

1) To what extent are you aware of the media reporting on the proposed Atlantic Array?

We monitor national and regional media for any mention of the Planning Inspectorate. Whilst we do not monitor the media specifically for the Atlantic Array proposed off shore wind farm news items about the proposal are collected if the inspectorate is mentioned within the story. Just over 20 articles have been identified since the project was notified to us.

2) How would you describe the reporting that you've seen on this topic?

News stories are solely reviewed for accuracy of reporting the facts about the Planning Inspectorate and its process.

3) Why do you think the Array has been reported in this way?

As stated above – our concern is only with regard to accuracy of reporting. We do not hold a view on the style of reporting.

4) What effects, if any, would you say that what has been published in the media has had on the planning process and debates about the Atlantic Array?

The reporting of the Atlantic Array proposal would have no effect on our process. The Planning Inspectorate is impartial and the examination of any application is based upon evidence submitted.

5) Does the planning inspector have to remain impartial when making decisions?

Yes, the Examining Authority (ExA) must remain impartial throughout the process. Fairness, openness and impartiality are the Planning Inspectorate's core values. The Inspectorate therefore operates a strict 'no conflict of interests' policy, undertaking thorough checks before allocating an ExA to a case. Under Section 87 of the Planning Act 2008 (as amended by the Localism Act 2011) (PA 2008) subsection (1) it is up to the ExA to decide how to examine an application. The decision whether or not to grant development consent on a nationally significant infrastructure project (NSIP) is, however, taken by the relevant Secretary of State, after receiving the recommendation from the ExA. The Secretary of State has three months in which to make a decision.

6) Are examinations based upon evidence?

Yes. Examinations are based upon evidence that is submitted to The Planning Inspectorate by all interested parties on a case during the examination stage. I can refer you to our advice notes for an overview of the process and more specifically advice note 8, the following link should take you to the relevant page on our website;

<http://infrastructure.planningportal.gov.uk/legislation-and-advice/advice-notes/>

7) Does this evidence have to come from a credible source?

It is up to the interested parties on a case to submit whatever evidence they think is relevant. People can register to become an interested party during the pre-examination stage of the process. Those under s42 PA 2008 either automatically become interested parties on a case if the relevant circumstances apply. Others under s42 are relevant statutory parties who get invited to the Preliminary Meeting and sent the ExA's procedural decision following which they need to notify the ExA on each case whether or not they wish to become an Interested Party.

It is for the ExA to recommend what weighting should be given to each piece of evidence for the Secretary of State to decide.

With regards to the application documents, the applicant has to consult *inter alia* the prescribed consultees under s42 of PA 2008. A list of the prescribed consultees can be found in The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

<http://www.legislation.gov.uk/ukxi/2009/2264/schedule/1/made>

8) Is there a level of evidence that is considered invalid and dismissed?

Under s87 (3) of PA 2008 the ExA may disregard representations if they are deemed to be vexatious or frivolous, relate to merits of policy set out in a national policy statement or relate to compensation for compulsory acquisition of land or of an interest in or right over land. These are the only circumstances under which an ExA may disregard a representation from an interested party that was made within the deadline set by the ExA. For submissions from anyone who is not an interested party or if an interested party

submits their evidence later than the deadline specified by the ExA, it is for the ExA to decide whether or not to accept it as an examination document. How much weight to attach to each of the representations is for the ExA to decide when formulating his recommendation report to the Secretary of State. The ExA must make recommendations in accordance with the Government's National Policy Statements (NPS) except in specified circumstances including where the adverse impacts of a proposed development would outweigh its benefits (see [s.104\(4-8\) of the Planning Act 2008 for further info](#) and the legislation and advice section on our web-site: <http://infrastructure.planningportal.gov.uk/legislation-and-advice/legislation/>). The final decision on an NSIP application, including how much weight to attach to specific matters, is for the Secretary of State to decide under section 104 of PA2008.

9) Could this be due to the way evidence was collected or the party proposing the objection?

The PA008 only distinguishes between interested parties and non-interested parties; anyone can register to become an interested party as long as it's made at the correct time. It is rare for members of the public to conduct evidence collecting, although organised bodies have done this before, and due to the fact that the representation won't be breaching section 87, it must be considered in the examination process. In making their recommendation to the Secretary of State about what weight to give a representation, the ExAuthority needs to take into account relevant legislation, guidance and case law. (see also above).

10) Does this also mean that some points brought forward by the public and media are researched to determine their weighting and therefore prolonging the planning application?

The ExA must consider all the evidence presented to it by interested parties to the specified deadlines (see above). PA 2008 s90 (1) sets out that the examination of an NSIP is first and foremost a written process, based upon the relevant and written representations of interested parties and the written responses to questions asked by the Examining Authority. Beyond this the ExA sets the timetable and determines what form the examination should take at or as soon as practicable after the preliminary meeting and will inform all interested parties accordingly. The time table may also include hearing which if held are in public and anyone can attend. There are 3 types of hearings: open floor hearings, issue specific hearing and compulsory acquisition hearing.

Issue Specific Hearing

A hearing or hearings on specific issue(s) may be held by the EXAMINING AUTHORITY if they consider it necessary to ensure adequate examination of the issue or ensure that an INTERESTED PARTY has a fair chance to put their case.

Open Floor Hearing

An OPEN FLOOR HEARING is held if requested by an INTERESTED PARTY, or the EXAMINING AUTHORITY for this APPLICATION considers it necessary. Anyone who is an INTERESTED PARTY may request and attend an OPEN FLOOR HEARING.

Compulsory Acquisition Hearing

A Compulsory Acquisition Hearing is held if requested by an Affected Person (as defined in s92(5) PA 2008), or the EXAMINING AUTHORITY for this APPLICATION considers it necessary.

The ExA can also put questions to any interested party to clarify any issues which they consider relevant. The ExA can also request further information on any matter they consider relevant (under rule 17 of the Examination Procedure Rules). However, as set out in section 98 (1) of PA 2008, the examination must conclude within 6 months starting from the day after the preliminary meeting (the day the examination starts).

11) How could the planning process be made easier for future developments?

The PA 2008 is still relatively new legislation which was further amended in 2011 by the Localism Act. So far only one project has been fully consented through this new system and another consented but caught by Special Parliamentary Procedure. The PA 2008 was introduced to make the consenting process for NSIPs faster and more predictable for all concerned. The "front-loading" of consultation and sorting out of issues makes the actual application examination process (ie from acceptance to decision) much faster than what it has been previously. It also brings more certainty to the system for both applicants and members of the public and allows opportunities to local communities to shape the development of proposals. You may also find Angus Walker's blog commenting on the PA 2008 regime of interest in this matter:

<http://www.bdb-law.co.uk/our-insights/blogs>

It is for government to decide whether and what further improvements should be made to the PA 2008 regime. We therefore cannot comment further on this.

12) Do you have any comments you would like to add about the decision-making process for the Atlantic Array?

We cannot comment on specific applications as it would be departing from our impartial and independent stance.