



Meeting note

File reference	EN010051
Status	Final
Author	Ruth Jones
Date	28 January 2014
Meeting with	Forewind
Venue	Temple Quay House, Bristol
Attendees	Forewind Chris Nunn – Teesside Project Manager/Onshore EIA Manager Andrew Guyton – Teesside Consents and Stakeholder Manager Julie Drew-Murphy – Teesside EIA Offshore Manager Planning Inspectorate Jessica Powis – Infrastructure Planning Lead Kay Sully – Senior Case Manager John Pingstone – Case Officer Lynne Franklin – Legal Manager Laura Allen – Senior EIA Advisor Richard Kent – EIA Advisor Ruth Jones – Assistant Case Officer
Meeting objectives	Forewind to provide an update to the Planning Inspectorate on pre-application activities for Dogger Bank Teesside A&B
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 given under Section 51 of the Planning Act 2008 (the 2008 Act).

Forewind confirmed that the target date for submission of the Dogger Bank Teesside A&B application to the Inspectorate was still set as Monday 31 March 2014, and that this meeting would focus on preparation for the acceptance period.

Prior to the meeting Forewind had provided a number of draft application documents. The Inspectorate had reviewed the documents and gave feedback and advice to the developer.

Feedback on draft Development Consent Order

Forewind explained that in general, the draft DCO for Dogger Bank Teesside A&B follows the approach taken on the Dogger Bank Creyke Beck project which is currently

at the pre-examination stage. The Inspectorate explained that advice given previously in relation to the Creyke Beck application is likely to also apply in this case.

The Inspectorate highlighted a number of sections within the draft Development Consent Order (DCO) which may require clarification, revision, or re-wording. These issues may not be risks to the Inspectorate's acceptance process, but the Inspectorate advised that if these matters were clarified prior to submission, it could assist the progress of the examination.

DCO articles

Articles 2 and 7: "undertaker" includes "any other person who has the benefit in accordance with s156.." (ie persons interested in land). The Inspectorate advised that Forewind gives some consideration to how this sits with restricting consent to named companies. In addition, it is not currently clear whether it is intended to include any transferees under article 8.

Article 6: Procedure in relation to approvals etc under requirements – The Inspectorate raised the point that other DCOs state the certain requirements to which this article relates. This inclusion could improve clarity.

Article 9: Disapplication and modification of legislative powers – The Inspectorate queried (1)(d), which referred to the potential inclusion of a planning zone order. Forewind stated that this would be in reference to the Wilton Complex, and this would be clarified at a later date. Paragraph (2) refers to the Party Wall etc. Act 1996(c) (underpinning of adjoining buildings) – the Inspectorate queried whether this was necessary in this case. Forewind stated that it would review the case for including the reference and if necessary, remove it.

Article 33: Special Category Land – The Inspectorate highlighted that any land potentially subject to Special Parliamentary Procedure should be identified in part 5 of the Book of Reference. However, Forewind highlighted that they believed that there is no special category land for this project, and therefore the provision may not be required within the DCO.

Article 36: Trees subject to tree preservation orders and Article 38: Felling or lopping of trees and removal of hedgerows – The Inspectorate queried whether it was within the scope of the PA 2008 to create powers intended to deal with a possibility in the future; trees, which are not yet identified, but may become subject to a TPO. Forewind responded that it had possibly been added in for legal comfort, but they would look into it further. The Inspectorate advised that if these articles are included, the Explanatory Memorandum should include legal justification as to why they are necessary and within the powers of the PA 2008.

Article 41: Crown Rights – The Inspectorate advised that article 41 does not remove the need for consent under s135(1) and (2) of the Planning Act 2008 (as amended). Forewind highlighted that this development consists of no onshore crown land, as records indicate that Redcar and Cleveland Borough Council owns the beach. Forewind stated that they would carry out further investigation in regard to this matter, as the case may be that the council lease the beach from the Crown Estate.

DCO Requirements

Requirement 7: Layout Rules – The Inspectorate advised that the wording within part (1), 'so far as is practicable', could be more precise. Also, they queried that the reference to 'condition 4' within part (1), should actually read 'requirement 4'. Forewind confirmed this.

Requirement 15: Aids to Navigation – The Inspectorate raised that 'IALA O-139' has not been explained anywhere. Forewind highlighted that this was a Trinity House requirement and they would look to include clarification text, or remove if necessary.

Requirement 19: Stages of authorised development onshore – The Inspectorate questioned whether the terms 'relevant Planning Authority' and 'Planning Authority' have different meanings within the DCO. If so, both terms should be defined within article 2. If not, amendments should be made to clarify this.

Requirements 20 and 21: Detailed design approval onshore – The Inspectorate stated that with regards to these requirements, it would be advisable to justify the wording used, particularly in relation to the use of 'tailpieces' that might allow subsequent amendments (going to the heart of the development) to be dealt with in writing. The Inspectorate drew Forewind's attention to the final DCO and Secretary of State's decision letter for the M1 Junction 10a Grade Separation - Luton road project in which the wording "unless agreed otherwise in writing by the relevant planning authority" was removed. The Inspectorate also referred Forewind to the latest Examining Authority's questions for the North Killingholme power project, which is currently in examination.

The Inspectorate informed Forewind that they would welcome confirmation that the DCO is in the Statutory Instrument template. They advised that they would welcome this confirmation as a sentence within the Explanatory Memorandum.

The Inspectorate also advised that it would be beneficial if at the point of submission Forewind provides a version of the draft DCO which shows as tracked changes where there has been any departure from the model provisions. This could be a support document to the Explanatory Memorandum and should explain the justification for any deviations from the model wording.

Schedules

Schedule 1: Part 1: Authorised Development – The Inspectorate highlighted to Forewind that they could improve the clarity of the works numbering, for example, in relation to 'Work No. 1AB'. Forewind explained that this was in the processing of being addressed.

Schedule 1 – The Inspectorate suggested that there should be consistency with the use of km² and m² when referring to parameters.

Schedule 7: Deemed Licences under The Marine and Coastal Act 2009 - The Inspectorate pointed out that the DML relating to the transmission assets also includes the generating assets. The Inspectorate queried how this overlap would function with regard to apportioning benefits and liabilities.

Feedback on the draft Book of Reference

The Inspectorate advised that Forewind should refer to the DCLG Compulsory Acquisition Guidance when finalising their Book of Reference (BoR), particularly in

respect of parties identified in part 3 (parties with an easement/right which will be interfered with). The expectation is that parties identified in part 3 are also included in part 1 (persons interested in the land). Forewind stated that they would review and amend as necessary.

Feedback on draft Consultation Report

The Inspectorate provided advice about the draft Consultation Report following its review of the document. In general, the feedback was that the draft Consultation Report has a good structure and is set out in a clear manner. It does not appear to raise any serious concerns for the acceptance process.

The Inspectorate advised that the description of the split between the different projects, Teesside, Teesside A&B, and Teesside C&D, and the reference to the first and second phases of consultation described as 'equally relevant', could be further clarified with additional explanation. A small number of minor typos and grammatical errors had also been noted, and due to time constraints at the meeting the Inspectorate agreed to provide these by email following the meeting.

Feedback on draft plans

The Inspectorate confirmed that it had checked the draft plans submitted by Forewind and no serious problems had been identified in terms of compliance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) (APFP) Regulation 5. The Inspectorate confirmed that there was some precedent for offshore developments not complying with the Regulations in regard to the scales used for offshore plans, and that those scales used by Forewind for the offshore plans appeared to be in the order of those accepted on other cases. The Inspectorate advised that there should be an explanation within the Explanatory Memorandum in regards to any deviation from the prescribed scales.

Feedback on draft HRA report

The Inspectorate advised Forewind to allow time prior to submission to check that the project description is consistent across all application documents, particularly the DCO, Environmental Statement (ES) and Habitats Regulations Assessment (HRA) report. In addition, the Inspectorate advised that Forewind explains in the HRA report why the sites identified vary between the Dogger Bank Teesside A&B and Dogger Bank Creyke Beck projects. It should also explain the extent to which information emerging from the Dogger Beck Creyke Beck examination has or has not been taken into account in the findings.

It was recommended that the HRA report is supported by copies of responses from Statutory Nature Conservation Bodies where possible to show where agreement has been reached or remains outstanding. In addition, the Inspectorate advised that it could assist the examination process if Forewind includes within the application a table setting out how the mitigation identified in the ES and HRA is secured within the DCO.

Final pre-application consultation: Overview

Phase 2 of statutory consultation for the project took place from 4 November until 20 December 2013. Forewind reported that 52 responses were received to the s42 consultation, 33 of which were in support/had no comment.

As part of the s47 consultation, Forewind held 3 public exhibitions in Redcar town, Lazenby village, and a venue near to the landfall site. There were a total of 93

attendees over the 3 days. From these events, Forewind found that 91% of attendees were in support, with the remaining 9% unsure of their position. Forewind felt that this overall positive reception to the project was largely due to the opportunities and the connections which the development is looking to make with the Teesside area, mostly relating to employment. Forewind received 6 responses to s47 consultation.

Forewind reported that the local authority, Redcar and Cleveland Borough Council, welcomes the development in regards to the socio-economic opportunities that it could create for the local area and the local community.

Final pre-application consultation: Onshore

As with the overview of the pre-application consultation, Forewind reported that they have received limited comments in respect of the onshore development. They had received comments from all of the principal statutory consultees (e.g. local councils, English Heritage, Natural England, Environment Agency, relevant highways authority etc.), but any concerns raised had been minor. There had been a few issues raised with regard to the cultural heritage assessment, and in respect of some further survey data in relation to birds at the landfall site. Forewind highlighted that surveys had been undertaken earlier this month and that discussions were currently taking place with Natural England. Forewind reported there had been no comments in regard to the draft DCO from the council.

Final pre-application consultation: Offshore

Forewind highlighted that as a result of consultation responses, there had been some limited changes to the Environmental Statement (ES). For example, as a result of the consultation, Forewind have amended plans for the temporary works area at the landfall by narrowing it to avoid an important locally designated geological feature.

Forewind informed the Inspectorate that it is working with the Maritime and Coastguard Agency (MCA) to clarify the layout rules and other matters.

The main consultees in regard to offshore matters were Natural England, JNCC, MMO and the RSPB, with the main subject being ornithological matters. Forewind reported that they were currently doing additional work in relation to the use of the Band model and avoidance rates which have been used and that clarification would be included within the final version of the ES.

Forewind stated that they had recently been informed that they should expect to receive some further comments in respect of the s42 consultation from the JNCC and Natural England by the end of February 2014. The Inspectorate advised Forewind to document carefully any late responses received and how / whether they have been dealt with within the Consultation Report.

Application submission, checklist and programme

Forewind explained that it would be populating a copy of the Inspectorate's s55 acceptance checklist prior to submission of the application in order to ensure that there are no procedural omissions. The Inspectorate agreed to email a copy of the latest version of the s55 checklist which is used by the Inspectorate during the acceptance period. The Inspectorate also highlighted that Forewind must ensure that the application fee has cleared before the application can be accepted.

The Inspectorate advised Forewind that it would be helpful if they could provide a completed copy of the electronic application index prior to submission, as this will assist an efficient upload of documents to the project pages of the website.

Forewind confirmed that they were not anticipating any significant issues which would delay the proposed submission date of 31 March 2014. With this in mind, they informed the Inspectorate that they would ensure that two weeks prior to the submission (approximately 14 March) the application fee, GIS Shapefile and updated electronic application index draft would be sent to the Inspectorate.

The Inspectorate requested that a MS Word version of the completed HRA matrices is provided as part of the application since they will need to be used during the examination process.

The Inspectorate confirmed that during the acceptance period, it would be unlikely that Forewind would be contacted, but the case team will require a contact name in the event that there is a Regulation 5(5) request for copies of consultation responses. Forewind confirmed that if the application is accepted, they will seek to move swiftly to the relevant representations stage.

Specific decisions / follow up required?

- The Inspectorate to send an email containing links to a number of useful documents and references, as discussed during the course of the meeting:
 - M1 Junction 10a Grade Separation – Luton: Secretary of State decision letter and final DCO
 - North Killingholme Power Project: Examining Authority's questions
 - Any typographical and grammatical errors noted from the draft Consultation Report
 - New version of the s55 checklist used during the acceptance period
- Approximately 14 March 2014 – Forewind to send application fee, GIS Shapefile, and electronic application index to the Inspectorate.