



Meeting note

File reference	EN010069 Abergelli Power Project
Status	Final
Author	Ewa Sherman
Date	25 February 2015
Meeting with	Abergelli Power Limited (APL)
Venue	Temple Quay House, Bristol BS1 6PN
Attendees	Planning Inspectorate (PINS) Tom Carpen – Infrastructure Planning Lead Susannah Guest - Infrastructure Planning Lead Jenny Colfer – EIA and Land Rights Advisor Stephanie Newman – Case Manager Ewa Sherman – Case Officer Vicki Hodgson - Legal Applicant Adam Heffill – Abergelli Power Limited Gary McGovern - Pinsent Masons Dermot Scanlon - Peter Brett Associates LLP
Meeting objectives	Project update. The Planning Inspectorate’s comments on further draft application documents.
Circulation	All attendees

Summary of key points discussed and advice given:

The applicant was reminded of the Planning Inspectorate’s openness policy that any advice given will be recorded and published on the planning portal website under s51 of the Planning Act 2008 (as amended by the Localism Act 2011) (PA 2008) and that any advice given does not constitute legal advice upon which the applicants (or others) can rely.

Based on the information received, and without prejudice to any decision the Secretary of State may make, the Planning Inspectorate (PINS) advised that the application is currently at risk of non-acceptance. Given the limited amount of time the applicant has before its anticipated submission date and the issues raised in the attached comments, PINS advised that, again without prejudice to any examination, if accepted the examination may have a number of issues to consider that could have been considered during the pre-application stage.

Project update and programme to Development Consent Order (DCO) submission

The applicant provided an update on the project and the proposed submission dates, stating that the absolute cut-off date for submission would be at the end of March 2015. They confirmed that they are finalising work on the application documents. The applicant also discussed their programme for sharing draft documents with City and County of Swansea Council (CCSC) and Natural Resources Wales (NRW). They have been engaging with National Grid (NG) in relation to the grid connection and overhead lines, as well as the preparation of the agreement relating to the sharing of NG's road. Additionally, the applicant has been working on the protective provisions to be included in the DCO. They have sent the draft wording to the main undertakers and stated that there would be no design changes to the proposal. PINS requested to be informed of any issues that CCSC and NRW might raise.

The applicant also reported on a meeting they had with CCSC held on the previous day (24/02/15) in which the applicant was informed of a planning application for a new hospital at Felindre Business Park. The applicant understands that the hospital will feature 18 private en-suite patient rooms, a six-bed day ward, 13 consulting rooms and related facilities. They reported that this application has been submitted too late for specific inclusion in the applicant's cumulative effects assessment and this was acknowledged by CCSC at the 24/02/15 meeting. Nevertheless, the development of the business park as a whole was included as part of the cumulative effects assessment undertaken for the APL EIA.

Feedback on draft application documents

PINS provided comments on the draft documents submitted on 30 January 2015:

Revised Development Consent Order (DCO) and Explanatory Memorandum (EM)

PINS sought clarity on the degree of flexibility that would be sought with respect to the design of the generating station. It was recognised that two other projects (Progress Power Station and Hirwaun Power Station) proposed by the same parent company as APL and currently going through the PA 2008 process, have sought similar flexibility. This has been the subject of hearings during the examination stage. The applicant referred to similarly broad applications having been made under the Electricity Act regime.

There was discussion on how the flexibility would be assessed in environmental terms. The applicant explained its approach and offered to provide PINS with some draft chapters of the Environmental Statement (ES) to give an indication of the methodology. The applicant confirmed that each topic assessment in the Environmental Statement will identify a worst case scenario for that type of impact. The applicant noted the worst case scenario may not be the same design for all topics, and indicated they were seeking agreement from parties about whether the worst case identified for each topic was appropriate.

PINS advised that an application needs to clearly establish what the applicant is seeking consent for; where flexibility is sought this becomes more challenging and the parameters need to be clear. PINS explained that the s55 test looks at whether the application as a whole is of a satisfactory standard. The extent of the consent and

degree of flexibility sought needs to be very clear in the application as a whole if the application is to meet this standard.

Additionally, the fact that this is an application for a DCO for a generating station in Wales and there is no scope within the PA 2008 consenting regime for associated development in Wales, was discussed. PINS advised that as such the Secretary of State will need to be satisfied that everything applied for forms part of a nationally significant infrastructure project (see s31 and s14(1)(a) Planning Act 2008).

No Significant Effects Report (NSER)

The applicant advised that it would not be in a position to submit a draft NSER to PINS or NRW. The impact of the scheme on European designated sites, in particular Special Areas of Conservation (SAC) was discussed. The applicant confirmed that it could demonstrate that no SACs would exceed their critical loads as a result of emissions from the power station itself, or in combination with emissions from other projects. PINS also queried if there was impact that may take the SACs close to critical loads. In response the applicant advised that there was some impact but it was confident it would not require an Appropriate Assessment, and explained how they had sought specialist advice. PINS advised that without sight of the draft NSER it remained concerned that this could be an Acceptance or at least an examination issue, if the application were accepted.

Environmental Statement (ES)

PINS sought an update on discussions between the applicant and NRW. The applicant advised that it was awaiting a response in relation to a letter sent 09/01/15 relating to environmental permitting and NRW's comments on the Preliminary Environmental Information Report (PEIR). PINS requested an update before submission from the applicant on any outstanding issues with NRW, particularly in relation to the environmental permit. The applicant's approach to environmental permits was discussed. The applicant confirmed that in line with its approach on previous projects it would not be applying for a permit at this stage as an application for a permit would require detailed information about the design of the scheme which is not available at this stage. PINS advised that this is likely to be an examination issue and that the applicant needs to consider the specific reasons and advice from NRW as to what information is needed for the examination.

PINS requested information about any on-going protected species surveys. The applicant indicated that the required protected species surveys were being finalised.

Revised Consultation Report

PINS recognised that progress had been made to address some of the comments provided on the previous draft of the Consultation Report (CR). PINS were unable to comment on whether the applicant has had regard to all the comments received and whether all s42 consultees have been consulted. The applicant needs to be confident of those matters before submitting its application. PINS advised that the CR also requires evidence of the consultation letters and notices. More detailed comments relating to the CR are provided in Annex I.

Other documents (ie Work Plans, Land Plans, Book of Reference, and Funding Statement)

As only minor points were raised in respect of the documents listed above PINS refers the applicant to more detailed comments provided in Annex I.

Future review of application against National Policy Statements (NPS)

PINS advised the applicant to review its application against the National Planning Statements (NPSs) in relation to Fossil Fuel electricity generating infrastructure, for example the carbon capture readiness, CHP (combined heat and power) requirement and methods of mitigating various environmental issues. This review could form the basis of a further meeting before the application is submitted. The applicant and PINS agreed to follow this up.

Practical matters relating to submission

Regarding the provision for the Welsh language scheme the applicant advised that it has followed the example of the Hirwaun project, and provided a list of documents to be translated into Welsh to CCSC. The applicant is awaiting the advice of CCSC as to whether the translation of these documents is sufficient, and they confirmed that they would forward the Council's comments to PINS for information.

PINS confirmed that two hard copies and three electronic versions (on CDs) of the DCO application should be submitted.

[Post-meeting update 11/03/2015:

Since the meeting the applicant has informed PINS of progress it has made towards finalising a number of outstanding components to its application. They have submitted a number of draft documents to PINS and other consultees for review, namely:

- *Draft chapters of the APL ES to PINS and NRW on 28/02/15:*
 - *Chapter 3 which sets out the project description including the embedded mitigation;*
 - *Chapter 4 sets out our approach to the EIA.*
- *Draft appendices to the consultation report to PINS on 04/03/15;*
- *Detailed information (Discussion Paper and plans) to CCSC on 05/03/15. These relate to the powers and provisions which the applicant has identified as necessary and which would require CCSC's agreement for incorporation in the draft APL DCO;*
- *The draft NSER to PINS, together with CCSC and NRW on 06/03/15.]*

Annex I

Detailed comments on the draft DCO application documents submitted to PINS on 30 January 2015.

Consultation Report (second version)

Please note the comments below relate solely to the draft document and not the merits of the proposal, and are provided to assist in preparation of the final iteration. The structure of the Consultation Report (CR) seems clear and informative. However, the appendices have not been listed nor included with the Report. Having reviewed the document it appears that the list of the appendices will be different from that provided in the previous draft.

The final CR must be explicit and clearly identify which consultation was carried out as a part of non-statutory consultation and statutory consultation, under the relevant sections of the Planning Act 2008 (PA 2008) (as amended).

The text of the Report should correctly refer to all relevant appendices and tables throughout the whole document, and ensure all cross referencing is correct. Tables and Figures need to be consistent in terms of numbering and naming for accuracy and the ease of cross referencing. For example we note the following:

- Table 4.1 (paragraph 4.2.4, page 99) refers to 'Number of attendees at the June 2014 non-statutory public exhibitions'.
- In paragraph 4.4.3, page 107, there is also reference to Table 4.1 but the information clearly relates to Table 4.2 (Number of attendees at the statutory section 47 public exhibitions in October 2014).

The following comments refer to the information in the main body of the Report:

1. In the Glossary please note that the acronym 'JNCC' stands for Joint Nature Conservation Committee, and not 'Joint Nature *Conservancy* Committee' (page 12, Glossary).
2. The Executive Summary provides a clear overview of the applicant, the project, and each element of the proposal that the applicant wishes to obtain consent for.
3. Chapter 2 - Introduction
 - a. Table 2.1 (paragraph 2.5.5, page 43) is very helpful. When completed it will make it easier to navigate the main document and understand how the project has evolved, following non-statutory and statutory consultation activities.
 - b. Table 2.2 in 'Project Milestones' (paragraph 2.5.6 on page 50) is very helpful for quick reference.
 - c. Section 49(2) is mentioned in paragraph 2.1.2 on page 34 ('*information explaining how APL has taken into account consultation responses in developing the application from proposed to final form, as required by s49(2) (provided in Section 4 and Section 5 of this Report)*'). Subsequent references to the taking into account of statutory consultation responses should also make explicit reference to s49 of the PA 2008.
4. Chapter 3 - Description of Consultation Activities

- a. Section 42(1)(b) refers to 'each local authority that is within section 43'. The definition includes 'A', 'B', 'C' and 'D' authorities. The applicant has clarified within the text that 'due to the administrative structure of local authorities in Wales, there are no Category C and D authorities for the purposes of s42 consultation'. PINS supports the inclusion, as indicated in the CR, of Figure (3.6: 'Section 42(1)(b) Category A and B Local Authorities') to supplement this explanation.
 - b. Paragraph 3.2.7 on page 26 of the first version of CR and page 53 of the second version refers to the draft SoCC. Although the abbreviation 'SoCC' is explained in the Glossary it would be helpful for the applicant to include the term 'Statement of Community Consultation' at the beginning of the paragraph.
5. Chapter 4 - Summary of Feedback and Responses
- a. The applicant was advised to explain the term 's42 targeted additional consultation', used in paragraph 4.4 of the first draft of the CR, and the reasons why additional parties with an interest in land have been identified. The information has been provided now. Note:
 - i. It is important to provide evidence of all consultees in the relevant Appendices to the CR, cross referenced for the ease of use.
 - ii. The applicant is encouraged to provide evidence to demonstrate that 'diligent inquiry' was made for the purpose of completing the Book of Reference.
6. Chapter 5 - Key Outcomes & Next Stages
- a. Cross referencing the provided summary information with the non-statutory and statutory consultation responses will assist with understanding how the applicant has dealt with considering and having regard to the views of consultees.
7. Tables are not listed
8. Appendices have not been included

The electronic application index

It lists all documents to be submitted to the Planning Inspectorate.

1. It was noted that the Environmental Statement appendices and figures are listed as folders instead of providing the files as a file per row. Every file should be listed in a separate row on the index and given appropriate reference numbers and filenames to ensure the files are ordered correctly once in our system and on the website.
2. A final draft version should be submitted close to submission to ensure the reference numbers and filenames are logical and clear.
3. Please note that three documents (reference numbers 4.1, 4.2 and 4.3) should be referred to as 'Compulsory *Acquisition* Information' rather than 'Compulsory Purchase Information'.

Exploratory Memorandum

1. Page 5, paragraph 3.5 – Clocaenog Forest Wind Farm Order was in 2014, not 2013.
2. Page 13, paragraph 4.26 – Rookery South (Resource Recovery Facility) Order 2011, not 2012.
3. Page 17, paragraph 4.47 – refers to Requirement 2(5) which does not appear in the DCO.

Work and Land Plans

The Plans have been submitted in accordance with the requirements of The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (APFP Regulations).

1. Schedule 1 of the draft DCO lists parts of the Authorised Development comprising of Works 1A, 1B, 1C, 1D, 1E, 1F, 2, 3A, 3B, 4, 5A and 5B which have all been included in the Works Plans. However:
 - Text describing Numbered Work 5A refers to Work 4B, however Work 4B does not appear on the Works Plans at all.
 - Text describing Numbered Work 2 states that the pipeline will connect the natural gas receiving station in Work 1B to Work 1D. This explanation is not very clear, as the green area on the plan representing Work 2 does not touch Work 1B and therefore does not appear to connect it.
2. All plans have a unique title and it appears that a unique document reference will be allocated before submission ('XX' on draft plans).
3. The land plans' boundaries between plots are clearly delineated and each plot is separately numbered to correspond with the Book of Reference (apart from Land Plan 4 of 4 – see below) and clearly shows:
 - land to be compulsorily acquired in pink; and
 - land over which a new right is to subsist in blue.

Book of Reference

1. It is helpful that the Book of Reference has been split into 3 sections and corresponds to the land plans.
2. Land plots shown on 'APL Access Road Land Plan – sheet 4 of 4' have not been included in the BoR.

Funding Statement

1. The Funding Statement (FS) states that the current total cost estimate (including Compulsory Acquisition (CA)) is £200m. It would be helpful if this figure could be broken down to show the predicted individual costs of CA land, compensation and the cost of the proposed development.
2. It is noted that Appendices 1 and 2 will include Noble Clean Fuels Limited's and Noble Group Limited's net assets. Please ensure these are included with the submitted version of the FS to ensure that the Examining Authority is aware of the funds the applicant has at its disposal.

3. As there is a statutory five year period following consent to serve notice for CA of land, it would be helpful to include how long the funding will be available for and how the funding will be secured, including relevant provisions.