applicant, MMO)
- Q.C.5 In relation to any risks of damage around the landfall point arising from the proposed development that can be demonstrated, is there adequate justification for the approach adopted within the application to the scope and content of the mapped proposals and Development Consent Order (including the deemed marine licence, requirements etc).
(Hampton Pier Yacht Club, Applicant, MMO, Canterbury CC)

D EFFECTS ON RADAR, NAVIGATION AND SEARCH & RESCUE OPERATIONS

Q.D.1 Can the **Applicant and Manston Airport** prepare a Statement of Common Ground to highlight areas of agreement and disagreement with respect to the implications of the proposed development for the airports, to include radar effects and any other safety operational or issues arising? It would be of assistance to the Examining authority if the statement considered the questions below that are addressed to the Applicant and Manston Airport.
(Applicant, Manston Airport)

Q.D.2 In response to consultation the Civil Aviation Authority has requested that the proposed turbines should be charted for aviation purposes as advised under DfT/ODPM Circular 1/2003, Annex 2. CAA has requested the developer to notify Defence Geographic Centre and that consultation take place with the CAA to agree the charting of aviation obstacles and the relevant timing of these arrangements. What progress, if any, has been made in this regard by the applicant and CAA and is this matter addressed adequately within the draft Development Consent Order?
(Applicant, Civil Aviation Authority)

Q.D.3 The site of the proposed development is on or close to the main flight paths for Manston and Southend Airports and adjoins the main shipping channel into the Port of London, including important anchorage and holding areas in the Thames Estuary. Is the proposed development (considered in isolation or in combination with other existing, under-construction or planned developments) likely to create any significant adverse effects on Radar, Navigation and Search and Rescue operations and if so what are they and does the submitted draft Development Consent Order provide for adequate mitigation?
(Manston Airport, Civil Aviation Authority, Maritime & Coastguard Agency, Royal National Lifeboat Institution, Ministry of Defence and Port of London Authority)

Q.D.4 As a corollary to Q.D.2 above, in relation to any likely effects of the proposed KFE development on radar, navigation or search and rescue operations should any specific mitigation measures be required in addition to those already proposed within the submitted draft DCO?
(Manston Airport, Civil Aviation Authority, Maritime & Coastguard Agency, Royal National Lifeboat Institution, Ministry of Defence and Port of London Authority)

Q.D.5 In relation to any likely effects on radar supporting the operation of Manston & Southend Airports, what progress has been made regarding definition and resolution of potential significant effects and agreement of mitigation measures since the application was submitted?
(Manston Airport, Applicant)

Q.D.6 In the light of the references in the Environmental Statement regarding radar effects (document ref. 4.2.17) is there sufficient justification for inclusion of a Grampian requirement into the Development Consent Order to require prior mitigation of radar effects to the satisfaction of the CAA before the wind farm is brought into operation?
(Manston Airport, Civil Aviation Authority, Applicant)

- Q.D.7 Do the terms of the draft Development Consent Order (including the draft Deemed Marine Licence) adequately address any navigation issues, including any outstanding issues relating to extinguishment of navigation rights, lighting and other navigation-related matters? If not please explain in detail any matters of concern.
(Maritime and Coastguard Agency, MMO, Port of London Authority, Trinity House)
- Q.D.8 It is noted that there is no information in the Environmental Statement regarding any implications for Search and Rescue operations in the Outer Thames Estuary. Given that a) part of the proposed site for the wind farm extension adjoins the main shipping channel into the Port of London and other lesser routes for maritime traffic and that b) designated anchorage and marine traffic holding areas are located nearby, is this a significant omission?
(Royal National Lifeboat Institution, Maritime and Coastguard Agency, Ministry of Defence, Applicant)
- Q.D.9 How should any maritime Search and Rescue risks raised by the wind farm extension proposal be assessed and considered in association with other existing and planned developments in the Estuary? What additional information and/or mitigation is required, if any?
(Royal National Lifeboat Institution, Maritime and Coastguard Agency, Ministry of Defence, Applicant)
- Q.D.10 The applicant is asked to provide evidence (including confirmation from the Maritime and Coastguard Agency) that relevant bodies concerned with Search and Rescue operations including the Ministry of Defence, Maritime and Coastguard Agency and Royal National Lifeboat Institution are not concerned regarding the potential implications of the proposed development – either when considered in isolation or in combination with existing, under-construction or planned developments elsewhere in the estuary area – for future helicopter and marine SAR operations.
(Applicant. Relevant organisations may also wish to comment)
- Q.D.11 Is there any evidence that the proposed development (when considered in isolation or in combination with other existing, under-construction or planned developments) is likely to result in any significant adverse effects on radar, navigation or search and rescue operations that would justify refusal of the application? Alternatively, should the Development Consent Order and/or associated elements of the application provide for any additional mitigation of such effects and if so what?
(Manston Airport, Civil Aviation Authority, Port of London Authority, Royal National Lifeboat Institution, Maritime and Coastguard Agency, Ministry of Defence, MMO, Applicant)

E MARINE ARCHAEOLOGY

Q.E.1 It is noted that in relation to the scoping of the environmental assessment English Heritage comments stressed the importance of incorporating archaeological objectives within the marine survey plans. The response also provides broad survey advice but does not specifically identify bathymetry as a necessary approach. In terms of the data used as the basis for the Environmental Statement and assessment of effects is there any particular reason why no swathe bathymetry has been provided for the extension area? Is such data (or equivalent data) needed in order to come to an informed view of the likely effects of the proposed KFE development on maritime archaeology?

(Applicant, MMO, English Heritage)

Q.E.2 What are the potential effects of the proposed development on features or sites of marine archaeological interest, if any?

(English Heritage, MMO, Applicant)

Q.E.3 What are the key issues? Is there any potential for significant adverse affects on marine archaeology? Does the submitted draft Development Consent Order wording (including deemed marine licence, requirements etc) provide satisfactory safeguards and/or provision for adequate mitigation of any potential negative effects on marine archaeology?

(English Heritage, MMO, Applicant)

Q.E.4 Are any other consents required in relation to marine archaeology before the proposed KFE development could be implemented? If so what are they and what progress has been made? Are there any outstanding matters that should be considered in relation to the Development Consent Order application and as part of this examination? N.B. – Please also include the response to this question into the reply to Q.G.2.

(English Heritage, MMO, Applicant)

F NOISE & VIBRATION

Q.F.1 Could any potential onshore and offshore Noise and Vibration impacts relating to the proposed development (whether the DCO application development is considered in isolation or cumulatively with other developments) give rise to concern, either during the construction, operational or decommissioning phases? For example, might noise and vibration arising from increased traffic and from piling or excavation operations as well as other effects be of any significance? If so, please explain why.

(Canterbury CC, Kent CC, MMO, Applicant, Natural England, Kent Wildlife Trust, RSPB)

Q.F.2 If any of the potential effects do or could give rise to concern regarding the potential traffic and noise impacts of the proposed development during the envisaged construction, operation and decommissioning phases does the submitted draft Development Consent Order (including deemed marine licence, requirements etc) ensure that adequate mitigation of noise and vibration effects would be put in place at the appropriate time or are any amendments needed?

(Canterbury CC, Kent CC, MMO, Applicant, Natural England, Kent Wildlife Trust, RSPB)

Q.F.3 If there any evidence that the noise and vibration effects arising from the construction, operational or decommissioning stages of the proposed development (whether considered in isolation or cumulatively) would be so adverse after any mitigation proposed by the applicant as to justify refusal of the application?

(Canterbury CC, Kent CC, MMO, Applicant, Natural England, Kent Wildlife Trust, RSPB)

G OTHER CONSENTS*

(* See also Q.E.4 above)

Q.G.1 The application Planning Statement (document ref. 7.1) indicates that an European Protected Species Licence is required in connection with the proposed piling works on protected marine mammals, fish or birds. Section 11 of the Environmental Statement also indicates that there will be discussions with the Marine Management Organisation to develop a Marine Mammal Mitigation Protocol (MMMP). The EU Habitats Directive prohibits the deliberate killing, injury and disturbance of a European Protected Species (EPS); as well as any damage or destruction (whether accidental or not) of the “breeding sites and resting places” of an EPS. Only in very limited circumstances is a person permitted to “derogate” from this protection. This means that it would be possible to cause the prohibited harm if specific conditions are met:

- That the damage is needed for public health or safety reasons or for other imperative reasons of overriding public interest including those of a social or economic nature;
- That there is no satisfactory alternative;
- That the favourable conservation status of the species will be maintained.

Can the **Applicant** provide evidence to demonstrate how the derogation tests are to be met for the DCO scheme and for any related development such as the works required to provide an on-shore connection to the substation and transmission grid? What progress has been made in developing the MMMP?

Natural England, the Environment Agency and the Marine Management Organisation are also requested to provide a response on these matters and confirm that there would be no reason not to authorise a licence or permit with regard to each of these matters. If there are matters arising or reasons then these should be fully set out and explained.

Q.G.2 Does a ‘Grampian’ requirement need to be included in the DCO so that the Development Consent Order would not take effect without an EPS licence? If an EPS licence application is required can the Applicant and Natural England please confirm its current progress and status, together with any issues outstanding and an assessment of the probability of a licence being issued?

Q.G.3 The **Applicant** has included in its Application Form (Box 24) and in its Planning Statement (document 7.1) a list of other consents being/to be sought in connection with the proposed development. There is always a possibility that any submitted list might need to be changed in the event of relevant new information coming forward during an examination. The Applicant is therefore requested to provide an up-to-date list of all ‘other’ consents that are or will be required before the proposed KFE development can be constructed, operated and decommissioned, together with a written summary setting out the Applicant’s view of the status and progress of any applications or submissions in relation to such consents.

- Q.G.4 The Application Form (Box 24) and Planning Statement (document 7.1) indicates that a number of other consents are being/to be sought in connection with the proposed development. These include:
- Canterbury City Council – Planning permission for onshore underground grid works;
 - Kent County Council – Highways licence for installation of grid connection cables into the highway;
 - Port of London Authority – River Works Licence for those parts of the proposal that fall into their jurisdiction
 - Department for Energy and Climate Change – Designation of Safety Zones around the construction works and operational wind farm under Energy Act 2004;
 - Marine Management Organisation – European Protected Species Licence in relation to foundation piling work.

Can the relevant consenting bodies confirm that the wording of the submitted draft Development Consent Order (including Deemed Marine Licence, requirements etc) does not create any concerns in relation to the other consents sought by the applicant?

(All statutory Interested Parties including local authorities)

- Q.G.5 Can the consenting bodies explain the current position in relation to each of the other consents identified above? What issues have been identified and what is the probability of the identified consent being issued?

(Canterbury CC, Kent CC, Port of London Authority, DECC and MMO)

- Q.G.6 Can the Applicant provide any evidence that a National Grid agreement is in place or likely to be in place to enable the connection to the national electricity transmission grid in the position assumed in this DCO application by the time the KFE construction phase is completed?

(Applicant)

- Q.G.7 Can the Applicant confirm that the various references to decommissioning and renewal/re-equipment in its application, including the Works Description Provision 1 (document ref. 5.1) and the definition of decommissioning in the Development Consent Order are consistent with any equivalent definition in the Crown Estate licence for the scheme? If not are there any implications for the DCO as proposed?

(Applicant)

- Q.G.8 Is there any need to include a specific requirement within the Development Consent Order restricting works during the bathing season or otherwise protecting bathing water quality?

(Applicant, Environment Agency)

H. SOCIO-ECONOMIC EFFECTS

- Q.H.1 Is the information set out in the KFE application documents regarding the likely socio-economic effects of the application (when considered in isolation or cumulatively with other existing, under-construction and planned developments) comprehensive and robust? If not, what gaps and weaknesses are identified and what are their implications for this application, if any?
(Canterbury CC, Kent CC, Applicant)
- Q.H.2 What are the scales and types of likely socio-economic effects that could arise from the Kentish Flats Wind Farm Extension proposal when considered in isolation or in combination with the effects of other existing, under-construction and planned developments? Are any of them likely to be significant and if so are they likely to be positive or negative?
(Canterbury CC, Kent CC, Applicant)
- Q.H.3 How significant might be any changes likely to occur in the incomes of fishing boat operators and individual fishermen to the wider economy in the relevant fishing communities?
(Canterbury CC, Kent CC, Applicant)
- Q.H.4 How significant might be any effects upon tourism and what might be the effects, if any, on the wider economy in the areas that are most reliant upon visitors?
(Canterbury CC, Kent CC, Applicant)
- Q.H.5 What are the best sources of evidence and estimates for the numbers, sizes and types of companies and the numbers of individuals that might be affected and the level of any impact on incomes and the wider economy?
(Canterbury CC, Kent CC, Applicant)
- Q.H.6 Are there likely to be any impacts upon tourism and the marine-related economy related to recreational sailing & other marine uses? If so what evidence is available regarding the likely types and scales of such impacts?
(Canterbury CC, Kent CC, Applicant)
- Q.H.7 What mitigation can be applied to any negative socio-economic effects and does the submitted draft Development Consent Order (including Deemed Marine Licence, requirements etc) make adequate provision for it? Is there any need for any Development Consent Obligation to ensure adequate mitigation?
(Canterbury CC, Kent CC, Applicant)
- Q.H.8 Following mitigation is it likely that any identified negative socio-economic effects of the proposed development (when considered in isolation or cumulatively with other existing, under-construction and planned developments) could be so significant and adverse as to justify refusal of the application?
(Canterbury CC, Kent CC, Applicant)

I. VISUAL EFFECTS

Q.I.1 In relation to the content of the applicant's Environmental Statement dealing with visual effects:

- a) are there any concerns regarding the methodology employed by the applicant, and
- b) is there any evidence that the photo-montages and wireframe images included in the ES do not provide a reasonably accurate impression of the visual impact from the significantly affected locations?

(Canterbury CC, Kent CC, Applicant, Natural England, English Heritage, MMO)

Q.I.2 Would the proposed development (when considered in isolation or cumulative with other existing, under-construction or planned developments) result in any significant adverse impacts upon achievement of relevant landscape and amenity policy objectives, including those relating to:

- a) North Kent Shoreline & the Isle of Sheppey Seascape Character Areas, and
- b) Greater Thames Estuary & North Kent Plain Natural Landscape Character Areas?

(Canterbury CC, Kent CC, Applicant, Natural England, English Heritage, MMO)

Q.I.3 Are any of the potential visual effects of the proposed Kentish Flats Extension on the seascapes and landscape of the area significant when considered in isolation or cumulative with the effects of other built, under-construction or planned developments? If so, which locations/viewpoints, if any, would experience significant visual effects?

(Canterbury CC, Kent CC, Applicant, Natural England, English Heritage, MMO)

Q.I.4 What mitigation of significant identified adverse effects (if any) would be practicable and does the submitted draft Development Consent Order (including deemed marine licence, requirements etc) provide adequately for it?

(Canterbury CC, Kent CC, Applicant, Natural England, English Heritage, MMO)

Q.I.5 Which locations are the most important for the Examining Authority to visit in order to understand the likely visual effects of the proposed infrastructure project?

(Canterbury CC, Kent CC, Applicant, Natural England, English Heritage, MMO)

J. DEVELOPMENT CONSENT ORDER & PROPOSED HEADS OF TERMS FOR S106/S174 PLANNING OBLIGATION – CLARIFICATION

(These documents can be viewed on the Kentish Flats Extension project page of the IPC website – Application documents 5.1 and 5.6 respectively)

- Q.J.1 Does the wording of the submitted draft Order create any undesirable duplication between the wider draft Development Consent Order and the Deemed Marine Licence embedded within it that could create confusion regarding implementation or enforcement? What mitigation provisions should be included in the draft Deemed Marine Licence and what in the other sections of the submitted draft Development Consent Order? Is there any legal or other significance in the precise location of provisions within particular sections of the draft Order (including the draft Deemed Licence)? If so, please explain.
(Canterbury CC, Kent CC, MMO, Applicant, Natural England, Kent Wildlife Trust, RSPB, Port of London Authority)
- Q.J.2 Are there any gaps in coverage of the draft Deemed Marine Licence or DCO to which the applicant's attention should be drawn?
(Canterbury CC, Kent CC, MMO, Applicant, Natural England, Kent Wildlife Trust, RSPB, Port of London Authority)
- Q.J.3 More specifically, in relation to the Deemed Marine Licence contained within the submitted draft Development Consent Order can the Marine Management Organisation confirm that there are no issues outstanding and that all the matters that need to be addressed under the Marine Licence procedure are adequately and fully addressed within the Deemed Marine Licence element of the submitted draft DCO?
(MMO, Applicant)
- Q.J.4 The submitted draft Development Consent Order does not include any provision for compulsory acquisition of land or rights. The **Applicant** is requested to confirm that agreement has been reached with all relevant interests and provide a summary of the position.
(Applicant)
- Q.J.5 Schedule 2 Part 1 (Deemed Marine Licence) paragraph 1(3)(b) indicates that '*all coordinates shall be taken to latitude and longitude degree and minutes to two decimal places*', yet coordinates are given to five decimal places on the Order Limits Plan. In fact the geographical coordinates used in the description of various elements of the application (e.g. application site boundary, turbine locations, cable locations) and those sections of the application documents that refer to locations use different coordinate reference formats. Also the 'same' coordinates are presented in numbered format on the Schedule but in lettered format on the Order Limits plan. For the avoidance of any doubt or confusion the Applicant is requested to substitute the pages containing inconsistent format coordinates with pages containing standardized coordinate references throughout the application documentation. Standardization should include all coordinate references relevant to the interpretation and enforcement of the Development Consent Order.
(Applicant)

- Q.J.6 At present the submitted draft DCO proposes the extinguishment of public rights of navigation across the location of the KFE turbines and within Exclusion and Safety Zones. Can the permanent extinguishment of rights of navigation over places in the sea where wind turbine generators are proposed to be located be justified when the proposed development is acknowledged to have a limited lifespan including provision for decommissioning? Should the extinguishment of the rights of navigation be temporary, that is, solely for the life of the wind farm up to the date of completion of its decommissioning?
(Applicant, Port of London Authority, Marine Management Organisation, Maritime and Coastguard Agency)
- Q.J.7 Information regarding the notification of any transfer of the beneficial interest of the Development Consent Order, e.g. through Vattenfall selling on its interest to another company, is proposed to be registered only with the Secretary of State and Trinity House. Should any other bodies be notified? For example, should the DCO provide that regulatory/enforcing bodies such as MMO, MCA, PLA, CAA and the relevant local authorities (in relation to the landward element of the project) be notified?
(Canterbury CC, Kent CC, MMO, MCA, PLA, CAA, Applicant)
- Q.J.8 Can the Applicant confirm that the Order provides no legal loopholes that would enable the first beneficiary of the Order benefits and liabilities/obligations created by requirements and conditions to be left with those liabilities/obligations while transferring the benefits to a second party interest, along the lines of the famous 'Man of Straw' tactic?
(Applicant)
- Q.J.9 Are all the geographical coordinates provided for the works encompassed within the submitted draft Development Consent Order application located within the Order limits and (in the case of the turbines) at least 160m from the boundary, or do the coordinates currently proposed assume that (given the limits of deviation proposed) works might be constructed outside the Order limits? Is there any need to amend the limits of deviation to bring the geographical scope of the proposed works entirely within the Order limits? If so, the Applicant is invited to amend the documentation specifying the limits of deviation in order that the proposals are fully and precisely contained within the Order limits.
(Applicant)
- Q.J.10 It is suggested by the applicant in the Planning Statement (document ref. 7.1) at para 9.159 that:
'Whilst the provision of community benefit is not something that should be material to the IPC's decision-making process, in accordance with paragraph 5.12.8 of EN-3, the IPC should consider these other positive provisions and legacy benefits in determining the Kentish Flats Extension application.'
 The reference appears to relate to paragraph 5.12.8 of EN-1, not EN-3. If it is suggested that the proposed planning application is not material to the decision (or in the terms of the Planning Act 2008 **relevant** to the application) and to mitigation of its impacts then why would paragraph 5.12.8 of National Policy Statement EN-1 apply?

Can the applicant either confirm whether it is submitting that the proposed planning obligation is not relevant to the decision on the application and to mitigation of its impacts or that it is? Please explain the reasons for the position advanced.

(Applicant)

Q.J.11 The Applicant is invited to provide clarification as to whether the proposed planning obligation referred to in the application relates to the submitted draft Development Consent Order under s174 of the Planning Act 2008 (under consideration here) or is a s106 obligation related to the proposed planning application to be submitted to the local planning authority under the Planning Act 1990. In either case, if the Applicant argues that the obligation is material or relevant to the consideration of the Development Consent Order application, does the undertaking comply with the provisions of ODPM Circular 05/2005: *'Planning Obligations'*?

(Applicant, Canterbury CC)

Q.J.12 Do any of the ancillary works described in Part 2 of Schedule 1 (or elsewhere in the Development Consent Order) constitute development within the meaning of section 32 of the Planning Act 2008?

(Applicant, Canterbury CC, Kent CC, MMO)

Q.J.13 In Article 2 of the submitted draft Development Consent Order addressing interpretation is the definition of "maintain" too broad in scope for the purposes of the Articles to which it applies (2(3), 4 and 5)? The Applicant has expressly stated that renewal and re-equipment lies outside the scope of the application. At first sight the definition of "maintain" in the wording of Article 2 of the draft Order appears inconsistent with that position. For example could inclusion of "reconstruct" within that definition be interpreted as including renewal and/or upgrading? If so would this provision stand outside the scope of the submitted Environmental Statement and Habitat Regulations Assessment information?

(Applicant)

Q.J.14 In relation to Article 5 of the submitted Draft Order should this Article also authorize construction (as the heading suggests)?

(Applicant)

Q.J.15 In relation to Article 7(1) s156 of the Planning Act 2008 says:

'(1) If an order granting development consent is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested in the land.

*(2) Subsection (1) is subject to subsection (3) **and any contrary provisions made in the order.**'* (My emphasis).

Does this provision have any legal or other implications for the content of the draft Order in relation to consent to transfer the benefit of the Order? Should the wording of Article 7 be amended to reflect s156?

(Applicant)

Q.J.16 Would the wording of Article 8 be clearer if it adapted the equivalent wording used in the Rookery South DCO (set out below)?

Procedure in relation to approvals etc. under requirements

(1) Where an application is made to the relevant planning authorities or either of them for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a

grant of planning permission, as if the requirement was a condition imposed on the grant of planning permission—

(a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions);

(b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

(3) For the purposes of the application of section 262 of the 1990 Act (meaning of “statutory undertaker”) to appeals pursuant this article, the undertaker is deemed to be a holder of a licence under section 6 of the Electricity Act 1989.

(Applicant)

Q. J.17 In relation to Article 10(1) is there any need for any form of bond or parent company guarantee or similar financial provision to ensure that there would be adequate funding in place to finance repair/restoration/removal of the development by the Secretary of State (seaward side) and by the Local Planning Authority (landward side) should it become derelict and/or abandoned? Or is this issue adequately covered under the provisions of the Electricity Act 2004?

Q.J.18 In relation to the contingency provision for a survey by the Secretary of State in Article 11 (1) there is no mention of the purpose of such a survey. Does this require clarification or could a broad provision be helpful in the context envisaged?

(Applicant, Canterbury CC, Kent CC, MMO)

Q.J.19 Article 17 – Arbitration: There could be a significant difference between:

a) arbitration by ‘the appropriate body’ (which in this case could be the MMO or DECC which could be named in the draft Order so that the relevant arbitration would become a statutory function of that body), and

b) arbitration by “*a single arbitrator to be agreed between the parties*”, a phrase which leaves the position a great deal more open but which implies a commercial arbitration.

In the first case it would appear (unless a scheme of charges were to be introduced and applied under the Order) that the costs of arbitration would be borne by the public purse. In the latter case the implication appears to be that the relevant costs could fall on the parties. Is the wording of the draft Order satisfactory in the form submitted?

(All Parties)

Q.J.20 The submitted draft Order appears intended to provide for a temporary development, i.e. not existing beyond the life of the turbines and foundation structures proposed in the application (unless otherwise authorised). Should the Order provide not only for construction, operation and decommissioning but also for a scheme of restoration of the land and seabed occupied by the authorised development (including any associated works and ancillary development) in order to bring the land into its original state prior to construction?

(All Parties)

Q.J.21 Schedule 1 Part 3 - 1(2) and Schedule 2 Part 1 - 1(4) - address interpretation and each suggest that “*In this Schedule references to the locations of a wind turbine are*

references to the centre point of that turbine". Since the turbine is a combination of foundation, transition piece, tower, nacelle and rotor the Applicant is requested to clarify the intended meaning and purpose of these provisions.

(Applicant)

Q.J.22 Part 3, Requirement 3(1) On the face of the provision, the requirement that the DCO development shall not commence until the onshore part of the grid connection scheme is approved by the local planning authority seems logical and reasonable. However, it is noted that the reference to "*approved plans*" is undefined. In 3(2) the inclusion of the words "*unless otherwise agreed in writing by the local planning authority*" appears to offer the potential for conflict with the principles set out by the courts in the landmark *Wheatcroft*³⁴ decision (an issue that also arises in relation to a number of requirements and licence conditions that seek the same flexibility). Should the Applicant reconsider the detailed wording of this and other requirements/conditions in the light of these points?

(Applicant, Canterbury CC, Kent CC, MMO)

Q.J.23 Order Requirement 5(f) and Licence Condition 2(f) indicate that, subject to Order Requirement 9 all wind turbine generators forming part of the authorised development shall not "*be painted in any colour other than submarine grey RA7035*". It is noted that the Environmental Statement Volume 2 para 17.6.28 suggests the top two thirds of the turbine should be painted white. Is this an error to be corrected or can the applicant provide justification for the choice of proposed colour scheme having regard to the relevant content of the ES?

(Applicant)

Q.J.24 Under the proposed terms of the submitted draft Development Consent Order including the provisions of the Deemed Marine Licence is there potential for confusion as to which body oversees and enforces any issues concerned with lighting, colour of structures etc, i.e. Trinity House, the Port of London Authority, the Civil Aviation Authority or the Marine Management Organisation? For example, Requirement 9 (a) specifies that:

"The undertaker shall during the whole period from the start of construction of the authorised development to the completion of decommissioning:

(a) exhibit such lights, marks sounds, signals and other aids as Trinity House may from time to time direct

(b) colour all structures in the authorised development as directed by Trinity House."

The Applicant is requested to provide written evidence that this Requirement 9(a) is consistent with Requirement 5(e), which bans lighting of the turbines unless it is of a shape, colour, and character as required by the Air Navigation Order 2009 as directed by the Civil Aviation Authority. In particular, evidence is sought to confirm that a resolution of both these requirements can be provided to the satisfaction of both Trinity House and the CAA.

In addition the draft Deemed Marine Licence Condition 2(e)(f) also seems to imply a consenting-of-details role for the Marine Management Organisation in relation to lighting and the colour of the finished structures.

³⁴

Bernard Wheatcroft Ltd v Secretary of State for the Environment [1982] J.P.L. 37

The Applicant is requested to clarify the position in consultation with the relevant bodies and to develop the wording of the draft Order and Deemed Marine Licence accordingly to adopt a consistent and clearly justified approach.

(Applicant, MMO, Trinity House, Port of London Authority, Civil Aviation Authority)

Q.J.25 Timescales are of importance in relation to matters of navigational safety. Should Requirement 9(d) require the developer/operator to provide Trinity House with adequate notice at key stages in development and operation e.g.:

- notification a minimum of 14 days before the commencement and completion of authorised construction and decommissioning works, and
- notification a minimum of 14 days in advance of implementation of any establishment or changes in the provision, type and/or positioning of aids to navigation?

(Trinity House, Applicant)

Q.J.26(a) In relation to Requirement 10 (Provision against danger to navigation) should the wording reflect greater urgency and set appropriate explicit deadlines for actions including notification of Trinity House and installation of navigational aids in the event of damage or decay to the authorised development? Should this provision also refer to notification of the MCA in terms of Notices to Mariners, Marine Management Organisation in relation to any wider marine issues.

(b) Should there be a separate and equivalent notification requirement for the relevant local authorities in the event of damage or decay to on-shore facilities and equipment of land around the proposed on-shore works and installations?

(Trinity House, MCA, Canterbury CC, Kent CC, Hampton Pier Yacht Club, Applicant)

Q.J.27 The location of the proposed development may have a relationship to important flight paths into Manston and Southend Airport and to potential Ministry of Defence interests. When any amendments to approved details are considered should Model Provisions Requirement 38 be included into the Order, requiring amendments to be subject to the consent of MoD and CAA?

(MoD, CAA, Applicant)

Q. J 28 A number of Model Provisions Requirements have been omitted from the submitted draft Order, some of which may nonetheless be relevant to the onshore element of the proposed development e.g. 25 – operational noise; 28 – dust emissions; 32 – accumulations and deposits; 33 – travel plan; 35 – restoration of temporary construction land. Is there any justification for the inclusion of any of these requirements in the Order?

(Canterbury CC, Kent CC, Applicant, Hampton Pier YC)

Q.J.29 Requirement 11 – Archaeology above mean water level – Should English Heritage and the Local Authorities be consulted prior to appointment of the ‘suitably qualified person or body’ needed to undertake a watching brief or undertake archaeological works above mean water level?

(Canterbury CC, Kent CC, English Heritage)

- Q.J.30 Requirement 13 – Code of Construction Practice – Requirement 13 provides for a code of construction practice as a management framework for onshore construction activity, to be monitored by the local authority. How is offshore construction practice to be managed and overseen? Is there any need for an equivalent code of practice to provide the basis for management and oversight of offshore works or does the content of the draft Deemed Marine Licence provide adequate safeguards against poor practice?
(Applicant, MMO)
- Q.J.31 Requirement 14(1) – Construction hours – Are Model Provision Requirements 20-33 applicable to the wording of this requirement and would it be more appropriate if the wording was amended accordingly?
(Applicant, Canterbury CC), Hampton Pier Yacht Club))
- Q.J.32 Requirement 15 – Decommissioning – It is not clear whether the wording of 15(1) refers to commencement of construction of the wind farm extension or commencement of its decommissioning. Neither is it clear how this requirement relates to the alteration to include wording relevant to Decommissioning within the Deemed Marine Licence requested by the Marine Management Organisation. Can the Applicant reconsider and clarify the position in relation to the timing and consenting of a decommissioning scheme and the wording of Requirement 15 and any provision within the Deemed Marine Licence?
(Applicant, MMO)
- Q.J.33 Deemed Marine Licence - Schedule 2, Part 1, Condition 1 – If the Licence is to be used as a ‘stand-alone’ document, should it also refer in terms of ‘best environmental practice’ to the licensed activities described in Condition 2 rather than merely to the ‘high-level’ reference provided?
(MMO, Applicant)
- Q.J.34 Condition 1 – Interpretation - Is the definition of “commence” applied here an appropriate definition for the commencement of offshore works? What obvious alternative options are available? For example what definitions of commencement were used for the London Array and other wind farms in the Outer Thames Estuary?
(Applicant, London Array Ltd, MMO)
- Q.J.35 The Examining Authority requests submission by the **Applicant** of a **summary table noting the monitoring and enforcement responsibilities and arrangements proposed in respect of all relevant DCO requirements and Deemed Marine Licence conditions**. Consideration should be given to inclusion of such a summary table as an Annex to the Development Consent order, subject to the inclusion of cross-references to the Annex from relevant parts of the Order.
(Applicant)
- Q.J.36 There seem to be no references to time in the draft Deemed Marine Licence conditions. Should Condition 1(3)(a) be deleted accordingly as unnecessary?
(Applicant)

Q.J.37 Can the Applicant please clarify and confirm how any Notices to Mariners will be developed and issued for the purposes set out in the draft Order and Deemed Marine Licence?

(Applicant)

Q.J.38 Condition 5(3) - The references to the bunding of reservoirs and containers in this condition seems more appropriate for an on-shore development scheme than an off-shore project. Can the Applicant please confirm that the wording is accurate and appropriate to the anticipated approach to construction and operations and clarify what is meant?

(Applicant)

Q.J.39 The Marine Management Organisation made a number of comments in its consultation comments and Relevant Representations regarding the wording of the draft Deemed Marine Licence. Can the Applicant confirm that all the wording amendments proposed by the MMO will be included in the draft Order and DML? If not can the Application identify the proposed amendments that are not accepted and why they have not been incorporated?

(Applicant)

Q.J.40 Condition 5(8) – Why doesn't the audit sheet and any changes to it require agreement from MMO rather than notification?

(Applicant, MMO)

Q.J.41 Condition 7 – The wording of this condition does not make it entirely clear where the responsibility for consultation falls – with the MMO or with the Applicant. Can the Applicant and MMO clarify the preferred procedure?

(Applicant, MMO)

Q.J.42 How many days or weeks in advance of export cable works taking place should the written protocol be agreed between the Environment Agency and the Applicant?

(Environment Agency, Applicant)

Q.J.43 How does the Applicant foresee details of decommissioning being consented prior to:

a) any start on construction of the proposed development, or

b) any commencement of decommissioning works.

Can the Applicant highlight where these matters are addressed in the submitted draft Development Consent Order and the Deemed Marine Licence?

(Applicant)

OTHER MATTERS

General Policy and Legal Matters

Q.K.1 The application Planning Statement (document 7.1), paragraph 1.22 states:

'The Kentish Flats Extension is not an application where there is either a legal or a policy requirement to have investigated the availability of alternative sites. Neither is there a requirement to have undertaken any comparative assessment of the levels of impacts that would result from the KFE against some other site or sites'

Do all statutory parties and local authorities agree with that position? If not, please explain the reasons for any disagreement.

Q.K.2 Are there any statutory duties, e.g. any of those specified under s105 of the Planning Act 2008 and the Infrastructure Planning (Decision) Regulations 2010, to which any Interested Party wishes to draw my particular attention in connection with any aspect of the decision-making regarding the proposed development? If so, please explain the reasons for your position.

Cumulative Matters

Q.K.3 Since some months have elapsed since the application was submitted to the Infrastructure Planning Commission (IPC) have any additional projects emerged that need to be taken into account in the cumulative assessment? The **Applicant** should consult with the relevant planning authorities to identify any other plans or projects that have arisen since the submission of the application and take any new information provided by these authorities into account in the assessment of cumulative effects. (NB - This should not preclude the admission of new information from other relevant sources). If so, can the **Applicant** provide detailed submissions updating the cumulative impact assessment and any other consequential assessment changes arising?

L. REMINDER - Statements of Common Ground, Local Impact Reports and Other Outstanding Documentation

All outstanding Statements of Common Ground requested and any others being prepared and agreed are required to be submitted by the deadline set out in the examination timetable. Any matters claimed to be agreed or accepted by another party/organisation/individual in any of their submissions should be substantiated in writing.

Relevant Local Authorities seeking to submit a Local Impact Report should do so by the relevant deadline set out in the examination timetable.

All documentation referred to by any party as outstanding or still to be provided must be submitted in writing by the deadline(s) set out in the examination timetable to enable the Examining Authority to take these matters into account.

Annex D

Schedule of Corrections and Amendments to Draft DCO

Proposed Kentish Flats Wind Farm Extension, Kent
IPC Reference Number: EN010036

<u>Articles</u>	
A2(1)	Should the definitions in this Article apply to the whole Order as stated (including Schedule 2 which has its own interpretation section)? Are the two interpretation sections consistent?
	The definition of Infrastructure Planning Commission is superfluous in this Article (and also in Licence Condition 1(1))?
	References to “the decision maker” throughout should be changed to “the Secretary of State”, as the IPC will be abolished before the conclusion of the examination
	The definitions of plans throughout (land plan, order limits plan, works plan etc) should include the plan number for the avoidance of doubt (e.g. 9V9456/30/004 Revision 001 for the land plan)?
	There should be a definition of the MCA e.g. <i>“the Maritime and Coastguard Agency”</i> or <i>“MCA” means the agency of that name (being an executive agency of the Department for Transport) or any successor to its functions?</i> (The MCA is referred to in Article 8)
	The definitions of MHW and MLW should refer to ‘mean high water spring <u>tide</u> ’ and ‘mean low water spring <u>tide</u> ’ respectively?
	There should be a definition of the Secretary of State e.g. <i>“Secretary of State” means the Secretary of State responsible for determining an application for development consent for the authorised project?</i>
A3(1)	<i>“Subject to the provisions of this Order and to the requirements <u>and to the licence conditions</u> the undertaker is granted...”</i>
A3(2)	<i>“...lines <u>or</u> situations shown on the works plan”?</i>
A7	Transfers should require the <u>prior</u> consent of the Secretary of State? Matters agreed under this Article should be agreed <u>in writing</u> ?
A12	The words <i>“which are deemed to have been attached to the licence by the Secretary of State under Part 4 of the 2009 Act”</i> should be added at the end of this Article to ensure that Section 149A(3) of the Planning Act 2008 operates in relation to this DCO
A16	What (if any) protective provisions are proposed to be included in the DCO?

<u>Requirements (DCO Schedule 1 Part 3)</u>	
R1(1)	There should be a definition of local planning authority e.g. <i>“local planning authority” means Canterbury City Council or any successor to its statutory functions under the Town and Country Planning Act 1990?</i>
R3(2)	To read <i>“Works Nos 2a and 2b shall only take place within the limits of deviation shown on the approved plans and....”</i> for clarity? (“limits of deviation” is a defined term)
R8(2)	For “satisfied” substitute “satisfies”?
R8(3)	Either use the acronym ERCOPs here or omit it from R8(2) as it does not appear elsewhere
R14	Should construction work also be precluded on public holidays?
<u>DCO Schedule 2 Part 1</u>	
1(1)	The definition of “best environmental practice”. There is no definition of “best environmental practice” in Annex 1 of the OSPAR convention, which relates to “Prevention and elimination of pollution from land-based sources”, or Annex 3 which relates to “Prevention and elimination of pollution from offshore sources”. This phrase is only used in condition 5(2) – is any definition better located in that section rather than the general definition section?
	Should the definition of CEFAS include a reference to “any successor to its functions”?
	The term “EHS law” is only used in condition 5(2) – is any definition better located in that section rather than the general definition section?
	The definition of “enforcement officer” should refer to Part 8 of the 2009 Act, and not Chapter 3? Is the definition intended to cover both “marine enforcement officers” as defined in s235 of the 2009 Act and ‘other enforcement officers” (section 240 et seq)?
	Should the definition of the Hydrographic Office include a reference to “any successor to its functions”?
	A consistent definition of the MCA should be used in both interpretation sections of the Order. Does the MCA have “ <u>statutory</u> functions” as an executive agency of the DTp?
	The definition of “the project design statement” should include <i>“being document reference 7.2 dated 10 November 2011”</i> for the avoidance of doubt
	The definition of “requirement” should be to “Order requirement” and the conditions need to be amended for consistency (e.g. licence condition 2 refers to “Order requirement 9”; condition

	4(9(b) merely refers to “requirement”).
<u>Licence conditions (DCO Schedule 2 part 2)</u>	
LC4	Should the references in this condition to “vehicles” be to “vessels”?
LC4(7)	The undertaker is not an organisation that issues notices to mariners itself, according to the interpretation section (Schedule 2 Part 1). How will the undertaker <u>ensure</u> that such a notice is issued, as required by the condition?

Transition to National Infrastructure Directorate

The current role of the Planning Inspectorate

The role of the Planning Inspectorate is to process planning and enforcement appeals and hold examinations into local plans and community infrastructure levy charging schedules. The Inspectorate also deals with a wide variety of other planning related casework including listed building consent appeals, advertisement appeals, and reporting on planning applications called in for decisions by the Department for Communities and Local Government (DCLG), and in Wales, the Welsh Government. Other casework progressed by the Planning Inspectorate concerns compulsory purchase orders, rights of way and cases arising from the Environmental Protection and Water Acts and the Transport and Works, Act and other Highways Legislation. In addition, the Inspectorate processes applications for awards of costs which may arise from any of these.

The current role of the Infrastructure Planning Commission

The Infrastructure Planning Commission (IPC) is the independent public body that examines applications for development consent to build nationally significant infrastructure projects. These are the large projects that support the economy and vital public services, including railways, large wind farms, power stations, reservoirs, harbours, airports and sewage treatment works.

The IPC examines applications and currently, where the relevant government national policy statement is designated, makes the decision on whether or not to grant development consent. Where the relevant National Policy Statement has not yet been designated, the IPC currently makes a recommendation to the relevant Secretary of State who makes the decision.

The abolition of the IPC and transfer of its functions

Under the Localism Act, the IPC will be abolished on 1 April 2012 and the Planning Inspectorate will take over its work.

From April 2012, the relevant Secretary of State will be the decision maker on all national infrastructure applications for development consent. At the end of the examination of an application, which will still be completed within a maximum of six months, the Planning Inspectorate will have 3 months to make a recommendation to the relevant Secretary of State who will then have a further 3 months to reach their decision.

Ministers have given assurances that there will be a seamless transfer to the new arrangements and any national infrastructure projects already notified under the Planning Act 2008 will not have to start the process again. The department has made a statement about transitional arrangements and will publish further details soon.

I am an interested party in an existing application – what do I need to do?

If you are already registered as an interested party in any of the projects currently undergoing the IPC process, at the point of transfer to the new arrangements, you need do nothing. Your registration will still be valid. In the weeks which follow the transfer of functions, you may notice a few minor changes but these should not affect your ability to participate in the process or cause any disruption to projects undergoing the 2008 Planning Act process.

You will notice that any letters, documents or procedural decisions issued by the Examining Authority, from April 2012 onwards, will be issued on Planning Inspectorate letterhead instead of on the former IPC letterhead.

The Planning Inspectorate logo looks like this:



You will be asked from 1 April 2012 onwards to respond to the Planning Inspectorate, instead of the IPC, at:

The Planning Inspectorate
National Infrastructure Directorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

How can I keep up to date on national infrastructure in future?

The IPC's website will close at the end of March 2012. It will be replaced by a project portal for national infrastructure planning which will be accessed via the Planning Inspectorate's pages on Planning Portal.

The project portal will look different to the IPC website but it will continue to feature all the existing information about anticipated and live national infrastructure projects, and dedicated project pages for all proposals where an application has been submitted to us. The portal will carry all the current information and advice on the national infrastructure process, including Advice Notes and links to DCLG guidance. The portal will not include any information about the former IPC.

A direct url for the project portal will be advertised on the IPC's existing website homepage and in a range of other project and stakeholder communications throughout

March 2012. A redirect to the new portal will also be put in place from the IPC's current website to minimise any inconvenience to web users.

Information about the Planning Inspectorate's other areas of work will continue to be accessed via the Planning Inspectorate's pages on Planning Portal.

Corporate information about the role of the Planning Inspectorate will continue to be included on the DCLG and Welsh Government sites.

The final edition of the IPC's subscriber stakeholder newsletter will be published in March 2012. Thereafter, national infrastructure planning and project information will be included in the Planning Inspectorate's existing newsletter which is being refreshed to reflect its wider audience and new frequency as a bi-monthly publication.

If you are an existing subscriber to the IPC newsletter you will need to sign up to start receiving the Planning Inspectorate's newsletter in March when content transfers. You can do this at <http://eepurl.com/iGvkvf>.

IPC twitter accounts which provide updates on projects that have been accepted for examination will in future be managed by the Planning Inspectorate. Information on the twitter account name will be available from the relevant project page on the National Infrastructure website.

IPC Advice Notes are currently being reproduced as Planning Inspectorate National Infrastructure Planning Advice Notes and will be available at the new national infrastructure planning portal, as well as from the helpline number from April 2012.