



# Preliminary Meeting Note

## Summary of Key Points Discussed and Advice Given

**Application:** Tees CCPP

**Reference:** EN010082

**Time and date:** 10:00am, Tuesday 10 April 2018

**Venue:** Redcar and Cleveland House, Kirkleatham Street, Redcar TS10 1RT

*This meeting note is not a full transcript of the Preliminary Meeting. It is a summary of the key points discussed and responses given. An audio recording of the event is available on the National Infrastructure Planning website.*

### 1. Welcome and Introductions

**David Richards (DR)**, the Single Examining Inspector forming the Examining Authority (ExA) opened the Preliminary Meeting (PM), welcomed those present, and explained the practical arrangements for the meeting for the application made by Sembcorp Utilities UK Limited (the Applicant) for the Tees CCPP. The application comprises the construction, operation and maintenance of a new natural gas fired electricity generating station with a nominal net electrical output of up to 1700 megawatts at ISO conditions, on the site of the former Teesside Power Station, Greystone Road, Grangetown, Teesside.

**DR** explained that he was a chartered Town Planner and was appointed on Friday 6 April 2018 after the original ExA Kevin Gleeson (**KG**) unfortunately had to stand down for medical reasons; however, the legislation does not allow for a replacement ExA to hold only a Preliminary Meeting. The appointment was made by the Secretary of State (SoS) for Housing, Communities and Local Government. The ExA will submit a report to the Secretary of State for the Department for Business, Energy and Industrial Strategy (BEIS) with conclusions and a recommendation as to whether the Development Consent Order (DCO) should be made.

**DR** also introduced **Tracey Williams (TW)**, the Case Manager for the project, and **Ewa Sherman (ES)**, members of the case team.

**DR** explained that the purpose of the PM was to consider procedural issues only, relating to the way in which the application is to be examined and the timetable for that examination. He noted that the examination will commence after the PM closes. The ExA will then publish what is known as a Rule 8 letter. This will include a brief note of the meeting, with whatever modifications to the examination timetable.

The project website [Tees CCPP](#) provides all of the information about the application and will be updated as the Examination proceeds together with a range of background information which is relevant to the examination of National Infrastructure projects.

**DR** advised for those who do not have own access to the internet, the material can be viewed electronically at a number of local libraries which are identified in Annex D of the letter of 9 March 2018 (known as the Rule 6 Letter).

## **2. Examining Authority's remarks about the examination process**

**DR** outlined the principles of the examination and how he proposes to conduct the examination and the purpose of the Examination of the proposal under the Planning Act 2008 (PA2008), explaining that it is an inquisitorial process, in which the ExA takes the lead in establishing what is important and relevant to the decision which the SoS needs to take. **DR** stated the merits will only be considered once the examination of the application begins following the close of the PM. The Examination of the application will therefore formally start in the afternoon at 2.00pm with the first Issue Specific Hearing (ISH).

**DR** stated his intention to manage the meeting with efficiency and fairness, allowing anyone who wishes to have their say, if it is relevant, and to inform him of all he needs to know at this stage. However, he will endeavour to make sure that contributions are as to the point and focused as possible, to ensure the best use of the time available and allow everyone who wishes to speak the opportunity to do so and to ask questions about the process. As the Examining Authority **DR** will consider the application and all representations made about it, and will investigate matters which he thinks are important and relevant to the report; within the next six months. After that **DR** will have three months to report to the SoS with his conclusions and recommendation as to whether consent should be given.

**DR** stated that the day before the PM, together with **TW** and **ES**, he undertook an unaccompanied site visit of the area in order to familiarise himself with elements of the application. **DR** has been to the application site, (access arranged with the Security), and to the nearest villages, seen from a number of viewpoints, identified in the Environmental Statement. Details of the inspection will be published shortly. **DR** also noted that he will visit Eston Nab in due course.

**DR** referred to the Rule 6 letter which has been sent to:

- The Applicant;
- Local authorities in the area;
- Bodies that are statutory parties;
- Persons who have submitted a Relevant Representation (RR) and, thus, become an Interested Party; or
- A combination of these categories.

**DR** then invited those present at the Preliminary Meeting to introduce themselves.

The following members of the Applicant's team were introduced:

**Claire Brook (CB)**, Partner;

**Kate Ashworth (KA)**, Associate;

**Barbara Painter (BP)**, Partner, from Womble Bond Dickinson;

**Carole Nichols (CN)**, Utilities Shift Manager;

**Scott Taylor (ST)**, AVP Business Development, from Sembcorp Utilities (UK) Limited;

**Kevin Murphy (KM)**, Partner;

**Caroline Burn (KB)**, Senior Consultant;

**Georgia Sweeney (GS)**, Consultant, from ERM;  
**Jake Barnes-Gott (JBG)**, Senior Associate;  
**Rob Booth (RB)**, Senior Planner, from Dalton Warner Davis LLP;  
**Terry Waldron (TW)**, Corporate PR Manager Sembcorp Utilities (UK) Limited. Who arrived later.

**Adrian Miller (AM)** and **David Pellow (DP)** represented Redcar and Cleveland Council.

**DR** stated for the record that he has been notified by the Environment Agency (EN) and National Grid (NG) of their non-attendance in response to the invitation to participate in the Preliminary Meeting. **CB** said that NG withdrew their Relevant Representation (RR) but was not sure whether this has been communicated to the Planning Inspectorate. **DR** stated that it was unusual that no members of the local community were present; however, it was indicative of the RRs received.

**DR** referred to four substantive items on the agenda, as follows:

- Remarks about the Examination Process, setting out the essential features of the process;
- Comments on the Initial Assessment of Principal Issues attached as Annex B of the Rule 6 letter, only insofar as this might affect the structure of the Examination;
- The draft timetable for the Examination, including the proposed deadlines for the submission of documents, the date of the accompanied site visit and dates of hearings;
- Comments on Procedural Matters.

**DR** invited questions of an introductory or preliminary nature. No-one had any to raise.

## **Agenda Item 2: Remarks about the Examination Process**

In the interests of equality, **DR** outlined the essential features of the Examination process. **DR** explained that the purpose of the Examination is to enable him, as Examining Authority to make a recommendation to the SoS for BEIS as to whether this proposal should receive consent in the form of a **DCO** under the Planning Act 2008.

**DR** stated his intention to examine the application having regard to a number of key principles which inform the working of the Planning Inspectorate, namely: independence and impartiality; rigour; a focus on evidence and justification; openness; fairness, and timeliness. **DR** then expanded on the significance of each of these issues in detail.

### Written Representations

**DR** explained that with the Rule 8 letter he will be issuing his Written Questions to a range of parties, drawing upon examination of the application documents and the Relevant Representations (RR) made by Interested Parties (IP) and Statutory Consultees. The questions will broadly reflect the Initial Assessment of Principal Issues. There will be a significant number of wide-ranging first round questions, some of them addressed to quite fundamental issues; other addressed to quite detailed points.

**DR** stated the need to ensure that all the issues which might be relevant and important are identified properly and shared, so that they can be tested properly. In these circumstances he may be requesting a greater level of detail than that which is included in the documentation so far. The Rule 8 letter will set a deadline for the receipt of responses to those questions and comments on the RRs. The responses will be put on the Planning Inspectorate project website for everyone to see. There will then be a further period, also specified in the Rule 8 letter, for any other Interested Party to offer comments to the responses to the questions. This may then be followed by further Written Questions and answers, and subsequent comments on those answers. This second round will probe deeper into unanswered points and address any new points that have emerged.

**DR** stated that in addition to these iterations of questions, answers and comments he may at any time during the Examination seek further information or written comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules.

**DR** explained that Hearings should be understood as building upon the foundations of the Written Representations, questions and comments, and emphasised that IPs should therefore seek to engage fully throughout the written processes rather than think that they can wait for a particular hearing as their opportunity to influence the proceedings. The IPs should also follow the documentation of evidence as it appears on the project website so that they can see how the Examination is progressing.

**DR** stated that any documentation which any party wishes to be considered must be or will become an Examination document, formally lodged as part of the Examination process and available to all parties for consideration. The essential ways in which a document becomes an Examination document are as follows:

- A Relevant or Written Representation;
- An answer to a question from the Examining Authority;
- A written summary of an oral case after a hearing.

**DR** advised that Hearings take a number of forms:

### **Open Floor Hearings**

**DR** explained that an Open Floor Hearings are for all IPs who wish to have an opportunity to speak generally on the project. Such a hearing will be held if any Interested Party requests this. If no such request is made, **DR** may choose not to hold an Open Floor Hearing. The draft timetable set out in Annex C of the Rule 6 letter of 9 March identifies dates by which IPs may give notice of their wish to be heard at an Open Floor Hearing, as well as the provisional dates for such hearings.

### **Issue Specific Hearings (ISH)**

**DR** stated that an Issue Specific Hearing may deal with some or all of the key issues that are relevant to the examination of the application and will be held if the ExA decides that they are necessary to ensure adequate examination of the issue in question, or to ensure that an Interested Party has a fair chance to put their case. The process is led by the ExA and will focus on a particular matter and will ask questions of the applicant and invite responses particularly from those who have raised such issues in RRs. These hearings may include the nature of the scheme itself and are

very likely to focus on the draft **DCO**. **DR** emphasised that hearings support the written process. However, not holding a hearing on a particular issue does not mean it has no or little importance.

**DR** stated that asking questions (not cross-examination) at any ISH is at his discretion but he may decide that cross-examination is desirable in a particular hearing even if there have been no submissions on it.

### **Compulsory Acquisitions Hearings**

**DR** stated that there are hearings related to an application for compulsory acquisition. As with an OFH, these are held again if an affected party requests this. However, as the Applicant is not seeking to acquire any land as part of this application **DR** does not envisage any Compulsory Acquisition hearings during Examination.

**DR** referred to the issue of costs which was stated in the Rule 6 letter notifying of this Preliminary Meeting. The revised guidance on costs ([Awards of costs: examinations of applications for development consent orders](#)) was issued by the Department of Communities and Local Government in July 2013.

### **Agenda Item 3: Initial Assessment of Principal Issues**

**DR** referred to s88 of PA2008 which requires the Examining Authority to make an Initial Assessment of the Principal Issues arising from the application. The list is ordered with the Draft **DCO** first, followed by the Environmental Impact Assessment (the EIA) and then headings which relate to sections of the EIA which are generally in alphabetical order but with the issue of the Habitats Regulations Assessment following Biodiversity, Ecology and Natural Environment because of the connection between those matters. The list of identified Principal Issues should not be taken to imply an order of importance.

**DR** stated that he may not ask for information for each of these issues during the Examination, and may only do so where he has a question either in writing or at a Hearing. However, parties will have the opportunity to submit more details, if they so wish, in the form of Written Representations in accordance with the timetable.

**DR** emphasised the list was not intended to be exclusive and, if any other issues arise which appear to be important and relevant, they will also become part of the Examination.

**DR** asked for comments on the listed issues to be discussed at the ISH in the afternoon. **CB** stated that the Applicant was happy with the list of Principal Issues and would provide clarification in the afternoon. **AM** had no comments.

### **Agenda Item 4: Draft Timetable for the Examination**

**DR** then moved to the draft timetable, including proposals for deadlines for submission, and dates reserved for possible Hearings and an accompanied site visit, are set out in Annex C to the Rule 6 letter.

**DR** reminded all IPs that after the last deadline or event, set out in the timetable, he may decide under section 99 of the Act that the Examination is complete. This may be before the end of the six month period which is the statutory period for the completion of the Examination. In order to achieve an accelerated programme it will

be necessary for parties to demonstrate commitment to adhere to the timetable and for submissions to be provided on time. The last event is currently programmed for Wednesday 3 October.

## **Rule 8**

**DR** confirmed that following the close of this Preliminary Meeting, he will issue the Rule 8 Letter which will set out the timetable for the examination and the list of Principal Issues. This will be done as soon as practicably possible, no later than Wednesday 18 April. **DR** will also issue at the same time a note on his unaccompanied site inspection.

## **Written Questions**

The Rule 8 letter will also include the ExA's Written Questions which identify matters where the ExA is seeking answers from the parties about the application. They will be primarily directed towards the Applicant, but there may well be questions directed towards statutory bodies, the local authority and others **DR** emphasized that all IPs should feel free to contribute or answer any question.

**DR** confirmed he proposes to receive answers to written questions by Deadline 2 (Item 7) by Wednesday 16 May, and any comments on those questions should be received by Tuesday 29 May. Should **DR** need to issue further written questions, he will do so by Tuesday 24 July (Item 15), with responses to be submitted by Deadline 5 (Item 16) by Tuesday 7 August, and comments on those responses to be made by Deadline 6 (Item 19) by Friday 22 August.

## **Hearings**

**DR** emphasised that the Examination follows primarily a written process substituted by Hearings if requested and required. **DR** stated his intention to issue agendas for Hearings on the project website about 7 days in advance of the Hearing, to aid preparation for the Hearings for all parties concerned.

**DR** will issue any notification of Hearings (Item 6) on Monday 14 May. Should a second round of Hearings be necessary, **DR** will issue notification of intention to hold them on Tuesday 10 July (Item 14).

## **Open Floor Hearings**

**DR** confirmed that he has reserved the evening of Wednesday 13 June for such a Hearing, if requested. **DR** proposed to receive requests for an Open Floor Hearing by Deadline 1 (Item 5) by Tuesday 24 April.

## **Issue Specific Hearings**

**DR** stated that the topics to be covered in ISHs will become clear as the Examination progresses and he will notify IPs and the applicant accordingly. The first ISH for the afternoon is to consider the scope of the application and I will say more about it at the start of the Hearing. An agenda for the meeting was attached to the Rule 6 letter as Annex G.

**DR** also reserved Wednesday 13 June for an ISH relating to air quality, landscape and visual impacts and construction and traffic and transport impacts, and will advise in

due course of the details of any ISHs which he might hold. **DR** proposed to receive requests to make oral representations at the ISH by Tuesday 24 April (Deadline 1).

**DR** confirmed that Thursday 14 June is proposed for a Hearing into the draft **DCO** to understand how the draft DCO is intended to work and what concerns other parties might have. **DR** explained that DCOs start as the applicant's document and end up as the Examining Authority's document, regardless of whether acceptance of the proposed scheme is recommended. **DR** emphasised that it is important to understand that any draft DCO or any comments made in respect of that draft DCO are made without prejudice to the final recommendation the Examining Authority may ultimately reach. As such, all parties are encouraged to comment on the draft DCO even if they object to the proposal.

**DR** said that he also reserved Tuesday 14 August and Wednesday 15 August for ISH if required. **CB** confirmed the Applicant will be available. **DR** and **CB** commented on the proposed deadlines for submission of documents, and **DR** confirmed he will take into account comments from the Applicant. **AM** had no concerns.

### **Site Inspections**

**DR** referred in his opening remarks to his Unaccompanied Site Inspection (USI), to familiarise himself with the area generally, and to the application site itself. The note about these inspections, along with the note from the first USI will be published as part of the Rule 8 letter (Item 4).

**DR** proposed to carry out a further USI during the Examination specifically to view the site from Eston Nab.

**DR** proposed to undertake the accompanied site inspection on Tuesday 12 June (Item 9). As part of this he would wish to see the Wilton International Site. **DR** stated that if there are specific places which parties would wish him to visit then they should contact the Case Manager **TW** by Deadline 1 on 24 April and he will do his best to accommodate these proposals. The itinerary for the site visit will be published on the project website on 5 June.

### **Statements of Common Ground (SoCG)**

**DR** confirmed the deadline for SoCG is Deadline 2 (Item 7), Wednesday 16 May. **DR** stated that whilst he would hope to receive signed versions of all SoCG by this date, he anticipates that over the course of the Examination, areas of issue between IPs might be resolved, such that the 'uncommon' ground might then be the identified ground between parties.

**DP** also asked the Applicant to provide a table which shows the commonality on specific points between SoCG. This table should be updated during the Examination to reflect additional agreement achieved, for reference within the report to the SoS.

### **Written Representations**

**DR** confirmed that he proposes to receive all Written Representations and any summaries if over 1500 words, by Deadline 2 (Item 7), Wednesday 16 June. Any comments on those written representations received should be made at Deadline 3 (Item 8) by Tuesday 29 May.

The Planning Inspectorate received 12 Relevant Representations which have been very helpful in providing a broad response from IPs to the proposed development. **DR** requested any comments on those RRs at Deadline 2 (Item 7), Wednesday 16 May.

### **Local Impact Reports (LIRs)**

**DR** stated that he proposes to receive LIRs by Deadline 2 (Item 7) Wednesday 16 May and any comments on LIRs by Deadline 3 (Item 8) Tuesday 29 May.

There were no comments on the draft timetable for the Examination.

### **Agenda Item 5: Procedural Matters**

**DR** confirmed that the following procedural decisions under Section 89(3) of the PA2008 have been made, as set out in full in Annex E of the Rule 6 letter.

#### 1. Statements of Common Ground (SoCG)

In relation to some of the Principal Issues identified in Annex B, **DR** stated that he would be assisted by the preparation of SoCG between the Applicant and certain IPs. The SoCG are requested to be prepared by the Applicant and the following:

- Redcar and Cleveland Borough Council
- The Environment Agency
- Natural England
- National Grid Electricity Transmission / National Grid Gas
- Tees Valley Wildlife Trust

#### 2. Habitats Regulations 2017

**DR** referred to Item 2 of Annex E addresses the Habitats Regulations 2017. The Applicant is requested to provide revised screening matrices (in Word and pdf formats) for its Habitats Regulation Assessment – No Significant Effects Report [APP-076] using the screening matrix template published in the Planning Inspectorate's Advice Note 10: Habitats Regulation Assessment (Advice Note 10), for Deadline 1, Tuesday 24 April 2018. These should reflect the various matters set out in Annex E.

#### 3. Post submission application documents

**DR** stated that following the acceptance of the application on 18 December 2017 and in response to s51 advice issued by the Inspectorate, the Applicant submitted, on 23 January 2018 a number of revised application documents to the Inspectorate. These are described in Annex E. The ExA made a Procedural Decision to accept the following documents as Additional Submissions. They have been published on the Tees CCPP project page:

- Covering letter dated 23 January 2018
- Works Plan (Application Document 4.3) Sheet 1 (updated)
- Works Plan (Application Document 4.5) Sheet 3 (updated)
- Application Documents 4.12 and 4.13 (updated)
- Updated Environmental Statement – Revised Chapter 11

### **Agenda Item 6: Any Other Business**



As there were no other matters to discuss **DR** thanked everyone for contributing to the meeting and confirmed that the Examination of the application itself will commence at 2.00pm in afternoon with the Issue Specific Hearing into the scope of the application. **DR** reminded the Parties that the next stage will be the issuance of the Rule 8 letter setting out the final timetable and any other procedural decisions that he makes as a result of the meeting and further consideration of the examination, accompanied by his note on the unaccompanied site visit and written questions to be issued on Wednesday 18 April 2018.

The meeting closed at 11:16.