



Meeting note

File reference	EN010008
Status	Final
Author	Kate Mignano
Date	12 April 2013
Meeting with	RWE Npower Renewables (RWE) Carmarthenshire County Council (CCC) Natural Resources Wales (NRW)
Venue	The Planning Inspectorate, Temple Quay, Bristol BS1 6PN
Attendees	Bethan Edwards (RWE) Alexander Blake (RWE) Paul Maile (Eversheds) Richard Jones (CCC) Eifion Bowen (CCC) Huw Williams (NRW) Simone Wilding (PINS) Susannah Guest (PINS) Tom Warth (PINS) Andrew Luke (PINS) Kate Mignano (PINS) Iwan Davies (PINS) Peter Bond (PINS)
Meeting objectives	To discuss lessons learnt and identify areas for improvement
Circulation	All attendees

Summary of key points discussed and advice given:

RWE, CCC and NRW offered their thanks for the opportunity to take part in a lessons learnt process and asked if this had been done for other projects.

It was confirmed that meetings of this nature had taken place for other projects.

The Planning Inspectorate explained recent internal directorate changes, from the National Infrastructure Directorate to Major Applications and Plans.

Website Development

An overview of the website improvement plans was provided by The Planning Inspectorate's Communications Manager. He explained the process for website updates and current working practices. He further provided an overview of the results from a recent survey of website users and how these results have been used to make improvements to the site to be implemented in the near future. The latter includes

short referencing naming conventions for representations to make general navigation of the site easier. RWE and Eversheds explained the difficulties they experienced with the website and were pleased to hear these were being addressed. Eversheds made suggestions for further improvements including grouping of legislation with related amendments to make it clearer to users that the original legislation needs to be read in conjunction with the acts/regulations amending it. CCC made a suggestion that post-decision links could be added from The Planning Inspectorate website to the Local Authority site for tracking progress regarding the discharge of conditions. The Planning Inspectorate Communications Manager welcomed the suggestions and agreed to consider these also as part of the on-going web-site improvement works.

Pre-application

CCC felt outreach and communication from The Planning Inspectorate was good during pre-application and highlighted that internal communication within local authorities can be challenging. RWE asked if The Planning Inspectorate had received feedback regarding outreach sessions held during pre-application. The Planning Inspectorate confirmed positive feedback had been provided regarding the content of the outreach and the locations where the sessions were held.

RWE recognised the difficulties faced by the local authorities regarding the application during this early stage of the process. CCC stated they have created a pre-application explanatory report for members and offered to supply a copy to The Planning Inspectorate which PINS welcomed.

The Planning Inspectorate asked for the developers view regarding discussion of draft documents. RWE and Eversheds felt the draft DCO meeting a few weeks prior to submission was very helpful. The Planning Inspectorate explained that drafting of the DCO as early as possible is encouraged. Eversheds acknowledged some advantages of this but explained that many aspects in the DCO can only be considered once the finer details of the scheme have been finalised. Eversheds stated that developers would welcome more advice regarding draft documents. It was explained that following The Localism Act 2012 changes have been made to section 51 advice which mean merits advice can now be given but this had not been the case when Brechfa was in pre-application. RWE asked what purpose the Consultation Report has past acceptance. It was explained that the Consultation Report is primarily used for acceptance but that it may be referred to during examination.

The Planning Inspectorate explained that, whilst recognising the timescales that developers are working to, an iterative approach to working with consultees to develop applications in order to reduce areas of disagreement in advance of a submission is encouraged. Such an approach can reduce the number of issues requiring detailed consideration following submission and facilitates a more focused examination.

Acceptance

Discussions took place whether or not the relevant local authorities' role in commenting on the adequacy of the consultation includes addressing s49 of The Planning Act 2008 (PA 2008) (ie whether a developer has had regard to relevant representations received). PINS agreed to clarify this following on from the meeting¹.

¹ Update provided after the meeting: Local authorities are only invited to comment on sections 42, 47 and 48 of the applicant's consultation.

CCC noted that the time scales for responses were tight considering responses may need to go to committee. The Planning Inspectorate explained the 14 day deadline for consultation responses was necessary in case The Planning Inspectorate needed to refer an acceptance decision to CLG, in which case the decision would still need to be made within the 28 day deadline.

The Planning Inspectorate confirmed that a blank section 55 checklist is now published on the National Infrastructure page of the Planning Portal as an appendix to Advice Note 6.

There was some discussion around the consideration of EIA at the acceptance stage. The Planning Inspectorate explained that at acceptance PINS considers the ES in order to ascertain whether it could reasonably be described as an ES as defined under the EIA Regulations, having regard to the relevant requirements set out in Schedule 4 of those Regulations. However, it should be noted that the conclusion drawn on the acceptability of the ES at the acceptance stage does not fetter the discretion of the Examining Authority (ExA) or Secretary of State with regard to the examination of any accepted application or ongoing duties to consider environmental information relating to the project. In cases where applications are accepted, further consideration is likely to be given to the details of the assessment as part of the examination.

Pre-examination

The Planning Inspectorate explained that statutory consultees are no longer automatically Interested Parties and that they must register their interest by the relevant representations' deadline and on the prescribed form. Alternatively statutory consultees can respond to the Rule 8 letter by the deadline set by the ExA in that letter. However, the Planning Inspectorate encourages statutory consultees who would like to engage in a particular application to register during the relevant representations period. This is to enable the ExA to take the statutory consultee's considerations into account when compiling the principal issues and first round of questions as well as in drafting the examination timetable.

NRW stated that specialists are limited in certain fields and that timings are critical. Eversheds suggested that The Planning Inspectorate could publish an indicative generic timetable which could aid statutory consultees in planning resources. The Planning Inspectorate agreed to look into this. Eversheds were concerned that the Relevant Representations submitted for Brechfa Forest West took longer than expected to publish and explained that Interested Parties did not have sufficient time to read through them all prior to the Preliminary Meeting. The Planning Inspectorate explained that for natural justice reasons representations can only be published once the dead line for all interested parties has passed. In the case of Brechfa the dead line had been extended for one or more interested parties and therefore the representations could only be published after that dead line had passed. The Planning Inspectorate advised that applicants should ensure their notifications under s56 include all prescribed bodies and to submit the s58/59 certificate(s) promptly as Relevant Representations can only be published after receipt of the section 58/9 certificate(s). The importance of making progress on the production of Statements of Common Ground (SOCG) and the Local Impact Report(s) was also discussed and agreed. The value of progressing these during pre-application and pre-examination can hardly be underestimated.

Examination

The Planning Inspectorate advised that where an application requires Crown Consent under s135 PA 2008 this should be explicitly provided by the relevant Crown authority during the examination or earlier. RWE and CCC stated that local authorities should be able to charge a fee for carrying out their duties in the PA 2008 regime. In their view relying on Planning Performance Agreements is not satisfactory and does not work in the majority of smaller and medium sized NSIPs. The Planning Inspectorate advised that this is a matter for government to address and that the 2014 review of the PA 2008 regime may provide an opportunity for this.

Regarding the hearings for the Brechfa Forest West application key aspects which could/should be improved were

- Ensuring an inquisitorial (rather than adversarial approach) is more consistently achieved.
- Clearer framework around when new evidence can be submitted. Eversheds/RWE suggested that there should be a deadline some time in advance of a hearing for submitting hearing statements to give all the opportunity to familiarise themselves with any new evidence prior to a hearing. This would also reduce the likelihood of an adversarial response from barristers.
- Hearing agendas should be more specific to aid preparation for hearings and allow a judgment to be made on which specialists to bring to the hearing.
- Cancelling and re-scheduling of an accompanied site visit should be avoided if at all possible.
- Logistical organisation of hearings (eg booking of venues, services & equipment) felt rather ad hoc at times. The Planning Inspectorate advised that this had been recognized and Programme Officers put in place in July 2012. Unfortunately this had been too late for Brechfa to benefit from this.

Eversheds felt the timetable for the examination had worked well with regard to the sequence of the hearings. Particularly having open-floor hearings after a first round of issue-specific hearings followed by a final DCO hearing had worked best in comparison to other examination timetables they had experienced.

Decision

RWE and Eversheds found the Examining Inspector's report to be methodical and easy to read.

Specific decisions / follow up required?

CCC to send pre-application good practice document

PINS to provide follow up advice regarding adequacy of consultation representation

Appendix

Additional comments sent by Carmarthenshire County Council which they weren't able to make during the meeting due to time constraints.

- Members of the public felt they were given the opportunity to participate in the process, although there was confusion regarding the level of detail to be submitted at various stages.
- Possibly develop and improve guidance for local authorities / developers. Maybe there is a need to highlight how condensed the process can become during the Examination i.e. exchange of information, workload. Some form of warning needs to be provided to those taking part in the process.
- Many concerns / representations submitted by members of the public were not sufficiently evidenced according to ExA in his report. Guidance needs to emphasise perhaps that the public need to support their observations with evidence. Not clear enough.
- Will local authorities such as CCC have a contact point at MAP Directorate following the Post-Decision stage? It will be necessary to seek advice on the process at the post consent stage.
- CCC can provide a link on its corporate website signposting the MAP Directorate website and specifically the Brechfa Forest West Wind Farm consented docs. Consideration is currently being given to a workspace relating to post consent information. MAP Directorate may want to consider a similar link directing members of the public to CCC website.