

On Mon, Nov 5, 2018 at 2:36 PM <Richard Walker> wrote:

Dear Andrea

This is our combined answer to questions (1 and 2). Please will you forward to the Inspector.

Reg 12(5) and (6) of the Environmental Assessment of Plans and Programmes Regs 2004 requires a 5 week consultation on the 'scope' of the SEA/SA with the 'consultation bodies' (defined by Reg 4). As the table at para.013 ID 11-013-20140306 of the NPPG makes clear, this is during Stage A of the SA process - equivalent to the evidence gathering and engagement period before Reg 18. Reg 18 stage is equivalent to the SA 'developing and refining alternatives and assessing effects' - ie after the scope has already been established in consultation. (See generally NPPG section 11, para's 004-015).

If the scope is to be changed (as opposed to more options being assessed or correctly assessed within the SA's existing framework) there would need to be a new Reg 12 scoping consultation to provide the foundation for the altered appraisal. This would take the process back to prior to the Reg 18 stage.

In respect of question 3, we have a conference in chambers in late November on NEA005, in anticipation of a consultation on LUC's Method Scoping Statement on the SA. A full opinion on the whole NES005 bundle will therefore be available in early December. It may be the case that the opinion is provided as a part of a consultation response, assuming a consultation takes place (subject to its timing and also subject to the answers above), and non-statutory consultees are invited to make comments.

Andrea - On Friday we posted hard copies of the scans of the MIPIM leaflet within the zipped drive to you. Hopefully you have received or will do so very soon.

Thank you
Richard Walker
Strategic Planning Director

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On Thu, 1 Nov 2018 at 09:32, Andrea Copsey <copseyandrea@gmail.com> wrote:

Dear Richard,

Although the Inspector is not currently accepting representations on the Section 1 Plan or its evidence base, your letter raises questions about the legality of the NEAs' proposed approach to Sustainability Appraisal which he may need to consider.

In this connection, the Inspector has asked me to ask you about three points in your letter:

1) In the second paragraph on page 3, you say:

Moreover, the evaluative framework for specifically assessing the garden community options is only introduced in the Preferred Options SA Report. It is not evident that statutory consultees were consulted prior to a Regulation 18 plan being forged, as required by the regulations.

Could you please advise which specific regulations require that statutory consultees are consulted on the scope of the SA prior to a Regulation 18 plan being prepared?

2) In the sixth paragraph on page 3, you say:

The LUC document advises that the SA framework must be changed to objectively assess all the options; meaning the scope of the SA will change. This requires a plan-making process outside the (suspended) examination phase, not within it. Regulation 18 and 19 exist to ensure a proper process of plan-making.

Could you please advise what is the legal basis for the view expressed in the second sentence of this paragraph?

3) In the final paragraph of the letter, you say:

This letter represents only an initial set of observations, and Lightwood is seeking the advice of leading Counsel on these matters.

Is Lightwood intending to provide that Counsel's advice to the Inspector? If so, could you please advise of the timescale for this?

Could you also send a hard copy of the Winzip attachment to your email, to Longcroft Cottage, Bentley Road, Clacton-on-Sea Essex CO16 9BX so that I can forward to the Inspector.

Kind regards,
Andrea Copsey
Local Plans Programme Officer
Mobile: 07842 643988