

Meeting Note

File reference	Offshore Consenting Forum, Non-case Specific
Status	Draft
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Meeting with	Joint Nature Conservation Committee (JNCC), Natural England (NE), Countryside Council for Wales (CCW) and Marine Management Organisation (MMO)
Meeting date	22 September 2010
Attendees (IPC)	Simon Butler, Sheila Twidle, David Price, Karl Hardy, Mark Wilson, Tim Hallam, Simone Wilding, Amy Cooper, Hannah Pratt
Attendees (non IPC)	<u>JNCC</u> : Lucy Greenhill <u>Natural England</u> : Victoria Copley (dialling in), Helen Lancaster <u>CCW</u> : Jessica Orr <u>MMO</u> : Shaun Nicholson, Ross Hodson
Location	IPC Offices, Temple Quay, Bristol

Meeting purpose	To set out key responsibilities with regards to off shore NSIP developments.
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Summary of outcomes	<p>1. Developing a standard approach to HRA/AA</p> <p>Group discussed developing a standard approach to Habitats Regulations Assessment (Appropriate Assessment) under the IPC regime.</p> <p>The IPC detailed their pre-application process (including scoping and HRA). This included adopting EIA Scoping Opinions, which might refer to HRA matters, and giving advice under s.51 of the Planning Act 2008 (the 2008 Act), including on Appropriate Assessment (AA) issues.</p> <p>Current legislation and guidance does not detail the IPC process towards HRA during the pre-application stage, so there was a need for advice from the IPC directed towards applicants, statutory authorities and interested parties</p> <p>The Infrastructure Planning (Applications: Prescribed Forms & Procedures) Regulations 2009 specify a report is required with any DCO application where a European or Ramsar site may be affected by a proposed development.</p>
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This report should identify any such sites which may be affected by a proposed development, together with sufficient information to enable an appropriate assessment to be made.

Applicants need, for example, to know what is expected of them i.e. what constitutes 'sufficient information' for an AA.

It is likely therefore that the IPC will be publishing an external Advice Note on Habitats Regulations matters. This is likely to deal with what information is required e.g. site description, likely significant effects, conservation objectives, justification and alternatives for IROPI and any proposed compensatory measures, together with advice on programming and consultation

The IPC Guidance Notes 1 and 2 touch on the roles of applicant and competent authority where proposed developments are likely to have a significant effect on European and Ramsar sites, therefore requiring an AA.

At, or shortly after, the preliminary meeting held by the Examining authority (Exa) (Panel or single Commissioner), the Exa will set out the timetable for the examination. It is at the Exa's discretion during the examination stage to determine if more information is required from the applicant. Therefore it is important that there is agreement throughout pre-application that sufficient information is being collected.

JNCC suggested that a meeting during the pre-application process with the developer, IPC, MMO and conservation bodies would be valuable to discuss the issues to be addressed in the AA. Although not expressly stated within the legislation in relation to AA, it is likely that statutory consultees will need to be consulted during the pre-application stage.

NE/CCW/JNCC stated that it would be useful to have some guidance on possible timescales involved in the AA process (post-application), in order to be able to better manage their participation and advice given during this process.

NE/CCW/JNCC considered their role under the IPC regime – they can only offer advice on the proposed development and may object further into the process if there are significant concerns regarding environmental impacts. Applicants should therefore be advised to consult with key statutory bodies early on with regards Habitats Regs. to ensure sufficient survey information is available prior to formal submission of DCO applications and

potential issues resolved. Some developers approach the statutory consultees to start discussing EIA survey work and HRA issues prior to the formal scoping opinion stage, but this is not consistent amongst all developers.

It was noted that the Crown Estate (CE) may be the drivers behind the timing of applicants requesting for scoping opinions. It is understood that the CE require key milestones to be met under their zonal development agreements with wind farm developers.

Reference was made to the provisions of the Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000 in relation to proposed development affecting SSSIs – many SSSIs overlap spatially with inshore/coastal European sites.

The IPC are developing a general advice note on their interaction with key statutory bodies. This is likely to include separate annexes for different bodies. This will evolve and therefore be a 'live' document but will help to clarify at what point there will be interaction between the IPC, MMO and advisors.

2. Update on boundary changes to SACs and SPAs

NE delivered a presentation on new and revised SACs and SPAs. Offshore SACs are being selected primarily for reefs or sandbanks. 10x SACs and 2x SPAs have been submitted to Europe and are legally protected by UK legislation.

Some changes were made to other proposed SACs (e.g boundary changes) but have not yet been submitted to Europe as further consultation is required.

Where a site straddles the 12nm boundary, the body within which the majority of the project lies will be the lead advisor for the applicant to liaise with and will co-ordinate advice from the adjacent agency.

Further information available on JNCC/NE website regarding SACs and SPAs.

3. Feedback on Renewables UK seminar

The IPC attended the Renewables UK seminar.

Issues arising included:

- Requirements/conditions – how addressed?
- Transboundary effects

- Grid connections – DECC/Ofgem in consultation over changes to the offshore transmission regime

There is no marine equivalent to Local Authorities e.g. for SoCC and LIRs. This is not the MMO (they are licensing and planning only) and MMO is not defined in the 2008 Act or any of the secondary legislation made under it as a 'Local Authority'.

IPC stated that the more detailed guidance on the pre-applications stage outlined above, should address the recommendations arising from the R-UK workshop,

4. Review of Scoping process to date for offshore schemes

Statutory bodies are consulted by letter or email providing a link to the scoping report on the IPC website.

Contacts:

- CCW/NE Regional contacts have been allocated
- CCW Round 3 to Jessica Orr
- MMO to be e-mailed to Marine.consent@marinemanagement.org.uk.

Consultees have 28 days to respond. If the deadline is missed, the comments cannot be included in the scoping opinion. However, the IPC will forward the comments to the applicant for their consideration.

Consultee responses are most helpful when:

- arranged with the key points upfront
- advice with regards to HRA/AA is clearly identified, alongside EIA, to ensure that the separate processes are clearly recognised
- where appropriate, consultees also advise whether they agree with developers' proposals to scope out certain low risk impacts .

5. AOB

The CE and EA may be invited to future forums as they may have some input to offshore elements.

It was considered whether it would be useful to establish an onshore consenting forum; the SNCAs would provide the IPC with relevant contacts for this.

Next meeting to be held in Dec/Jan.

Specific decisions/follow up required?	<ol style="list-style-type: none"> 1. NE will provide the IPC of an up-to-date map of SAC and SPA designations and wind farms locations. 2. IPC to complete advice note regarding Habitats Regs and IPC process. 3. IPC to work with agencies to produce Advice Notes agreeing statements of working with statutory consultees. 4. IPC to request from the Crown Estate whether milestones are driving pre-application timescales on projects. 5. Environment Agency to be invited to future meetings as they are the competent authority under the Water Framework Directive.
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