

IPC Infrastructure Planning Commission

Meeting Note

File reference	EN010005
Status	Final
Author	Amy Cooper

Meeting with	RWE npower renewables team
Meeting date	23rd February 2011
Attendees (IPC)	Jessica Potter David Cliff Paul Hudson Tim Hallam Simon Butler Kay Fry Amy Cooper
Attendees (non IPC)	Jacob Hain Robert Gully Steve Bellew (GoBe Consultants) John Houghton (Bond Pearce, Legal Advisor)
Location	IPC Offices Boardroom

Meeting purpose	Meeting to discuss draft documentation sent to the IPC for advice, the applicant's proposed Rochdale envelope approach and significant proposed changes to the application order limits.
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Summary of outcomes and record of any advice given	<p>The IPC advised on its openness policy as well as the IPC not being able to advise on the merits of a specific project. Referred to s.51 of the Planning Act 2008 (the Act) and noted that any advice given under s.51 does not constitute legal advice on which applicants or other can rely.</p> <p><u>Introductions and future of the IPC</u> Jessica Potter is the IPC's new Case Leader for this project. The previous case leader, David Cliff, will maintain an advisory role.</p> <p>It is clear from the Localism Bill that the coalition Government intends to abolish the IPC and amend the Planning Act 2008 (the Act), although the process for dealing with proposed major infrastructure projects is likely to remain largely unchanged.</p> <p>The draft energy NPSs are currently going through parliamentary scrutiny. They are likely to be designated in Spring 2011, which is before the Localism Bill (if enacted) is due to be implemented in April 2012.</p> <p><u>Grid Connection</u> The RWE npower renewables team (the applicant) gave a presentation outlining the current situation with National Grid</p>
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and their onshore grid connection.

In 2009 National Grid (NG) issued grid connection offers to RWE for connections to locations for an onshore substation:

- 1) Mumby (earliest connection of 2018)
- 2) Easington (earliest connection 2021)

The applicant accepted the Mumby proposal on the basis that this was (in comparison to Easington) in their view the most sensible solution with the least cost and potential impact. Thirteen potential sub-station sites were identified within the Mumby area. This was reduced to 4 sites after consultation with statutory consultees and reduced further to 3 sites after taking into account responses from the community.

However the site selection process was suspended in December 2010 when NG approached the applicant stating that they had identified some alternative connection solutions that required further investigation. Whilst the original two offers had taken into account future likely grid development, more justification is considered necessary before the preferred solution can be adopted. The applicant and NG have agreed to work jointly to revisit this and look in greater detail at locations throughout the east coast area.

The applicant said that were they to delay submitting their application pending resolution of the on-shore connection issue this would result in the anticipated application submission date being delayed to late 2013 (at the earliest). To rationalise this delay, the applicant proposed a new consent strategy (set out below).

Consent Strategy

In addition to the delay with NG in relation to the onshore works, the applicant described 2 other major time constraints. These being:

- The Crown Estate has set a milestone for the applicant to submit an application for development consent that would be breached if the submission date slipped beyond 2011.
- The information obtained from offshore surveys and data gathering as part of the EIA could become out of date if the application is deferred significantly beyond 2011.

Furthermore, there are potential outcomes of the grid and regulatory process that might result in other parties consenting the electrical connection, which could occur regardless of the outcome of the current NG/RWE npower renewables review.

In light of this, the applicant intends to separate the original proposed submission into two schemes – one being for the generating station (the array and other offshore infrastructure) and the other being the 'electrical system package'.

This will be undertaken by:

- a) The applicant removing the onshore development and offshore connection cables from the original proposed

project (i.e. removing associated development that the applicant originally proposed to include with the main NSIP), publishing a new SOCC and submitting a draft DCO for the array, offshore sub-station, offshore meteorological stations and inter/intra-array cables.

- b) The applicant/OFTO applying separately for consent for an 'Electrical System Package' including the offshore connection cable (and related Marine Licence), onshore overhead line or onshore underground cable connection, and onshore substation through either the TCPA 1990 regime or Planning Act 2008 regime.

The applicant requested the IPC's view on this proposed approach. At this stage the IPC said that they were unable to provide a definitive formal opinion on this proposed approach, although the Commission noted that this consent strategy raises a number of potential complications and uncertainties which the applicant will need to address. For example, how the offshore connection cabling might in future be consented.

The IPC advised that the applicant should submit, in their Explanatory Memorandum, detailed explanation and justification for what they are seeking consent and why with their DCO application. The IPC also noted that the applicant had to submit relevant cable route/installation details with their application under Regulation 6(1)(b) of the APFP Regulations.

Associated Development

As stated in s115 of the Act, associated development can be included within an order granting development consent. It is for the applicant to satisfy themselves that any such development they include within a draft DCO can properly be regarded as associated development as defined in s115(2) having regard to [CLG Guidance on Associated Development](#). The IPC noted that Annex A of this Guidance is not an exhaustive list of examples of associated development.

It is for the applicant to decide whether or not to seek consent for the offshore transmission connection as associated development in relation to a separate application for development consent for another NSIP (an onshore overhead electric line). The Commission noted that without sufficient information to submit, it takes it to its logical conclusion that it cannot be submitted.

OFTO Agreements

The applicant clarified that OFGEM regulate the regime for offshore transmission networks. An applicant can choose to construct the transmission assets before transferring them to an operator through a competitive tender agreement. However, it is also at the discretion of the applicant to appoint an OFTO at an earlier stage, such as pre-consent application as was originally intended by the Offshore Transmission regime, and this would in effect give rise to a consent strategy that mirrors that now being proposed by the applicant.

Project Programme for proposed Array NSIP

In light of the new proposed consent strategy and the revised order limits the project programme has been amended to:

April 2011 - Preliminary Environmental Information

May 2011 – New SOCC published

June/July 2011- Possible IPC Outreach event (dependent on LA views)

November 2011 - Finalise EIA and DCO

December 2011 - Submit Application to IPC

The IPC noted that given the proposed change to the NSIP order limits and the Commission's evolving understanding of EIA scoping consultation bodies, the applicant may wish to request an updated Regulation 9 list from the IPC prior to carrying out their s.42 consultation, The applicant may also wish to request a further Scoping Opinion from the Commission.

Where relevant, the IPC advised the applicant to submit the application after the Christmas period (i.e 31st Dec) so as to allow statutory consultees such as relevant Local Authorities sufficient time to be made aware of the submission and formulate any responses they may wish to make.

Project Flexibility

In light of [Advice Note 9](#), the applicant described their approach to the Rochdale envelope principle and sought advice from the IPC on:

- How to explain the proposed project to statutory consultees
- Suggested drafting within the draft DCO

The IPC advised that the worst case scenario needs to be identified and presented to statutory consultees in an understandable way. The applicant needed to ensure that there was adequate pre-application consultation. The applicant noted that an explanation of the Rochdale envelope had been presented whenever consultation activities with Statutory Bodies had been undertaken and this will continue to be the case, as recorded in the minutes of such meetings. This will be set out in the Consultation Report. The applicant noted that there had not been a single consultee that had indicated any difficulty understanding the approach being set out by the applicant in relation to Rochdale envelope. Indicative layouts of the most likely scenarios could be included in the ES. The IPC cannot at this stage definitively agree to or disagree with the scope of the applicant's proposed Rochdale envelope; however the IPC advised that justification for the approach taken should be submitted with the application.

The IPC would welcome sight of a revised draft DCO, and other draft application documents, prior to formal submission and encourages applicants to submit these at least 6 weeks prior to the anticipated submission date. The following points (amongst others) were raised by the IPC:

- The DCO should set out relevant minima and maxima

so as to limit the range within the envelope.

- A draft DCO should describe a sufficiently clear and precise project. This description should make reference to a works plan.
- An applicant should be aware that the scope to make changes to an application after submission is minimal.

The IPC noted the implications at examination stage of the ES being inadequate and further information being required (Regulation 17 of the EIA Regulations). It was therefore important for the applicant to ensure that their ES is adequate when the application is submitted.

The applicant stated that proposed Marine Licence conditions would be firmed up with the MMO after s.42 consultation had been carried out. It was proposed to hold a workshop to discuss Marine Licence conditions, to be attended by relevant statutory bodies, prior to submitting the DCO application.

Cumulative and In-combination approach

The applicant provided a note on 'Cumulative and In-combination Methodology'.

The IPC advised that the terminology and definitions within the document needed to be clarified and updated if these were to be used in the ES. For example the IPC's understanding of cumulative impacts has developed since the publication of the Triton Knoll scoping opinion. Advice Note 9 sets out the IPC's current understanding of those development categories that should be taken into account in assessing any cumulative impacts and this should be used within the applicant's methodology.

The IPC said that the description of the proposed development in the draft DCO and the project assessed in the EIA needed to be consistent. The ES needs to set out any likely significant effects assessed in the EIA including worst case scenarios for particular topics (e.g Ornithology). These will need to be brought together to assess any in combination effects. The IPC advised that the methodologies used in the EIA should be described to statutory consultees as part of the applicant's s.42 consultation inviting them to comment on these.

The IPC said that the applicant's Consultation Report should, amongst other matters, clearly distinguish between formal statutory consultation and informal (non-statutory) consultation.

The IPC noted that they are not a relevant consultee and should be removed from the list of these bodies set out in the note provided to the Commission. In this regard, the IPC could only advise on the process under s.51 of the Act.

Pipeline Crossing Agreements

The applicant explained that development is likely to cross 2 offshore pipelines. An agreement has been reached with one pipeline operator, but the applicant is awaiting further technical details before an agreement can be made with a second

	<p>operator. An agreement with the second pipeline operator is unlikely to be concluded before the DCO application is submitted.</p> <p>The IPC had previously advised the applicant that in general at least a heads of terms of relevant statutory agreements should be provided when submitting the DCO application. However, in this circumstance further thought will need to be given as to what level of information is sufficient because it is a commercial agreement rather than a statutory agreement. The IPC appreciates that formal agreements may not be finalised at the point of DCO submission, however the information submitted with the application should be as complete as possible.</p>
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<p>Specific decisions/follow up required?</p>	<p>Applicant to:</p> <ul style="list-style-type: none"> • Confirm the anticipated application submission date (Post meeting note: confirmed, with potential to be brought forward to November subject to consultation responses and noting the request not to be submitted over the Christmas period) • Firm up the draft DCO and other draft application documents, including the proposed approach to associated development and resubmit in light of this meeting. (Post meeting note: issued) <p>IPC to:</p> <ul style="list-style-type: none"> • Provide Reg 9 list and clarify the terminology around cumulative and in-combination impacts. • Advise on amendment of the Regulation 9 list given changes to the project. • Clarify which local authorities meet the definitions set out under s43 given the changes to the project and who the commission would approach for LIR and adequacy reports • Discuss with relevant LAs if an outreach event would be worthwhile. • Confirm if a letter of intent for securing a pipeline crossing agreement is sufficient at the point of submitting the application to the IPC.
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<p>Circulation List</p>	<p>All attendees</p> <hr/> <hr/> <hr/> <hr/> <hr/>
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