



Meeting note

File reference	EN010026 and EN010027
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Author	Nicholas Coombes
Date	3 March 2015
Meeting with	DONG Energy UK
Venue	33 Grosvenor Place, London
Attendees	Ken Taylor (Offshore renewables infrastructure planning lead) Jackie Anderson (Burbo Bank Extension case manager) Nicholas Coombes (Walney Extension case manager) Francesca de Vita (DONG legal advisor) Sally Holroyd (DONG Walney extension consent manager) Stuart Livesey (DONG Burbo Bank extension consent manager) Rachel Mills (DONG Lead Environment and consents specialist) Emma Heywood (DONG Walney Extension Environmental manager)
Meeting objectives	A feedback meeting to discuss the Burbo Bank extension and Walney extension wind farms application process.
Circulation	All

Summary of key points discussed and advice given:

The purpose of the meeting was to give both the developer and the Inspectorate an opportunity to feedback and to discuss the Burbo Bank extension and Walney extension offshore wind farms application processes from pre-application to post-decision.

Pre-application

DONG recalled that for both projects they relied on external advisors for pre-application advice as the advice provided by the Planning Inspectorate at the time was not as comprehensive and detailed as they required. The Inspectorate explained the evolving role of Infrastructure Planning Leads and the pre-application prospectus. The aim is to provide more comprehensive pre-application advice.

DONG also explained their hesitancy to share draft documents or to discuss preliminary ideas at an early stage, due to the Planning Inspectorate's openness policy. The Inspectorate responded that the Inspectorate has a duty to publish section 51 advice, however draft documents are not published alongside advice. The Inspectorate explained that where an applicant had not submitted a request or

notification under Regulation 6 of the EIA Regulations the pre-application service now allows there to be a delay in the publication of early project advice by up to 6 months. The Inspectorate also offers to chair tripartite or round table meetings if a developer thought this would help engage statutory consenting bodies.

Acceptance

DONG asked what the threshold was for an application not to be accepted. The Inspectorate stated that, among other reasons, an application may not be accepted if a party had been irredeemably prejudiced by a failure to consult, if a number of documents failed to meet the necessary quality standard for examination, or if the project applied for was ill-defined or clearly failed to qualify as a Nationally Significant Infrastructure Project.

DONG commented that recent applications, such as Hornsea 2, had been accepted in three weeks rather than four. The Inspectorate commented that they aim to complete the checks ahead of the statutory deadline to allow contingency. DONG said that the acceptance decision and the DCO consent were important milestones which wider programmes are structured around. Nonetheless, they appreciate early decisions or the acceleration of any stage as their timetables are sufficiently flexible to take advantage of this contingency time. However, this is most helpful if the Inspectorate can make the applicant aware of expected early completion so that they are able to prepare the next stage accordingly.

Pre-examination

DONG appreciated that they were able to phone or email the Inspectorate case managers and receive prompt and helpful replies. The merits of scheduled weekly phone calls were discussed, but the DONG project managers present did not think that this would be necessary in all cases.

The examination timetables were discussed. DONG stated that while tight deadlines were challenging, they preferred a five month timetable with allowance for contingency toward the end of the examination period. DONG had replied to the Examining Authority's (ExA) Rule 6 letter's proposed timetable for both the Walney and Burbo examinations. The Inspectorate said that this was appreciated and often helpful. The Inspectorate confirmed that in drafting and setting timetables regard was given to the needs of applicant and other parties.

DONG asked how the Examining Authority was chosen for any given case. The Inspectorate replied that there were a number of considerations, set out in DCLG Guidance, including the complexity of the case and the level of public interest. The impending provision for the appointment of a panel of two inspectors was noted. The Inspectorate also accepted that the availability of any given inspector was also a consideration which is why advanced and accurate notice of application dates are important for resource planning.

Both Preliminary Meetings were attended by some members of the public who did not attend subsequent hearings. DONG raised concerns that the procedural nature of the meeting was off-putting to the public, and the process and outcome of the meeting could be better explained by the Inspectorate both in their letters and on the day of the meeting. The Inspectorate explained that the relevant advice note was currently under review to provide greater clarity on the purpose and nature of each meeting

and hearing and a complementary video is being produced. Where there is significant public interest outreach meetings can be held in advance of submission which can aid with providing clarity on the process for members of the public.

Examination

DONG reflected positively on the examination process and appreciated how the ExAs on both cases had led hearings. However, they did notice that there were apparent differences between how the respective ExA's ran the examination, but feedback was positive on both respects.

It was noted that DONG had not missed a deadline for the submission of material for either examination, but DONG noted that late submissions from other parties had been accepted. The Inspectorate said that this was at the discretion of the ExA, who would try to treat parties fairly. The implications for the examination of not accepting late submissions was discussed, as were the implications of submissions raising entirely new evidence close to the end of the examination. The Inspectorate explained that if the ExA did not believe that they were able to examine an issue fairly and completely owing to late submissions, then reasoning would be reported. The relevant Secretary of State (SoS) then may find it necessary to run further consultation. It was emphasised that the recommendation report, which is published alongside the decision, was the only communication between the ExA and SoS.

Statements of Common Ground (SoCG) were discussed, noting that SoCGs between DONG Walney Extension and Natural England and the JNCC had recently been published by the Inspectorate as examples of good practice. The Inspectorate appreciated the effort which DONG had put in to the production of SoCGs, but noted there were some where there was clearly little engagement from third parties. In these circumstances the SoCG was not able to expand on information already provided separately in relevant and written representations. Furthermore, in some instances there was significant disagreement between DONG and the third party on the purpose and format of the SoCG, which created difficulties in compiling a meaningful document of use to the ExA. The Inspectorate explained that they could offer advice to third parties on the nature of SoCGs, and that applicants can inform parties that this advice was available. DONG concluded that the production of SoCGs had been a productive process with many statutory parties, which had built working relationships beneficial to the examination and post-consent processes.

DONG expressed that for both projects they had received fewer ExA questions than expected. They considered the questions were generally proportionate and effectively targeted to the root of any given issue. It was noted that the ExA did not ask the applicant to comment on other representations in general, but asked for response on specific matters, which was considered useful. DONG stated that they had replied to every question, even when not addressed to them, at the suggestion of their legal advisors. The Inspectorate noted that this was helpful in some instances but not always necessary as the ExA sought to target their questions.

In addition to two rounds of written questions, the ExA also issued three R17 requests for information in the closing weeks of the Walney Extension examination. DONG thought that these were a proportionate and unavoidable response to an unresolved issue which, owing to the nature of the commercial agreements, could not have been resolved sooner. DONG thought that such late requests were inevitable and well accommodated within the timetable contingency.

DONG said that they had not expected such an early DCO hearing for the Walney Extension examination, but they found that having DCO hearings at the beginning and end of the process to be very useful. The Walney panel published their own comments on the DCO which formed the agenda for the meeting. DONG found these helpful and did not consider that they prejudiced the ExA's position or lead the public to think such. The very detailed agendas produced for the Burbo examination was also appreciated, and DONG emphasised the importance of publishing agendas as far in advance of the hearing as possible. The Inspectorate replied that one week is now standard practice, and that case managers and ExA's endeavour for greater notice if possible.

The Walney examination included two open floor hearings, one on the Isle of Man (Douglas) and another in Millom. The Douglas hearing was unusually structured with an agenda used to group themes of comment and was well attended; the Millom hearing had only one speaker. DONG noted that these arrangements responded to specific circumstances and did not think that they could have been better managed. While DONG brought many members of staff to the open floor hearings, they chose not to respond to the comments of interested parties. DONG considered it good practice to bring project staff and technical experts in case a subject arose which they did wish to respond to.

The issue specific hearings for the Walney examination were dealt with more swiftly than DONG had expected, though the agenda provision for over-run was noted. Across all of the hearings and meetings DONG considered the role of the programme officer to be effective and they built a good relationship with the applicant's logistics staff.

The use of HRA matrices was briefly discussed; DONG thought that these were formulaic and possibly a tick-box exercise, given the separate assessment already completed by the applicant. The Inspectorate replied that their use was under review.

Post-consent

The Inspectorate asked about the implementation of the consented orders. DONG are preparing to build both projects, but are finding that some elements of the DCO make implementation difficult. DONG said that tailpiece requirements, some of which were removed at examination, would have made this process more flexible.

DONG consider the transfer of benefit provisions in the DCO for Hornsea One, which they have recently acquired, to be much more helpful than those on Burbo or Walney Extensions.

The post-consent change regime was discussed as were the roles of the Inspectorate and Secretary of State in this process. DONG stated that they would appreciate clearer guidance on the materiality of changes.

Both parties concluded by thanking the other for a professional and constructive application process.