



Meeting note

File reference	EN010049 – Tidal Lagoon Swansea Bay
Status	FINAL
Author	John Pingstone
Date	14 May 2013
Meeting with	Tidal Lagoon Swansea Bay Limited (TLSB) Alex Herbert Emma Rodican-Jones Gill Lock Natural Resources Wales (NRW) Lisa Hopkinson Eleanor Smart
Venue	Temple Quay House, Bristol
Attendees	Jessica Potter Principal Case Manager Tim Hallam Legal Manager Andy Luke Senior EIA Advisor John Pingstone Assistant Case Officer
Meeting objectives	Project update meeting. To review draft documents, agree next steps and identify opportunities to align consents and licensing processes
Circulation	All attendees

Summary of key points discussed and advice given:

The Planning Inspectorate (the Inspectorate) explained its openness policy and the commitment to publishing any advice under Section 51 of the Planning Act 2008 (the Act). It was confirmed that the Inspectorate is unable to give legal advice on which developers or others can rely and that developers should seek their own legal advice.

Project Update

TLSB gave an update on the current progress of the project. The projected installed capacity is now 300MW, with a nominal rated capacity of 240MW. After EIA scoping, 3 larger options have been explored. One option in particular is being favoured, amongst other reasons because it has the least effect on coastal processes. The total area of the lagoon under this larger option will have increased from 9.4km² to 11.7km². Discussions have been held with the Neath Port Authority in regard to this option, and they have stated that they have no objection. The Inspectorate queried whether this larger area would lie within the limits that were used at the scoping stage, TLSB confirmed that this was the case. It was also stated that the scheme will

now consist of up to 16 turbines with a diameter of around 7 metres. The Inspectorate queried when TLSB would have certainty over their turbine design and parameters. At this stage TLSB stated that they were unable to be certain but that they would endeavour to have as much certainty as possible when the application for the project is submitted. TLSB also said that the designs of the turbines would be fixed at the end of May 2013.

In regard to raw materials for the construction of the lagoon, TLSB stated that the intent was for the material to be transported to the site by boat from a quarry elsewhere in Wales. This would have the effect of creating local jobs and reducing the carbon footprint of the project. Other quarry options are also being considered in Cornwall.

Regular meetings are being held with Associated British Ports (ABP) Swansea and Swansea University, whose campus is adjacent to the proposed site. TLSB said that they are also still in regular communication with the Crown Estate.

Consultation

The draft Statement of Community Consultation (SoCC) is currently under consultation with the relevant local authorities. The period began on 15 April 2013 and will end on 15 May 2013. TLSB are using a Zone of Theoretical Visibility approach to determine their consultation list. The ZTV will take into account the latest project design.

TLSB explained that they are taking a two phase approach to their main consultation. Phase 1 is an informal period of consultation, whilst phase 2 will be formal consultation under s42 and s47 of the Planning Act 2008 (PA2008). The Inspectorate queried whether the same people would be consulted under each phase, TLSB explained that this was not necessarily the case. TLSB also explained that their approach to identifying consultees was based on several factors including for example visibility of the project to the consultee.

In regard to the attendance at recent public exhibitions, TLSB noted that 431 people had attended and that a feedback questionnaire had indicated there was a high level of support for the scheme.

The Inspectorate pointed out that it is important to document any negotiations or discussions that take place after formal s42 consultation had ended. Also that, where issues are unresolved, it is important to continue discussions in order to minimise the risk of major disagreements during the examination. TLSB noted this and agreed that they would bear this in mind when considering a submission date.

The Inspectorate gave advice in regard to the consultation report, noting that it is helpful if the consultation report is clear about any non-statutory consultation carried out or discussions held, including any progress made, since the formal statutory consultation closed. It was also suggested that copies of all original consultation responses may be requested by the Inspectorate during the acceptance phase and had been regularly requested in past cases, and that TLSB should be prepared for this possibility. The Inspectorate queried whether the notice under s48 would be published at the same time as the s42/s47 consultation, TLSB confirmed that this was the case.

TLSB queried whether the requirement to publish the s48 notice in a national paper, as set out in Regulation 4(3)(b) of The Infrastructure Planning (Applications:

Prescribed Forms and Procedure) Regulations 2009, means an English national paper or a Welsh national paper, given that the development is entirely in Wales. It was thought that as the DCO regime is not a devolved process, it would mean that the notice should be published in a UK national paper. It was suggested that TLSB take a precautionary approach and publish the notice as widely as possible.

Environmental Statement/Habitats Regulation Assessment

In regard to issues TLSB explained that coastal processes/sediment appeared to be the primary concern of those consulted. Other concerns included: ecology relating to birds, fish and marine mammals; and effects on the water quality caused by sewage outfall on conjunction with the lagoon. In regard to the nearby sewage outfall TLSB explained that they are proposing additional ultraviolet treatment onshore, and possibly also extending the outfall pipe.

It was explained that visual impact is the next most frequently raised area of concern. TLSB also noted that their visual assessment had been agreed by the former Countryside Council for Wales and the City and County of Swansea Council.

TLSB gave an update on the Environmental Statement (ES). Notably, a new chapter has been added titled 'Water Framework Directive Assessment', and some chapters have been split. In regard to coastal processes, TLSB will send a verification report to NRW, including a detailed model.

In regard to the Preliminary Environmental Information the Inspectorate queried how large a document this is. TLSB stated that it is approximately 1500 pages at A4 size. It will be sent to all s42 consultees, on disc (although hard copies can be requested).

NRW queried whether TLSB intended to distribute any draft chapters of the ES. TLSB confirmed that they did intend to do this.

The Inspectorate pointed out that it would be helpful to have a table detailing how all the mitigation measures relied upon in the Environmental Statement (ES) have been secured in the draft Development Consent Order (DCO). Many applicants find it most logical to include this toward the end of their ES.

In regard to the Habitats Regulations Assessment report, TLSB stated that it has not yet been determined whether this will be a 'no significant effects' report, as the findings of coastal process surveys will need to be fed into the document. The Inspectorate suggested that TLSB should look at the Advice Note 10 in regard to HRA matters. It is now expected that applicants will submit HRA matrices, for 'screening' and 'integrity' assessment purposes. The current position in regard to HRA should be explained on submission. It was also pointed out that the Inspectorate is able to look at any draft HRA report prior to submission.

The need to consider the geographical scope of the ES for each consent application was discussed, bearing in mind the advice given for the Burbo Bank Extension Offshore Wind Farm in a meeting following acceptance.

Other Consents and Licences

In regard to the submission of the Marine Licence application, TLSB stated that they intended to submit this application at the same time as the DCO application. NRW

suggested that it would be helpful if TLSB could share the details of their s42 consultation, in order to take a consistent approach across the two consents.

In relation to the manner in which the Marine Licence is being applied for separately from the DCO application, the Inspectorate pointed out that a similar approach was being taken for the Burbo Bank Extension Offshore Wind Farm application. TLSB may wish to follow the progress of the Burbo Bank application via the Inspectorate's website.

NRW pointed out that if structures are located on the lagoon wall, they would need to be included within the Marine Licence application, as Marine Licences are also required for structures that are offshore but above the waterline. NRW suggested that if TLSB have any doubt about what to include in the Marine Licence application they should take a precautionary approach.

TLSB explained that they do not currently have a lease agreement with The Crown Estate. It was hoped that this issue would be resolved prior to submission, or if not before the end of the examination. The Inspectorate advised that this matter may be of interest to any future examination and Examining Authorities often request evidence that there is no obvious reason why a project may not receive the other consents and licences necessary in order for development consent to be granted or for its construction and operation.

It was thought by TLSB that no Harbour Revision Orders would be required, although it is TLSB's intention to give this matter further consideration and check this with ABP Swansea. In regard to flood defence TLSB considered that no Flood Defence Consent Licence would be required from the Environment Agency for the rock armour.

TLSB pointed out that if the outfall pipe is moved this would require a licence from Welsh Water. NRW pointed out that any EPS licences would now be dealt with by NRW rather than the Welsh Government. It was also explained that different teams within NRW deal with marine and terrestrial EPS licences.

In regard to any grid connection agreement for connecting the project to the national grid, TLSB stated that the application is progressing.

The Inspectorate queried whether any applications were planned under the Town and Country Planning Act 1990. TLSB stated that they had no intention to do so at this stage, but that they could only be certain after the consultation period had ended.

The Inspectorate explained that, in regard to other consents licences or permits the ExA would be looking for as much agreement as possible with the relevant consenting body, even if that agreement is in principle.

Programme and General Matters

TLSB indicated that they intend to submit the DCO application to the Inspectorate in October 2013. In view of this, the Inspectorate advised that it would be useful to see a copy of the draft DCO and other draft application documents as soon as possible.

In regard to the two host authorities, the Inspectorate queried whether Neath Port Talbot County Borough Council or City and County of Swansea Council might benefit from any advice or engagement. TLSB noted that Neath Port Talbot County Borough Council had been engaging effectively and understood the process, but that they may

benefit if the Inspectorate contacted them directly to offer assistance. In regard to City and County of Swansea Council TLSB, TLSB are in the process of fixing a date to discuss the project.

The Inspectorate queried whether TLSB were classifying the project as onshore or offshore. TLSB confirmed that as the generating station is located offshore, they considered that for the purposes of the PA2008 it should be classified as offshore. TLSB queried what impact this classification could have. The Inspectorate pointed out that there are different requirements for offshore projects, for example as set out at Regulation 6(1)(b) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 an offshore generating station requires the applicant to provide a cable statement and safety zone statement. If it is believed that a statement is not necessary it would be advisable to set out the reasons for this in the explanatory memorandum that accompanies the DCO.

The Inspectorate queried whether the onshore works, such as highways improvements, are integral to the project. It was suggested that TLSB could provide legal submissions on or prior to application submission in order to provide justification for the view come to by the applicant in this regard.

The Inspectorate asked whether a new substation will need to be constructed. TLSB stated that this was not the case. Also that the onshore connection cable will be undergrounded along the entire route, including under the Neath River, which will likely use the Horizontal Directional Drilling (HDD) method for construction.

The Inspectorate queried whether any compulsory acquisition would be necessary. TLSB indicated that they do not yet have certainty on this as they remain in negotiations with landowners. If compulsory acquisition powers were sought in the application, the Inspectorate pointed out that a 'need case' would need to be made.

TLSB explained that art works may be constructed on plinths built into the lagoon wall, probably as an integral element of the project, with the possibility of a design competition being held in connection with this. NRW pointed out that this may need to be included within the Marine Licence. The Inspectorate also explained that any development consent required for, and any flexibility sought in relation to, these works would need to be provided for in the draft DCO. As a general principle, if the applicant is seeking flexibility in the project design, parameters should be set in the DCO, explained in the explanatory memorandum, and assessed as part of the Environmental Impact Assessment.

The Inspectorate queried whether any documents have been published in the Welsh language. TLSB stated that only the non-technical summary of the ES has been published in Welsh.

TLSB queried which National Policy Statement(s) (NPS) would be relevant to this application, with regard to whether the Examining authority would consider the application under s104 or s105 of the PA 2008. The Inspectorate explained that this is not clear cut and suggested that it would be helpful if TLSB could provide legal submissions on the matter to the Inspectorate at the pre-application stage.

Specific decisions / follow up required?

A further meeting(s) will be arranged after the Inspectorate has been sent the draft DCO and other draft application documents, prior to formal application submission.

TLSB said that they would in the first instance probably be providing draft documents to the Inspectorate for their comment in June 2013.