

<b>Isle of Anglesey County Council</b>	
Report to:	Isle of Anglesey County Council
Date:	26 <sup>th</sup> September 2024
Subject:	Request for a Scheme of Delegation in relation to the Council carrying out its statutory functions in relation to any development which is a National Significance Infrastructure Project (NSIP)
Portfolio Holder(s):	Cllr Robin Williams - Deputy Leader Cllr Gary Pritchard - Deputy Leader Cllr Nicola Roberts – Planning, Public Protection and Climate Change Cllr Carwyn Jones – Corporate Business and Customer Experience
Head of Service / Director:	Lynn Ball - Director of Function (Council Business)/Monitoring Officer  Christian Branch - Head of Service Regulation and Economic Development
Report Author:	Angharad Crump - Energy Island Programme Delivery Manager
Local Members:	Relevant to all Elected Members

<b>A –Recommendation/s and reason/s</b>
<ol style="list-style-type: none"> <li>1. <b>To delegate to the Head of Regulation and Economic Development, in consultation with the Leader (or such delegated to a Portfolio Holder as may be nominated by the Leader), to carry out all the Council's statutory functions in relation to any development which is a National Significant Infrastructure Project (NSIP) and requires a Development Consent Order (DCO) as defined under Act Planning 2008 as amended by the Secretary of State.</b></li> <li>2. <b>The Function Director (Council Business)/Monitoring Officer, in consultation with the Head of Service (Regulation and Economic Development), to update section 3.5.3.10 of the Constitution to reflect the delegation given by the decision.</b></li> <li>3. <b>Permission to deviate from the requirements of the Council's Welsh Language Policy to allow the Welsh translation of the Council's comments to be sent to the Planning Inspectorate after their submission in English. (This exception is required because the NSIP examination timetable does not include sufficient time for the Council's comments to be translated by the submission date).</b></li> </ol>

## A –Recommendation/s and reason/s

### **Reasons:**

#### **Overview of the NSIP examination process**

The Planning Act 2008 (and the subsequent Acts of Parliament that have amended its content, such as The Localism Act 2011) provides the consenting regime for granting planning and other consents for NSIPs. NSIP projects are large scale developments which include energy generating stations, electric lines, harbour facilities which are considered by the UK Government to be of such importance that permission to build and operate them needs to be confirmed at national level by the relevant Secretary of State.

The NSIP process was introduced to streamline the decision-making process for major infrastructure projects, making it fairer and faster for communities and applicants alike. The timetable effectively prescribes that a decision is to be confirmed by the Secretary of State approximately 12 – 15 months after application submission.

The NSIP process is a front-loaded process where there is a requirement for the developer to consult on a proposed project prior to submitting an application to the Planning Inspectorate.

The application following acceptance will be examined by an inspector/a panel of inspectors, known as the Examining Authority.

On completion of the examination, the Examining Authority will provide a recommendation report to the Secretary of State who will decide whether development consent should be granted.

Where the Secretary of State decides to grant consent for a project, this will be through a DCO. A single duly authorised DCO will confer all the necessary consents/powers to enable the scheme to proceed, including planning permission, compulsory purchase powers, authority for highway and street works, listed building consents etc.

#### **The Council's Energy Island Programme**

The Council through its Energy Island Programme (EIP) is engaging with a range of developers that are interested in constructing and operating low carbon developments on the Island.

The proposed developments' range in generating output and permission would therefore be applied for under different planning regimes.

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In terms of the proposed development's that the EIP is currently engaging with the following due to their generating output would constitute a NSIP and require a DCO from the Secretary of State;

- Mona Wind Farm (1,500MW) (EnbW) – submitted for examination
- Maen Hir Solar Farm (over 350MW) (Lightsource BP) – in the pre-application stage – submission Q1 2025
- A new nuclear development at Wylfa would also constitute an NSIP and require a DCO.

All of the Council's statutory functions in relation to any NSIP project will be led by the EIP which sits within the Regulation and Economic Development Service. This approach is utilised to ensure that the Council can provide the specialist resources and capacity required to respond to the demands and requirements of the process in an effective and timely manner both in terms of its statutory and non-statutory functions. This approach also ensures that the Councils engagement with an NSIP does not interfere with the Councils' Planning function.

The Councils' resource and capacity to deal with an NSIP projects is secured through the provision of a Planning Performance Agreement (PPA) that is agreed between the Council and the developer. The PPA is usually agreed in a phased PPA which allows for the Councils' engagement with a particular NSIP for its pre-application, examination and post-consent stage. This allows the Council to engage, influence and carry out its statutory and non-statutory duties at all project phases. The PPA allows for us to use our framework contractors for support, which includes multi-disciplinary and legal support.

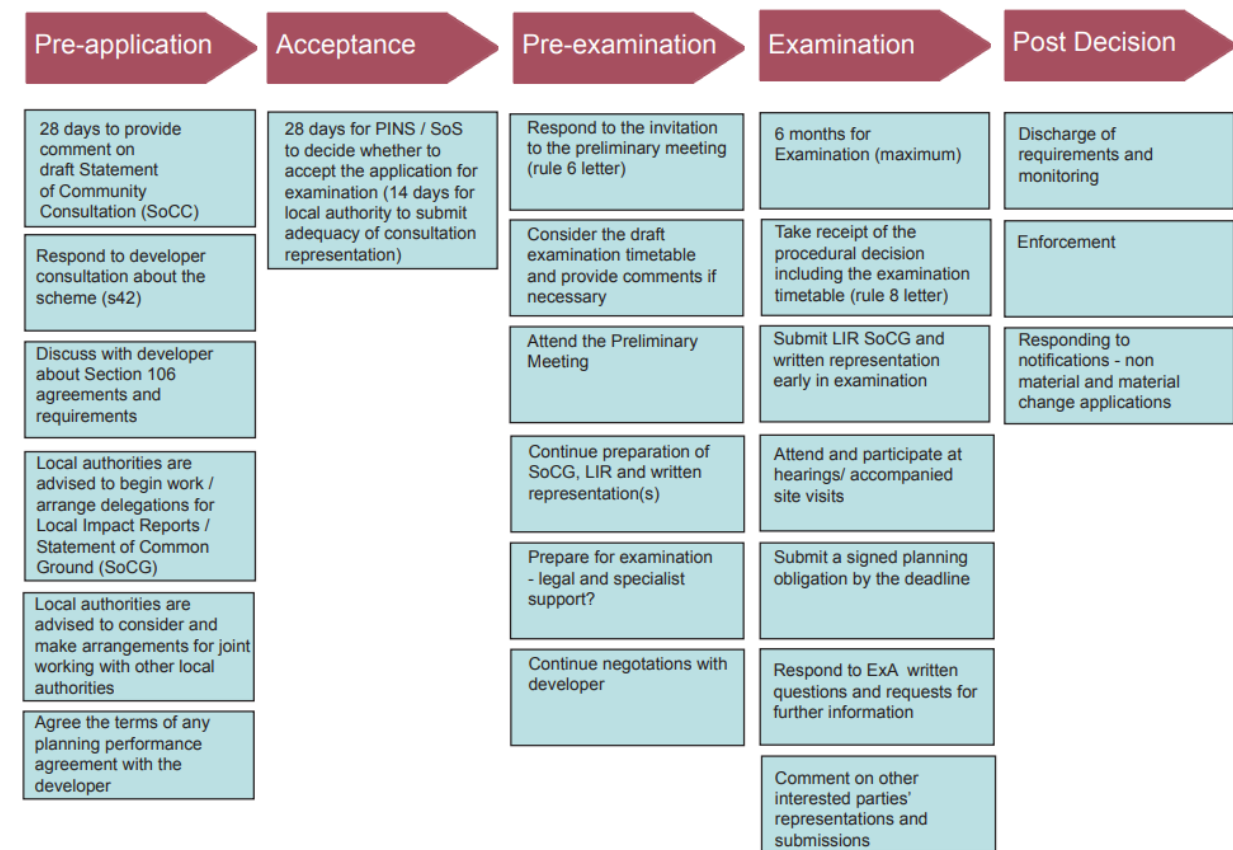
The EIP led on the Council's responses to the Wylfa Newydd New Nuclear project which was a NSIP project and has led on a number of other schemes which are identified as Development of National Significance (DNS) and are examined by Welsh Government. The EIP is therefore experienced and familiar with the NSIP consenting process.

### **The Council's statutory role in relation to an NSIP project**

PINS encourage local authorities to ensure it has adequate delegations in place as the examination phase of a NSIP process is time and resource intensive and due to the examination timetable being set by PINS it is not possible to align the deadlines for the Council to submit representations and evidence with the Councils' committee cycle.

The Council has a key and statutory role as the local host authority, local planning authority and local highway authority throughout the process as identified below;

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During the examination phase there will be numerous deadlines for the Council as the Local Host Authority to present submissions and evidence. These include the following;

- a Local Impact Report (LIR)
- Written Representation
- Planning Obligation (S106)
- Statement of Common Ground
- Respond to the ExA written questions
- Respond to the ExA request for information
- The Council will also be asked to participate in the hearings and inquiry sessions.

The deadline for the submission of these documentation is set by PINS and therefore it is not possible to align with the Councils' committee cycle for these to be approved.

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Whilst the Delegation Scheme is required to ensure that the Council fulfils its statutory duties, it is confirmed that every effort will be made at all stages, to enable as much political input as possible via the following governance arrangements that are already in place.

Level 1	Leader Chief Executive (Energy Island Programme Senior Responsible Owner)
Level 2	Leader Deputy Leaders Portfolio Holder Planning, Public Protection and Climate Change, Chief Executive Deputy Chief Executive Head of Service Regulation and Economic Development
Level 3	Directors and Heads of Service – ‘Corner-stone Leads’ Energy Island Programme Delivery Manager
Level 4	Topic Leads Specialists (Both internal and external (external is provided on Framework Agreement and is funded under the provision of a Planning Performance Agreement))

L1 are regularly briefed in terms of the EIPs engagement with a particular project and also engage directly with the equivalent counterpart for the project to engage in strategic discussions.

The regular Level 2 meetings are utilised to;

- share information in relation to the proposal;
- consider and discuss the Councils position in relation to the proposal;
- discuss the potential impacts and how these are removed or mitigated for;
- discuss how local benefits can be maximised and secured appropriately;
- discussion around compensation proposals including those secured by means of a S106.

Regular meetings are also held at Level 3 and Level 4 to ensure that strategic issues and directions are cascaded down as well as providing a forum for the escalation of problems and difficulties encountered in relation to engaging with a project of this scale.

L3 and L4 are officers who are involved in the technical detail of a particular project.

Specific Member Briefing Sessions are also arranged by the EIP which allows for direct engagement between the elected members of those ward areas affected by a particular NSIP and the developers. This includes opportunity to for members to

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be fully informed in relation to the project and allowing for opportunity to ask questions.

Copies of all formal submissions into the examination will also be shared with L2 and the relevant elected members of the wards impacted by the projects.

For any NSIP project, a Whole Council Position Statement will be prepared. This Statement is a key strategic document that serves the following purpose;

- confirm the whole Council's position with regards to a particular NSIP project
- influence and inform what is and not deemed acceptable to the Council in the DCO submission;
- shape all of the Council's subsequent written representations and submissions to the DCO Examination;
- frame what is sought by the Council in terms of mitigation and benefits, in order to achieve its overall policy objectives and requirements; as well as
- established the parameters for the decision-making, in accordance with County Council's scheme of Delegation

It is confirmed that a scheme of delegation was put in place for the Council to deal with both the Wylfa Newydd Project which constituted an NSIP and that a Scheme of Delegation has already been agreed by the Executive in relation to the Council undertaking its statutory function for all projects that constitute a Development of National Significance (DNS) which includes the recently examined Traffwll Solar Farm Project.

The Councils involvement in the examination of both these projects confirmed the need to have in place a scheme of delegation to ensure that the Council could effectively fulfil its statutory duties in terms of engaging with a project of this scale, to provide its submissions within the deadlines prescribed by PINS and to participate in the examination process either through hearings or inquires.

Our involvement in both these examinations also confirmed that our approach in terms of having a Corporate Position Statement in place to inform our position with regards to a project ensured that the Councils' position as set out within our submissions and evidence into the examination was aligned and consistent with the corporate and agreed position.

For this reason it is requested that the Council supports a scheme of delegation that allows the Head of Regulation and Economic Development to carry out of all statutory functions of the Council.

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It is also recommended that the Council agrees that in terms of the delegations proposed, that any action taken under them may be further delegated to any officer of the Council by the appointed officer. The ability to further delegate is required to allow officers to effectively represent the Council at hearings and inquiry and agree matters during the course of such the examination.

### - **Submission of translated versions of the Council's submissions**

With respect to submitting bilingual versions of the Councils representations and evidence into the examination, the examination timetable confirmed by PINS does not allow sufficient time for the translation of the Council's submissions to take place by the submission date. It is therefore requested that permission is given to depart from the requirements of the Councils Welsh Language policy to allow for the Welsh translation of the Councils submission into the examination process to follow following the submission deadline. It is confirmed that this is requested as an exemption due to the requirements of the NSIP process and that a Welsh version of the Council's submission will be provided on all occasions.

This measure will not affect the Council's compliance with statutory service delivery of Welsh language standards which provide for Welsh/bilingual communication with the public and other persons in Wales. These standards do not prescribe that communication with bodies outside Wales, such as the UK Government, must be in Welsh/bilingual Relevant communications/documents will be made available in Welsh as soon as practically possible. No documents will be published or made available publicly until a Welsh translation is available.

## B – What other options did you consider and why did you reject them and/or opt for this option?

The other option considered was not to seek the delegations requested which would mean that all the Councils representations and evidence into the examination of an NSIP examination would need to be approved by the Executive and / or the Full Council.

This option was rejected as it would not be possible to align the examination timetable prescribed by PINS with the Councils' committee cycle. This option would result in the Council not being able to submit its representations and evidence to the examination in a timely manner and therefore not fully participate in the examination and fulfilling its statutory obligations.

As the local host authority, local planning authority and local highway authority the Council has an important role in the examination of an NSIP application.

**B – What other options did you consider and why did you reject them and/or opt for this option?**

Due to the prescribed manner of the NSIP examination timetable there are no opportunities to request to extend deadlines.

The delegations sought are considered to represent an appropriate balance between seeking Member engagement in NSIP applications and allowing Officers to prepare and submit representations to the examination that allows the Council to fully undertake its statutory duties and within the examination timescales as prescribed by PINS.

With respect to being able to submit bilingual versions of the Councils submission and evidence at the point of submission, again the timetable as confirmed by PINS does not allow adequate time for drafting and ensuring that translation takes place before the date set for submission.

**C – Why is this a decision for the Executive?**

Changes are proposed to the Councils constitution.

**Ch – Is this decision consistent with policy approved by the full Council?**

The Full Council has previously approved a similar form of delegation with respect to the statutory functions of the Council in connection to the examination of the Wylfa Newydd Project which was an NSIP project as well as in relation to the statutory functions of the Council for all projects that constitute a Development of National Significance (DNS) which includes the recently examined Traffwll Solar Farm Project.

The Council's involvement in the examination of both the projects referred to in C above confirmed the need to have in place a scheme of delegation to ensure that the Council could effectively fulfil its statutory duties in terms of engaging with a project of this scale, to provide its submissions within the deadlines prescribed by PINS and to participate in the examination process either through hearings or inquires.

**D – Is this decision within the budget approved by the Council?**

No budget required.



Dd – Assessing the potential impact (if relevant):		
1	How does this decision impact on our long term needs as an Island?	This decision will allow the Council to fully contribute to the examination of any development that constitutes a Nationally Significant Infrastructure Project in a timely manner.
2	Is this a decision which it is envisaged will prevent future costs / dependencies on the Authority? If so, how?	N/A
3	Have we been working collaboratively with other organisations to come to this decision? If so, please advise whom.	N/A
4	Have Anglesey citizens played a part in drafting this way forward, including those directly affected by the decision? Please explain how.	No
5	Note any potential impact that this decision would have on the groups protected under the Equality Act 2010.	N/A
6	If this is a strategic decision, note any potential impact that the decision would have on those experiencing socio-economic disadvantage.	N/A.
7	Note any potential impact that this decision would have on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.	This decision would ensure that the representations of the Council into the examination of any NSIP application is submitted bilingually.

E – Who did you consult?		What did they say?
1	Chief Executive / Senior Leadership Team (SLT) (mandatory)	Supportive of recommendations
2	Finance / Section 151 (mandatory)	-
3	Legal / Monitoring Officer (mandatory)	Supportive of recommendations
4	Human Resources (HR)	-
5	Property	-
6	Information Communication Technology (ICT)	-
7	Procurement	-
8	Scrutiny	-
9	Local Members	

<b>F - Appendices:</b>
N/A

<b>Ff - Background papers (please contact the author of the Report for any further information):</b>
N/A