



## Meeting note

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<b>Date</b>	8 April 2014
<b>Meeting with</b>	Tidal Lagoon Swansea Bay
<b>Venue</b>	TQH, Bristol
<b>Attendees</b>	<b>Tidal Lagoon Power Ltd (TLP) and Tidal Lagoon Swansea Bay plc (TLSB)</b> Mark Shorrocks (CEO) Alex Herbert (Head of Planning) Michael Baker (Planning Executive) <b>Planning Inspectorate</b> Mark Southgate (Director, Major Applications and Plans) Jessica Powis (Infrastructure Planning Lead) Katherine Chapman (Case Manager) Ruth Jones (Assistant Case Officer)
<b>Meeting objectives</b>	TLP to provide information on ambitions for future tidal lagoons and programme for delivery. This programme to be related to that of TLSB's forthcoming examination, recommendation and decision stages. Discussion as to where there could be procedural efficiencies.
<b>Circulation</b>	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 (PA 2008). 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.

Mark Shorrocks (TLP/TLSB) began by explaining that this meeting would focus on two main topics; first looking beyond the current project to the vision for future tidal lagoon infrastructure opportunities in the UK (under TLP), and then the potential to improve procedural efficiencies in the forthcoming Swansea Bay tidal lagoon examination (under TLSB). TLP clarified that they are not in a position to formally notify the Inspectorate of specific future projects at this stage.

The Inspectorate noted that whilst they are able to listen to views, feedback on current and future tidal lagoon infrastructure opportunities would not be given at this stage.

## **Tidal Lagoon Power's vision 2023**

TLP highlighted that, at present, there are no energy generating solutions which are being considered in the long term beyond 2022; TLP feels that there is a level of uncertainty within this sector with no long term solutions which will make a significant difference to fulfilling the energy need set out in National Policy Statements (EN-1 and EN-3).

TLP feels that there is a great opportunity for tidal lagoons to contribute toward the Government's renewable energy targets and highlighted what they feel are the benefits of tidal lagoon generation.

Contract for Difference agreements relating to the cost of the electricity generated by lagoons were also discussed. TLP explained that the strike price will be bespoke to each project, and is anticipated to be higher for Swansea Bay tidal lagoon, and lower for future lagoons due to efficiencies and economies of scale.

## **The role of the Inspectorate and the PA 2008 in the consideration of future lagoons**

TLP informed the Inspectorate that work had already begun towards a number of tidal lagoon projects for the future. There is some knowledge of this already in the public domain. At present, the initial coastal processes analysis is being carried out; TLP informed the Inspectorate that following this stage, the Inspectorate would be notified of the specific projects and their locations.

The Inspectorate highlighted that once the projects are notified to it as pre-application NSIPs, they would be in a position to offer further project-specific advice. At that stage, the specific projects would also have a project page set up on the National Infrastructure pages of the Planning Portal website.

## **TLSB reasons for seeking consent for Swansea Bay tidal lagoon by Q1 2015**

TLSB wished to highlight to the Inspectorate the wider issues affecting delivery of the proposed Swansea Bay project and the reasons why they are keen to achieve the shortest possible timeframes for the examination, recommendation and decision stages of the planning process. TLSB wished to explore, for example, a 3 month pre-examination period and the possibility of a 4 or 5 month, rather than a 6 month examination period.

There are two main reasons which TLSB presented to the Inspectorate. The first reason related to TLSB's desire for a decision to be issued before the anticipated general election in May 2015. This is to support political certainty for the benefit of both the applicant (for access to investors) and the Inspectorate (for avoiding purdah/election periods which may affect statutory timeframes as set out in the Planning Act 2008).

The second reason related to the necessary seasonality of the construction phase and the need to complete a defined quantum of work in the first year, which requires a full summer season starting in late March/early April 2015.

The Inspectorate highlighted that whilst it is happy for applicants to share such views, and it is helpful to understand the wider factors affecting project delivery, achieving these timescales could not be guaranteed. The PA 2008 provides an expedited process for the planning of major infrastructure projects when compared with the predecessor regimes such as s36 of the Electricity Act 1989 and the statutory maxima timescales (such as 6 months for examination) can prove extremely challenging to achieve given the scale and complexity of some projects. This is particularly true when a project is novel or the policy and/or consenting environment are complex. The Inspectorate noted that it will be the role of the Examining Authority (ExA), when appointed, to determine the examination timetable necessary for the project.

### **Procedural efficiencies**

The Inspectorate acknowledged the reasons set out by TLSB. However, they highlighted that the shortest NSIP examination to date had been around 4.5 months. This has been achieved on some single Examining Inspector schemes where there were few controversial issues. The Inspectorate advised that TLSB should ensure that they engage in the examination by providing full and complete responses to any questions asked of them, this can assist the smooth running of the examination significantly and therefore increases the likelihood of a shorter timetable.

The Inspectorate advised that the more agreements can be made with parties and statutory consultees prior to the Preliminary Meeting (PM), the more this would also assist a smooth process, and reduce the risk of any unexpected issues arising.

The Inspectorate gave a brief outline of the timings which are required within an examination timetable. All deadlines allow 21 days minimum between each one to allow for sufficient time for comments on previous responses. There is also allowance of approximately 1 week following deadlines, for the case team to process and publish all submissions.

TLSB enquired how likely a 3 month pre-examination period was. The Inspectorate informed them that following the close of the relevant representations period, and when the certificates had been received from the applicant, there would be 10 working days for an ExA to be appointed and 21 days to produce a list of the principal issues from those highlighted in relevant representations and those that have become apparent from their review of the application documents.

21 days notice has to be provided to interested parties for the PM. One week following the PM, the Inspectorate would aim to issue the final examination timetable (Rule 8 letter) and first round of written questions, responses on which would be due at the first deadline at least 21 days later.

Following previous experience with other NSIP examinations, the Inspectorate advised TLSB to maintain communications with other interested parties between the deadlines, but to ensure that there is care taken with the information which is being discussed and how it is submitted into the examination. In some cases, this can significantly delay the examination timetable and result in Rule 17 letters (requests for further information) being issued by the ExA, and therefore further work for all.

The Inspectorate highlighted that TLSB could also assist the smooth running of the examination by ensuring that parties had all information prior to the first deadline. This would mean that if TLSB had any information which they wished to submit

following the Preliminary Meeting, such as a new draft Development Consent Order (DCO), they should do so.

The Inspectorate listed a number of points which TLSB could consider in order to improve the procedural efficiencies of the process:

- Clear naming of submitted documents
- Splitting documents by type e.g. have one document for the Written Representation, and another for the Responses to ExAs first questions
- Remove, or reduce the resolution of any graphic on the front cover of TLSB documents to assist download times for all parties with different internet speeds
- Ensure stakeholders are clear what is required of them
- Be prepared to submit hard copies of submissions (enough for all members of the ExA) and ensure they are submitted in enough time to the Inspectorate, so that they can then send them onto the ExA.
- Ensure a good level of communication with the Inspectorate (Case Manager, Katherine Chapman and team) – e.g. other projects have arranged for weekly telecoms with the case manager just to maintain a good level of contact and updates. Advice would not be given without being published.
- Answer all the ExA's questions following the first round – even if TLSB feel that they have previously answered the question, directing the ExA to the document(s) which are relevant and providing any further clarification would greatly assist the process.

The Inspectorate also highlighted that they would also be striving for a high level of procedural efficiency by ensuring that:

- Notification of hearings will be at least 21 days prior to the event – the examination timetable in the Rule 8 letter will give some idea of the subject of that hearing.
- The Inspectorate aims, when required, to publish agendas at least one week prior to hearings. This will ensure that TLSB can provide the correct experts/representatives and also they can communicate with statutory bodies (e.g. Natural Resources Wales (NRW)) to ensure that they have the correct specialists/experts in attendance on the correct days.
- Aim to complete the publishing of documents within 2 days of the submission. The Inspectorate highlighted that this is not a guarantee and should not be relied upon but the Inspectorate will endeavor to meet this.
- The Inspectorate will also maintain a good level of communication with the TLSB team.

### **Any other business**

The Inspectorate informed TLSB that it had become common practice for applicants for NSIPs to submit a 'Response to Rule 6' to the Inspectorate. This submission would make any comments on the draft examination timetable and any of the dates and events which are set out within it, the assessment of principal issues, or any other issues which they feel should be raised prior to the Preliminary Meeting. In regards to the comments on the draft timetable, the Inspectorate highlighted that this would be the opportunity for TLSB to possibly influence the length of the examination period; if they feel there has been too much allowance between deadlines, or there are two deadlines which could become one. However, consideration should be given to the ability of all interested parties to meet the deadlines. Any such letter would always be published in the interests of transparency.

The Inspectorate enquired about the progress towards achieving The Crown Estate lease for the project. TLSB explained that they were in ongoing discussion with The Crown Estate and were hoping that an agreement for lease would be awarded in the period Summer/Autumn 2014. The Inspectorate highlighted that once there had been an appointment or the examination had begun, the ExA may decide to write to The Crown Estate requesting an update on the progress.

The Inspectorate queried with TLSB whether they had received any communication from NRW in regards to their Marine License application and the progress of the process. TLSB understood that the draft Marine License was currently subject to consultation by NRW.

The Inspectorate highlighted there are ongoing discussions between themselves and NRW, in order for each side to fully understand the timetables involved in the Marine License application and the NSIP application processes. The aim is for coordination as far as possible and lawful between the statutory duties of both the Inspectorate and NRW.

**Specific decisions / follow up required?**

None