



## Meeting Note

<b>File reference</b>	<b>Offshore and Terrestrial Consenting Forum</b>
<b>Status</b>	<b>Final</b>
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<b>Meeting with</b>	<b>Offshore and Terrestrial Consenting Forum</b>
<b>Meeting date</b>	<b>10 October 2012</b>
<b>Attendees (Planning Inspectorate)</b>	<b>Sheila Twidle (Environmental Services Manager)</b> <b>Tim Hallam (National Infrastructure Legal Manager)</b> <b>Simone Wilding (Principal Case Manager)</b> <b>Hannah Nelson (EIA and Land Rights Adviser)</b>
<b>Attendees (non Planning Inspectorate)</b>	<b>Countryside Council for Wales (CCW)</b> Sarah Wood, Andy Hill <b>English Heritage</b> Shane Gould <b>Environment Agency</b> Carol Bolt (EA), Kayna Tregay (EAW) <b>Joint Nature Conservation Committee</b> Mark Tasker <b>Natural England</b> Eric Steer, James Bussell <b>Marine Management Organisation (MMO)</b> (by telephone part only) Ross Hodson, Jayne Griffiths
<b>Location</b>	<b>Temple Quay House, Bristol</b>

<b>Meeting purpose</b>	To discuss environmental and other issues related under the Planning Act 2008 (2008 Act) regime with key statutory consultees/consenting bodies. To test the appropriateness of combining the off-shore and terrestrial consenting forums and using teleconferencing facilities.
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<b>Summary of key points discussed and advice given</b>	<b>1. Introduction</b>  An update of actions from the previous Offshore and Terrestrial Consenting Forums was given. The Planning Inspectorate (PINS) have conducted a 'webinar' workshop with Natural England on the NSIP process which was well received. A presentation on the same issues was due to be conducted by PINS with CCW on 11 October in Shrewsbury. PINS are attending JNCC's office in Aberdeen to make a similar presentation on 4 December 2012. JNCC extended the invitation to NE and CCW.
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## **2. Experience from Examination**

There was general discussion regarding the experience to date from examinations.

CCW noted that they had understood hearings would be 'informal', and were taken 'off-guard' by the approach taken in the hearings they had attended to date. CCW said that in future participation in hearings, they would take along their own legal representation.

JNCC seconded the concerns of CCW and stated that their staff are inexperienced in dealing with such proceedings. Concerns were raised over the inability and lack of accessibility to legal resources to support their case.

PINS noted that although the examination of applications under the 2008 Act regime was intended to be primarily a written process, the legislation does provide for hearings to be held where requested and needed. Although an inquisitorial approach would generally be taken in such hearings, these are formal hearings and the legislation does provide for cross-examination where an ExA considers this necessary.

NE commented that in their view ExAs focussed their questioning to them on whether the evidence base was of a satisfactory standard rather than focusing on whether the interpretation of information was correct. NE commented that negotiations with applicants can be time consuming which can result in issues not being fully resolved before a hearing. They expressed surprise over the number of issues that still need to be resolved at a hearing.

EA queried whether advance warning is required to be given if a witness is to be cross examined at a hearing. PINS confirmed that it was not necessary for the ExA to give prior notice of this. EA also commented that it would help if it could be made clear as to which witnesses are needed and at what time. PINS advised that interested parties need to be prepared to be questioned on the evidence submitted. PINS is aiming to provide agendas for hearings in order to give interested parties an indication of the likely focus.

PINS thanked everyone for their comments and said that these would be noted and taken away for discussion and consideration. PINS explained that it is at the discretion of the Examining Authority how they conduct the examination of an application.

PINS stressed the importance of front loading work and seeking to address matters sufficiently early as part of the pre-application process. Statutory consultees could contact developers early to discuss and agree programming and

where their inputs are needed, as well seeking to agree statements of common ground. Careful consideration should be given to maintaining a good evidence base to help to demonstrate this proactive approach. It was agreed that everyone should encourage early consultation and stress the importance of resolving issues before an application is submitted.

PINS suggested that forum members could look to prioritising their key issues when making consultation responses and submitting representations and to be clear as to the information they considered was needed from applicants, including explaining why, to help better understanding of the issues.

### **3. Evidence plans**

Defra (MIEU) had recently published guidance on Evidence Plans; “a formal mechanism to agree upfront what information the developer needs to supply to the Planning Inspectorate as part of a Development Consent Order application to help ensure compliance with the Habitats and Wild Birds Directives” (DEFRA, 2012). Where applicable, these plans would be agreed between developers and the statutory nature conservation bodies.

PINS commented that initial feedback regarding the introduction of evidence plans has been positive.

CCW commented that evidence plans are not currently applicable in Wales, and currently there is no indication from the Welsh Government of the adoption of a similar tool in Wales.

### **4. Data Reliability**

PINS raised a concern that data on the NE/JNCC websites appears to be more up to date than on the citations, and raised concern over consistency.

JNCC questioned whether it could be a timing issue of getting updates reflected in the citations.

### **5. Data collection and sharing**

The point was raised for off-shore developments in particular, that the burden of providing information should not all fall on the first development to proceed to application stage. CCW commented that data produced by the Crown Estate is available on the COWRIE Data Management System.

All agreed that it would benefit all if data was shared, but that this was unlikely to happen on a widespread systematic basis

for the time being.

JNCC and NE commented that the Marine Evidence Group was currently setting out a programme project work for Natura 2000 sites that would be a useful resource once complete.

## **6. Updates on Advice Notes and New Projects**

PINS said that a revised version of Advice Note 10: HRA would soon be published.

A further annex to Advice Note 11: Working with public bodies, in relation to EH, would also be published shortly.

CCW raised the issue of updating Advice notes to reflect 'Living Wales'. PINS confirmed that the Advice Notes would be kept on the planning portal website and could be updated once that body is in operation.

NE commented that the timetable of anticipated submission dates for new projects is useful but an up to date programme is not present in one location on the website.

There was a general agreement that the register of advice is a useful tool and its continued retention in its current form on the website would be welcomed.

PINS commented that DCLG is due to publish revised guidance on associated development together with other revised guidance documents.

CCW informed PINS that the North Wales Electricity Line project was currently undergoing intensive public consultation.

## **5. AOB**

There was an agreement between all parties that combining the Offshore and Terrestrial Forums had been a success and this approach would be continued.

The MMO had joined the meeting using teleconferencing facilities but left the meeting after 30 minutes stating that it was difficult to hear the conversations ongoing. It was agreed that meeting in person would, if possible, be the most suitable approach.

Due to resourcing issues, JNCC had not had the capacity to revise the draft document which highlights their concerns with regard to certain aspects of the pre-application and post submission stages for offshore wind projects. JNCC to progress.

<b>Specific decisions/ follow up required?</b>	<p><u>Outstanding actions from the previous Offshore and Terrestrial Consenting Forums:</u></p> <ol style="list-style-type: none"> <li>1. JNCC to revise draft document highlighting their concerns over certain pre-application and post-submission stages for offshore wind projects and submit for further discussion.</li> <li>2. EH to provide PINS with list of case specific contacts.</li> </ol> <p><u>Actions from this meeting:</u></p> <ol style="list-style-type: none"> <li>3. Attendees to provide feedback on the examination process.</li> <li>4. PINS to email link to DEFRA's guidance on evidence plans to EH and EA [post meeting note – completed].</li> <li>5. PINS to circulate details of the inconsistencies noted between citations and those published on the NE/JNCC websites. NE/JNCC to investigate.</li> <li>6. PINS would look into collating an overall programme.</li> </ol>
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<b>Circulation List</b>	All attendees
	Plus <ul style="list-style-type: none"> <li>• Tammy Smalley (NE)</li> <li>• Shaun Nicholson (MMO)</li> <li>• Sally Holloway (Environment Agency)</li> <li>• Polly Groom (Cadw)</li> <li>• Deanna Groom (Royal Commission on Ancient and Historical Monuments of Wales)</li> <li>• Tamsin Brown (Welsh Government)</li> <li>• Alec Rhodes (Forestry Commission Wales)</li> </ul>