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CHANGES TO PLANNING ACT 2008

- * Impacts on Calderdale Energy Park's Development Consent Order process**
- * What Parish Councils and campaign groups can do**

1. NEW LEGAL FRAMEWORK FOR CALDERDALE ENERGY PARK'S PLANNING PROCESS

- On 24th July 2026 new Regulations came into effect that removed the pre-application engagement and consultation requirement.
- So the adequacy of consultation is no longer a factor in the Planning Inspectorate's decision to accept Calderdale Energy Park's Development Consent Order application.
- This is not a lamentation for the time we all wasted on Calderdale Energy Park's consultations, and the free environmental advice we provided!
- It's the start of a plan to reorientate ourselves about what we do now to continue to defend Walshaw Moor and its vital ecosystem services that we depend on, from Calderdale Energy Park's utterly inappropriate proposed development for the triply-protected location, that risks undermining the green transition.

2. STILL 6 STAGES IN THE PLANNING PROCESS

- Pre-application
- Acceptance
- Pre-examination
- Examination
- Decision
- Post-Decision
- But what happens in some of them has changed.
- This presentation looks at the first three.

3. PRE-APPLICATION (WHAT'S LEFT OF IT)

- This stage finishes when Calderdale Energy Park submits its Development Consent Order application to the Planning Inspectorate - currently scheduled for November 2026.
- The new legal framework means the Planning Inspectorate no longer requires Calderdale Energy Park's Adequacy of Consultation Milestone Report. It has been replaced by an "optional short engagement summary".
- Independently of the Planning Act 2008 changes, a mandatory Biodiversity Net Gain requirement kicks in if Calderdale Energy Park makes its DCO application on or after 2nd November 2026. To help inform the development of the outline biodiversity gain plan, Calderdale Energy Park is expected to inform stakeholders about it.
- As far as we're concerned, Parish Councils are stakeholders.
- An updated DEFRA compensation strategy for irreplaceable habitat (blanket bog) applies to nationally significant infrastructure projects from 2nd November this year.

4. ACCEPTANCE STAGE

- It starts once Calderdale Energy Park has submitted their Development Consent Order Application, and lasts 28 days.
- There are three possible outcomes: The Planning Inspectorate accepts the application for examination; they do not accept the application; Calderdale Energy Park withdraws their application.
- Calderdale Council won't have to give the Planning Inspectorate an Adequacy of Consultation Report.
- Acceptance now just depends on whether the Development Consent Order application (including accompaniments) “is of a standard that the Secretary of State considers satisfactory.” (Section 55 of the Planning Act 2008.)
- One measure of a “satisfactory standard” is that Calderdale Energy Park has taken on board the Planning Inspectorate’s “section 51” advice in connection with the application. On 22nd June 2026 the Planning Inspectorate advised that before they submit the DCO application, Calderdale Energy Park’s “survey extents and survey work [need] to be agreed and as complete as possible”; Calderdale Energy Park should continue engagement with local authorities; and agree the flood risk assessment methodology with the Environment Agency.
- Other 22nd June section 51 advice from the Planning Inspectorate is that impacts to peat and flood risk are likely to be key topics for examination. Before then, Calderdale Energy Park should seek agreements on these topics with the Environment Agency and Natural England.

5. ACCEPTANCE STAGE - PREPARATION OF INTERESTED PARTY REGISTRATION COMMENTS

- This preparation can only happen in the acceptance stage if Calderdale Energy Park consent to the Planning Inspectorate putting their DCO application on its Calderdale Energy Park project webpage from the time it is submitted.
- Otherwise Calderdale Council and potential interested parties will have to wait 28 days to access the DCO application after the start of the Pre-examination stage.
- This matters because registration as an Interested Party during the pre-examination stage, has to include initial comments about Calderdale Energy Park's impacts and issues and how they will affect your life.
- If your comments give little or no information about your response to the DCO application, your Interested Party registration form may be rejected as invalid. Ditto if comments "include material...relating to the merits of policy in a National Policy Statement".
- So the more time we have to get our heads round the Development Consent Order application (which will be a massive collection of documents), the better.

6. ACCEPTANCE STAGE - PREPARATION OF LOCAL IMPACT REPORT

- To help identify key issues for examination, the Planning Inspectorate wants Calderdale Council's and other host local authorities' Local Impact Report to be prepared as soon as possible. It is a vital document in the pre-examination, examination and final decision stages of Calderdale Energy Park's DCO application process.
- This will help the Examining Authority to shape an effective Initial Assessment of Principal Issues (IAP), that frames the examination.
- Where a project crosses multiple local authority areas (as with Calderdale Energy Park), local authorities are strongly encouraged to produce a joint Local Impact Report.

7. ACCEPTANCE STAGE - PEATLAND ALLIANCE INITIAL RESPONSE TO DCO APPLICATION AND ACCOMPANIMENTS

- Assuming Calderdale Energy Park does agree to share its Development Consent Order application as soon as it's submitted, The Peatland Alliance interested party team will immediately get to work on an initial high level analysis of the application and accompanying documents. We shall share it on the Save and Restore Walshaw Moor website and through other channels, as we did for the Statutory Consultation.
- We shall focus on these documents:
- Environmental Statement (Sections on Biodiversity; Ornithology; Peat, Hydrology, Hydrogeology, Geology - including Peat Management Plan and Peat Landslide Hazard Risk Assessment; Carbon and Climate Change; Landscape and Visual; Materials and Waste; Transport and Access. Plus Economics - time and resources permitting)
- Flood Risk Assessment
- information for the Habitats Regulations Appropriate Assessment
- Outline biodiversity gain plan

8. PRE-EXAMINATION STAGE - REGISTERING AS AN INTERESTED PARTY

- The Planning Inspectorate's project page for Calderdale Energy Park says this stage usually takes about 3 months. Anyone can register as an Interested Party, wherever you live - locally, elsewhere in the UK, or abroad.
- Parish Councils have to register as Interested Parties.
- Registration as an Interested Party gives: *Legal status in the process *The right to submit written evidence *The right to speak at hearings (optional) *The right to receive formal notifications
- After Planning Inspectorate acceptance of the Development Consent Order application for examination, Calderdale Energy Park sets the deadline for registering. It must be at least 30 days and is normally not more than six weeks. This info will be in the applicant's advert, and on the Planning Inspectorate's Calderdale Energy Park project webpage.
- If Calderdale Energy Park submits its Development Consent Order application in November, as it intends, the deadline for Interested Party registration could be sometime in January. Crazy and inconvenient timing.
- To register, you fill in an online form and include your comments about the project. Your comments should outline your view of the main issues and impacts, and anything that may affect your day-to-day life, with a summary of points which you agree and/or disagree with about the application.
- The Examining Authority will consider all the matters raised in initial comments/representations when preparing its Initial Assessment of Principal Issues (IAPI) and planning the examination.

9. PRE-EXAMINATION STAGE: COMMENTING ON ISSUES AND IMPACTS

- The Peatland Alliance intends to identify Calderdale Energy Park's impacts and issues for examination based on Principles of Examination and Statutory Requirements <https://www.gov.uk/guidance/planning-act-2008-guidance-on-the-examination-stage-of-an-application> :
- “The examination should proceed on the basis that the Secretary of State must decide the application in accordance with any relevant National Policy Statement (NPS).” (Examination Stage Guidance Para 2.7)
- “Development Consent Order examinations should focus on matters where further evidence and assessment is required in order to enable the Examining Authority to reach conclusions on whether development consent should be granted and make a reasoned recommendation to the Secretary of State.” (Examination Stage Guidance Para 3.2)
- Within this framework, the issues for examination we include in our Interested Party registration comments will be key errors and omissions in the Preliminary Environmental Information Report identified in Wadsworth Parish Council’s statutory consultation response, that have not been resolved in Calderdale Energy Park’s Development Consent Order application and that are the subject of Planning Inspectorate S 51 advice to Calderdale Energy Park.

10. PRE-EXAMINATION STAGE: INITIAL ASSESSMENT OF PRINCIPAL ISSUES

- The Examining Authority's Initial Assessment of Principal Issues has to inform the matters discussed during examination.
- The Examining Authority prepares it within 21 days of the deadline for submitting Interested Party registration comments/representations, after reviewing the application documents, relevant representations, and any early local impact reports or draft local impact reports.
- The Examining Authority then plans how the application will be examined, prepares a draft timetable including the date, time and place of the preliminary meeting, and matters to be discussed. At least 21 days before the preliminary meeting, the Examining Authority shares this and its Initial Assessment of Principal Issues in a Rule 6 notification that identifies the principal controversial issues for examination, and the proposed approach to examining them.
- The Rule 6 notification is sent to all those who have submitted relevant representations, relevant statutory parties, relevant local authorities and the applicant. If necessary, Interested Parties can challenge it in a representation at the Preliminary Meeting.
- The Examining Authority may hold meetings other than the preliminary meeting where helpful.
- In light of the preliminary meeting and the Initial Assessment of Principal Issues, it may issue procedural decisions and information requests.

11. PRE-EXAMINATION STAGE - THE PRELIMINARY MEETING

- The preliminary meeting is an open public meeting that may be in person, virtual or a blend of in-person and virtual.
- It is held at the end of the pre-examination stage, normally no later than 10 weeks from the deadline for submitting relevant representations and four months (or five months in exceptional circumstances) from acceptance of the application.
- Interested Parties can make representations about how the application will be examined - eg its proposed timetable, procedural matters (such as the arrangement of site inspections), and the Examining Authority's Initial Assessment of Principal Issues. It is not to discuss the merits of the application or particular substantive issues, as they will be dealt with during the examination itself.
- In the light of the discussion at the preliminary meeting (as well as the IAPI), the Examining Authority must make appropriate procedural decisions about how the application is to be examined, including the structure and timetable for the examination. These decisions may be made at the preliminary meeting or after it and are typically set out in a Rule 8 letter, issued shortly after the preliminary meeting.

12. EXAMINATION STAGE

- **Not getting into examination stage yet. Except: consideration of Calderdale Energy Park's "adequacy of pre-application consultation" has moved to the examination stage**
- **“Concerns about the adequacy of engagement can be raised in a Relevant Representation if the application is accepted for examination.” (Planning Inspectorate email)**
- **New Government Guidance on the pre-examination stage (para 2.12) is that:**
- **"Where relevant representations raise concerns about engagement or consultation, the Examining Authority will consider whether these identify matters relevant to the examination (for example, gaps in evidence or issues requiring further scrutiny) and may seek additional information where appropriate."**
- **The Peatland Alliance “inadequacy of consultation” report concentrated on systematic errors, omissions and contradictions across key Preliminary Environmental Information Report technical sections. They are potentially matters relevant to the examination, as they concern gaps in evidence and issues requiring further scrutiny.**