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Andrew Hearle
Natural England
By email only

Our Ref: TR030001

Date: 25 July 2012

Dear Mr Hearle,

Able Marine Energy Park – Compensation provision

I write as Lead Member of the Panel in response to your letter of 11 July 2012 addressed to Mike Harris.

The Panel is well aware of Natural England's concerns about the production of information to support the applicant's discussions with Natural England on the adequacy of compensation measures. Your letter appears to be concerned more with the difficulty of completing the exercise within the overall examination timescale rather than with the timing of the Specific Issue Hearing related to the compensation site on 11 September.

You will appreciate that the Panel has no power to extend the examination period beyond 25 November 2012, and that, in all respects the examination timetable is already tight. The only power to extend the examination period is that vested in the Secretary of State under s.98(4), which has not been delegated, and which requires under s.98(8) an explanation to Parliament. There would need to be a very strong case before the Planning Inspectorate would seek the exercise of this power from the Secretary of State. Some might take the view that if the applicant cannot provide the necessary information in good time, then the jeopardy simply rests with the applicant.

You should also be aware that the Panel has received advice from its own legal advisors that the application of EIA Regulation 17, should it be necessary, does not 'stop the examination clock' - it would still be necessary to complete the examination within the same period.

I hope this clarifies the position for you.

Yours sincerely,

Robert Upton

Lead member of the Panel of Examining Inspectors

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.