

**Meeting Note**

<b>File reference</b>	n/a
<b>Project</b>	n/a
<b>Status</b>	<b>Final</b>
<b>Author</b>	<b>Tracey Williams</b>

<b>Meeting with</b>	<b>Introductory Meeting with ESB Energy International</b>
<b>Meeting date</b>	<b>17 January 2012</b>
<b>Attendees (IPC)</b>	Tom Carpen (Principal Case Manager) Susannah Guest (Principal Case Manager) Tracey Williams (Case Manager)
<b>Attendees (ESBI)</b>	David McNamara – Thermal Development Manager Derek Jamieson – Business Development Manager Darragh Carr – Project Development Engineer Pat Nolan – Senior Consultant (Planning) Ben Wallace - Project Development Manager
<b>Location</b>	<b>IPC Offices, Temple Quay House, Bristol</b>

<b>Meeting purpose</b>	<b>Introductory Meeting and discussion of pre-application process.</b>
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<b>Summary of key points discussed and advice given</b>	<p><b><u>Introductions</u></b></p> <p>The IPC and ESBI gave brief introductions to their teams. The IPC explained that it has recently been re-organised into teams with a focus on national infrastructure sectors led by principal or senior case managers.</p> <p><b>IPC</b> - Advised on its openness policy stating that advice given will be recorded and placed on the IPC website under section 51 of the Planning Act 2008 (PA 2008). The IPC can only advise about the process for nationally significant infrastructure projects (NSIPs), not on the merits of a project and any advice given does not constitute legal advice.</p> <p>.</p> <p><b><u>Introduction to ESB Energy International</u></b></p> <p><b>ESBI</b> - Advised that its current focus in the UK is to identify and develop potential Combined Cycle Gas Turbine (CCGT) Power Stations and Windfarm projects.</p> <p><b><u>Questions and discussion</u></b></p> <p><b>Pre-application Process</b></p>
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**ESBI** – when do the IPC expect developers to first engage with them in the 2008 planning process and what triggers the creation of a project page on the IPC website?

**IPC** – Advised that developers can engage with the IPC at any stage of pre-application process, and we encourage early engagement. Once we receive project specific information and permission from the applicant to publicise it, if received prior to PA 2008 section 46 notification, we create a project specific page on our website with the applicant’s contact details so that anyone with an interest can find out more directly from the applicant.

**ESBI** - Does the consultation carried out at a project’s feasibility stage with landowners, statutory consultees, council members local communities form part of pre-application consultation requirements?

**IPC** – Advised that an applicant is free to undertake consultation prior to that under PA 2008 s42, 47 or 48, and this can be included in the application’s Consultation Report (PA 2008 s37 (3)). Early engagement is encouraged to identify potential issues early. However, prior consultation does not replace the consultation required under the above and associated sections, of PA 2008.

The Consultation Report should clearly detail the consultation and engagement carried out by the developer at the pre-application stage, what has been done in compliance with PA 2008 s42, 47 and 48, including how issues raised by consultees have been taken into account in the development of the scheme. Please see *IPC Advice Note 14 – ‘Compiling the Consultation Report’*.

Applicants should have a clear audit trail of consultation carried out and, under PA 2008 section 50 must have regard to IPC Guidance Note 1 which offers advice on the pre-application stages and the procedures leading up to the submission of an application for a Development Consent Order (DCO).

### **Statement of Community Consultation (SoCC)**

**ESBI** - If we discharge consultation in line with the SoCC that has been agreed with the local authorities that fall under PA 2008 s43(1) and has been published, will we have been considered to have undertaken the appropriate level of consultation?

**IPC** - Advised that when an application is submitted the IPC considers it against PA 2008 s55, as a whole. The adequacy of an applicant’s consultation is considered in the context of this section, including any representations received from local authorities, and the extent to which regard was had to guidance (see s37 and s50 PA 2008) . Further information is available in

Advice Note 6 'Preparation and submission of application documents'. Appendix 2 of this document provides the checklist used by the Commission to assess applications against PA 2008 s55.

### **Local Authorities**

**ESBI** - how does the IPC interact with local authorities and whether advice given is made public?

**IPC** – Advised that local authorities, as statutory consultee under the PA 2008, have a key role in the IPC process. They are encouraged to discuss and work through the issues raised by NSIP proposals with prospective applicants before an application is submitted, and to engage with applicants in the preparation of statements of common ground.

Advice given to local authorities about the process of applying for a DCO is required to be published on the IPC website under s51 of the PA 2008, the same as it would be if advice was given to developers and third parties.

Should an application be accepted we invite relevant local authorities (see PA 2008 s43) to submit a Local Impact Report (LIR). PA 2008 s60 states that the LIR is a report in writing giving details of the likely impact of the proposed development on the authority's area (or any part of that area). Local authorities are not required to submit a LIR but we strongly encourage them to do so. We advise them to have regard to IPC *Advice Note 1 'Local Impact Reports'*. We encourage local authorities to work together particularly where there is a benefit in providing evidence to support the Examining Authorities consideration of an application. Submitting a LIR does not preclude a local authority or individual members from making their own representations to us about an NSIP at the appropriate stages, if it so chooses.

### **Scope of Application and Associated Development**

**ESBI** - what is the process for making design changes throughout the NSIP planning process and can a DCO be approved prior to appointing a technology vendor, as the final design may not be known until later or after the consenting processes?

**IPC** – Advised that the DCO is a critical document in the NSIP process as it sets out the powers the applicant is seeking. There is limited opportunity to make changes to a DCO once accepted, particularly where material amendments are proposed which result in changes to the scheme that have not been previously consulted on. You may wish to consider a recent decision, with reasons, by the Examining Authority for the Brig y Cwm

application, where a change was sought during the examination.

Any flexibility required within the draft DCO should be considered when being drafted by the developer.

The IPC Advised that ESBI may wish to refer to *IPC Advice Note 9: The Rochdale Envelope*, *Advice Note 13 'Preparing the draft order and explanatory memorandum'*, which considers the issue of the degree of flexibility with regards to an application for a NSIP under the 2008 Act regime.

We encourage developers to send in a draft of their DCO, along with a draft Explanatory Memorandum, relevant plans at least six weeks before formal submission, for technical comment. We would not comment on the merits of the draft documents..

**ESBI** - with regard to differing timelines between electrical connection projects (managed by National Grid) and energy generation projects. How it is best to address the issue of project impact and consultation in these circumstances?

**IPC** – Advised that as part of any examination, the examining authority would be looking to consider the impacts of the development. The Environmental Statement would need to consider the impacts of associated development fully.

Regarding the grid connection, the IPC advised ESBI to have an open with dialogue with National Grid in this instance and to refer to the Applications: Prescribed Forms and Procedures Regulations, Regulation 6(1a) where there is a statement on connections. Advised that ESBI may also wish to refer to the DCO for the energy from waste application at Rookery South, Bedfordshire.

### **Impact of the Localism Act**

**ESBI** – raised some general questions about the Localism Act.

**IPC** - from vesting date (1 April 2012) we will be the National Infrastructure Directorate (NID), within the Planning Inspectorate. The directorate will continue to provide advice on the NSIP process.

### **Environmental Information**

**ESBI** – is Preliminary Environmental Information (PEI) expected to be significantly more than that contained in the EIA Scoping Report?

**IPC** - referred ESBI to The EIA Regulations and *IPC Advice Note 7 'Environmental Impact Assessment, screening and scoping'*. The focus of PEI is for it to be presented in a non-technical style

	<p>so that it can be easily understood by members of the public.</p> <p><b>Consultation</b></p> <p><b>ESBI</b> – asked for advice regarding iterative consultation at what point consultation reasonably ends?</p> <p><b>IPC</b> – Advised that the Act sets out formal requirements. An applicant should satisfy itself that it has met the requirements of s55 PA2008, seeking legal advice where appropriate. In doing so, discussions with stakeholders would be important, and the applicant may wish to share draft documents and provisions within the draft DCO with relevant stakeholders.</p> <p><b>ESBI</b> - asked about the outreach sessions that the IPC holds and how is the need to hold sessions established?</p> <p><b>IPC</b> - Advised that we adopt a flexible approach to outreach and aim to undertake sessions where it will be helpful and necessary. Outreach sessions are held to ensure that consultees, local authorities and the communities have a better understanding of the purpose and role of the IPC and the opportunities they have to engage in the planning process both at pre-application stage and following the submission of an application to the IPC. Outreach does not form part of the statutory process and it may not be necessary to hold outreach sessions for every project. <i>IPC Advice Note 2 ‘Working together on NSIPs’</i> contains further information about the IPC’s Outreach programme.</p> <p><b>AOB</b></p> <p><b>ESBI</b> – does the IPC expect to see the submission of Health Impact Assessments in all applications?</p> <p><b>IPC</b> – advised that it is not a required document but should issues of this nature be relevant or raised at consultation, an applicant may wish to produce such a report.</p>
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	<p><b>ACTION POINTS</b></p> <ul style="list-style-type: none"> <li>• <b>IPC</b> - to advise on whether a DCO can include a range of alternative provisions.</li> </ul>
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<b>Circulation List</b>	All attendees of meeting
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