



SPR EA1N and EA2 PROJECTS

DEADLINE 12 – SUBMISSION IN RESPECT OF COSTS

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 28 June 2021 **Issue:** 1

INTRODUCTION

1. Throughout the Examination process the Applicants have made numerous submissions a number of which were only necessary because of inadequacies in their DCO applications. This conduct has continued during extended Examination period¹.
2. Aside from the costs implications resulting from the Applicants' conduct, this conduct also has the effect of excluding interested parties who, relative to the applicants, have far less financial and other resources which renders the Examinations inherently unfair.
3. This behaviour was and is unreasonable and justifies an award of costs in accordance with the guidance in "Awards of costs: examinations of applications for development consent orders" ("the Guidance").
4. A particular issue arises in relation to the Applicants' behaviour in respect of the topic of flood risk further details of which are set out below.

FLOOD RISK

5. As the Examining Authorities are aware flood risk has been a long-standing concern of the community of Friston with a number of residents having their homes flooded in the past. As a result issues of flood risk and drainage were brought to the Applicants' attention during the consultation process in 2019 not least because Scottish Power had failed to take account of surface water flood risk during the site selection process which has been the subject of previous submissions by SASES.
6. To discuss this and other issues a meeting was held between SASES and Friston Parish Council with David Walker, the then Development Director of Scottish Power Renewables, on 12 July 2019. At that meeting the issues and concerns over flood risk were discussed and David Walker indicated that he would send a flood engineer to Friston to properly understand the issues. However he subsequently refused to do so.
7. Friston Parish Council and SASES wrote to Scottish Power on this and other issues on 19 July 2019 and a copy of this letter is attached. The Examining Authorities will note the remarkable consistency between the issues raised in this letter and what has been discussed during the course of the Examinations.
8. SASES contends that had Scottish Power/the Applicants:
 - a. listened to Friston Parish Council and SASES in July 2019;
 - b. properly considered pluvial flood risk before submitting their applications, either:

¹ SASES and SEAS have previously written to Examining Authorities concerning the circumstances of the extension of the Examinations and the resource and cost implications for Interested Parties.

- (i) they would not have proceeded with their applications on the basis that the Friston site should have been excluded by proper application of the sequential test (justifying a full award of costs); or
- (ii) at the very least far fewer submissions and fewer, if any, hearings on flood risk would have been necessary (justifying a partial award of costs);

Item (i)

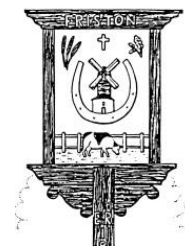
9. In relation to item (i) SASES submits that the Applicants' failure to properly assess flood risk and apply the sequential test is contrary to policy. Had Scottish Power properly assessed pluvial flood risk from the outset the Applicants would not have proposed Friston as a site. In the terms of Part C of the Guidance this was "An application for development consent... for a proposal that is clearly contrary to or flies in the face of a relevant designated national policy statement" (see paragraph 4). Accordingly SASES is entitled to all its costs in preparing for and participating in the Examinations.

Item (ii)

10. In relation to item (ii) as evidence of the unreasonable behaviour of the Applicants, they did not produce an outline operational drainage management plan until Deadline 3. The Applicants then produced a further three versions of that plan prior to the end of the original Examination period. A fifth version of that plan was submitted on 11th June after the last deadline, Deadline 11. This was the "late submission of documents" and the introduction of "fresh or substantial evidence at a late stage, necessitating the preparation and submission by any other party or parties of additional submissions or evidence that would not have been required if the fresh or substantial additional evidence had been submitted on time" (see Guidance, Part C, paragraph 3).
11. Further there have been no less than three separate issue specific hearings at which flood risk has had to be considered.
12. The Applicants have only very recently carried out any infiltration testing which is a fundamental requirement in order to understand flood risk at the site and the feasibility of possible mitigation. Even now and despite the Examinations being extended, the infiltration tests which have been conducted are defective - see SASES Deadline 12 Submission on Flood Risk.
13. As a result SASES has incurred substantial expense in instructing experts and counsel to address flood risk matters including, without limitation, the preparation for and attendance at issue specific hearings.

CONCLUSION

14. In short the Applicants' behaviour in respect of their DCO applications and the conduct of the Examinations has been unreasonable and that behaviour has caused SASES unnecessary costs.
15. SASES respectfully requests that the Examining Authorities consider these matters and make an award of costs in SASES favour.



FRISTON PARISH COUNCIL

David Walker
Development Director
Scottish Power Renewables
Scottish Power House
320 St Vincent Street
GLASGOW
G2 5AD

BY EMAIL & POST

22 July 2019

Dear David

Thank you to you, Joanna Young and Alex Hampson for coming to Friston to update Friston Parish Council, SASES and others on the progress of EA1N and EA2 projects. However, as we have come to expect from SPR the absence of detail is deeply frustrating, not only because it prevents an understanding what exactly is going to be built on our doorstep, but it also prevents effective consultation. Far too much of what is very important to the village has not been disclosed to us. You told us it will only be disclosed either at the time of the DCO application when we will only have four weeks to digest thousands of pages and then respond, or even later post consent. This is highly unsatisfactory.

Two examples of this are the issues around landscape and noise. In relation to landscape mitigation SPR has failed to disclose adequate details of planting and maintenance. Further there has been no serious attempt to reduce impact on landscape through detailed design of the substation complex. The analysis and details of noise impact provided to date are inadequate and inaccurate. We are aware that you have not even been able to give satisfactory information to the Councils.

We would make the following observations on the matters discussed and have highlighted where you said you would provide additional information/documentation. In addition, we have some other requests/questions which are included in the text.

We have also received under cover of an email from Joanna Young dated Friday 19th July 2019 a list of actions from that meeting a number of which directly contradict what you agreed to do at the meeting. It is also very incomplete as this letter demonstrates. We have put in italics where you have reneged from what was discussed in the meeting or otherwise deliberately

chosen to be unhelpful. Again, this is deeply disappointing and further undermines what little trust the community has in you and Scottish Power. We have been reminded yet again how we cannot rely on anything you or Scottish Power say.

1. Flood risk – As discussed, your work has not been informed by any familiarity with the area. **You agreed to send a flood engineer to Friston to meet with us.** *Your action is not as agreed. You agreed to send a flood engineer so he could be properly acquainted with the site by people who live here and experience flooding. Mary Shipman has written to Joanna Young directly on this point.*
2. Noise - **In relation to noise impact you would you said you would consider sending us the noise contour information both during operation and construction (including along the cable route) so we can properly understand this important issue. We are aware this information is made available in other projects and is important for the understanding of noise impacts.** *We note that you have refused to provide these for the cable route despite our request being entirely reasonable. In relation to the substation site your action is not clear. Will you provide the noise contour information now?* Obviously, residents (both in and around Friston and along the cable route) enjoying their gardens and houses at any time of day or night should not be subject to any increase in noise given a key feature of this area is its peace and tranquillity. The Friston community has been concerned from the outset that it would prove impossible to reduce the noise impact from the proposed substations to an acceptable level. We believe your assessments of noise impacts are incorrect based on applicable standards and in particular as they affect listed buildings and given the tonality of the noise during operation. You confirmed that your noise assessment includes all noise both from the EA1N and EA2 substations and the National Grid substation and related infrastructure. You stated the National Grid substation would emit no noise. What is unacceptable is no work has been done in relation to the noise that will arise when National Grid substation complex is used for the NGV Nautilus and Eurolink interconnector projects. NGV have indicated that the NG substation will be used for these projects and even you were prepared to admit that the NG substation may well be used for these projects.
3. Landscape mitigation – you disclosed that **details of tree species and growth rates have been discussed with the County and District Councils and that all tree species are now native. As we requested it will be helpful if you could provide those details together with any work which has been done on irrigation and maintenance.** *Your action list refers to the maintenance requirement in the EA1 and EA3 DCOs. Please provide a copy of the relevant parts of the DCO for ease of reference. You do not address the growth or species information. Please provide this information.* To date you have only provided visuals in relation to landscape after 15 years when you believe tree planting will be mature. We would point out even if that tree planting is mature after 15 years and assuming that the projects are completed in 2026, mitigation will not be complete until 2041. **Given that many residents will no longer be alive by that time it will be helpful to have visuals the level of mitigation when the project is completed (i.e. year 0) and then year five, year 10 and year 15.** *You have refused to provide this which is unacceptable. This means that residents have no idea of the reality of the damaged landscape with which they will have to live for many years. Only providing optimistic/misleading visualisations of what the*

landscape may look like in 2041 is deeply cynical. The crude graphic provided in your Development of our Plans document in relation to additional planting is inadequate. To understand the planting, we need to see it in scale drawings using OS data. In relation to the additional planting you are proposing you said this does alter the landscape impact chart that was prepared as part of the PEIR. You indicated you would provide a copy of the updated chart to us. However, you also acknowledged this additional planting will not improve the landscape impact from the Aldeburgh Road and therefore the substation complex will always be visible as you approach the village. **We requested that all future plans should show the village and you agreed to this.**

4. Substation Design – As mentioned in the meeting there are at least two aspects to landscape mitigation. One is planting the other is reducing the size of the substation complex itself. We find it very curious that in SPR’s initial proposals the height of the substation complex was 21 metres. Scottish Power is now trying to take credit for reducing this to 15 metres. However, as you disclosed the substation height for EA1 at Bramford is 12 metres. Accordingly given your experience is that substations can be 12 metres in height surely your application should be for a substation complex of no more than 12 metres? Incidentally trying to take credit for reducing substation height from 21 metres to 15 metres when we know 12 metres at least can be achieved is transparently self-serving. Further you mentioned that previously SPR had worked with the Design Council to improve substation impacts. Again, this is misleading because our research indicates that this work paid no attention to the design of the plant and machinery to reduce its size, merely focussing on the aesthetics. As we stated every attempt should be made to make the substation complex (including the NG substation) as low impact as possible. The substation complex tender process should have low impact design as a mandatory requirement.
5. Construction Programme - You confirmed that the construction programme has been altered and that it will commence in mid-2023 and be finished in 2025/2026. In relation to the National Grid works you confirmed that these will no longer be taking place over a three-year period they will take place in a single 12 month period during that three-year period. Can you clarify that this includes all pylon works as well?
6. Community Fund – You indicated this will be hundreds of thousands of pounds over a 25-year period. £200,000 a year over 25 years is £5 million. Quite frankly this is a derisory sum when compared to the blight and damage SPR is already responsible for. Can you provide the basis on which you establish the quantum of Community Funds and how that Fund is allocated?
7. Traffic - you confirmed that no HGV vehicles will travel through the village and that includes vehicles for the NG substation. We also assume that it will remain the case that no HGV vehicles will be going through the village of Sternfield and therefore the B1121 be free of any HGV traffic excepting the four abnormally indivisible loads. These will access the site via the access road which is being built to the north-west of the village. You

explained that this road was 8 metres wide because of the size of the transformers. However, on reflection this does not make sense because none of the approach roads to this road are anything like 8 metres wide. In fact, they are 5-6 metres wide. Can you please explain why this road has to be quite so wide?

You acknowledged the traffic survey data used in the PEIR was out of date. As a result, and given changes to the traffic movements you indicated you would prepare a new traffic management plan reflecting projected traffic increases to the end of the construction period. It would be helpful when you rely on survey data to know when the survey was conducted and by whom. Will the new plan be available prior to the DCO application?

In the PEIR the cumulative impact with Sizewell C traffic was carried out by reference to outdated information from the EDF phase 2 consultation. As you are aware the phase 3 material for Sizewell C reflects a "road led strategy" yet you did not carry out a cumulative impact assessment against the latest information which would have been available had you asked EDF. Given the importance of traffic impacts in this rural area we find it inconceivable that you did not cooperate with EDF on this subject. Again, another example of a failure to provide accurate information to the community rendering consultation meaningless.

We would welcome information about traffic associated with pre construction works.

8. Separate DCO Applications - As you are aware there is a great deal of concern about your separate DCO application approach for each of EA1N and EA2. This will cause inefficiency and duplication. You confirmed that you are working with the Planning Inspectorate to ensure that the examining bodies of both projects would have at the very least overlap in personnel so that the same people would consider the onshore impacts for both projects and further that the hearings for onshore impacts will take place at the same time. Even with such an approach, separate applications will still be inefficient in time and cost placing an unnecessary burden on the local community. Perhaps that is your intention.
9. Loss of agricultural land – the loss of land caused by the substation complex is substantially greater than indicated in the PEIR and is much greater than the footprint of the substation complex itself. In our phase 4 response we clearly set out how we felt the loss calculation should be made and you confirmed an accurate calculation would be included in the DCO application.
10. Phase 4 consultation response - As indicated we are extremely disappointed with SPR's response to the phase 4 consultation. The recent 26 page document which took you three months to issue only contains a single page which contains the comments made by the community and even that is inaccurate and incomplete. Our phase 4 response even included a two page summary of all the issues raised by us and yet not all of these issues have been reflected in your summary. The lack of respect this shows for the consultation process and the lack of quality in your work bodes very poorly for the manner in which you are like to carry out these projects. However, you did confirm that every single point raised in the consultation would be addressed in the DCO application.

11. SPR's Track Record - you referred to SPR's past track record in an attempt to give us some comfort. The reality, on the basis of EA1 and EA3, is SPR's track record is poor. The onshore mismanagement of that project has resulted in yet another landfall and a whole new cable route across the AONB and the proposal to build a vast substation complex on a greenfield site in the middle of the Suffolk countryside. Your flawed comparison with the EA1 project at Bramford does not bear examination. Bramford is an existing brownfield substation site which is also much further away from residential dwellings. How that can be compared to developing a substation complex on a greenfield site right next to a village is beyond us.
12. Light pollution - there are many issues in relation this subject but you did confirm that once the substation is operational there will be no lighting except emergency lighting.
13. Socio-economic impact on the village of Friston – this is of great concern not least because of the demographics of the village. We suggested that an independent report be commissioned by SPR on this topic. You refused.

In conclusion whilst we originally welcomed confirmation of some key points and your undertaking to provide some further information, overall this was yet another hugely disappointing consultation meeting with SPR damagingly compounded by your incomplete action document. By definition you cannot effectively consult if:

- a) the information required for proper consultation is either inaccurate or has not been provided;
- b) you refuse to provide information;
- c) you refuse to cooperate;
- d) you are unable to engender trust.

Yours sincerely

MICHAEL MAHONY

SASES

MIKE CAPLIN

Chairman, Friston Parish Council

cc (email only)

Dr Therese Coffey MP

PINS – EastAngliaOneNorth@planninginspectorate.gov.uk

Andrew Reid – SCC

PINS – EastAngliaTwo@planninginspectorate.gov.uk

Russ Rainger -SCC

Joanna Young - SPR

Richard Rout -SCC

TJ Haworth-Culf -ESDC

Naomi Goold – ESDC