



## Meeting note

<b>File reference</b>	EN010107
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	5 May 2020 and follow up meeting on 12 May 2020
<b>Meeting with</b>	EP Waste Management Limited
<b>Venue</b>	Teleconference
<b>Meeting objectives</b>	To discuss the Applicant's approach to meeting its duties under s56 of the Planning Act 2008 (the PA2008) with the current COVID-19 restrictions in place
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given:

The Planning Inspectorate (the Inspectorate) advised that a note of the meetings would be taken and published on its website in accordance with section 51 of the PA2008. Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

### Meeting of 5 May 2020

The Applicant noted the timely issuing of the Acceptance Decision on 4 May 2020 and acknowledged the application was the first to be accepted for examination since the COVID-19 restrictions were implemented. The Applicant highlighted that it had recently liaised with North East Lincolnshire Council (NELC), the host local authority, about how it could notify (under s56 of the PA2008) in light of the current position relating to COVID-19 and is considering its suggestions.

The Applicant explained that it had started to prepare for its s56 notification exercise and is exploring how to comply with the requirements of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations), given the importance and scope of the current lockdown restrictions. The Applicant highlighted that there was currently no published guidance to aid with certain duties in this regard and that consideration was being given as to when to proceed with the s56 process. The Inspectorate advised it was currently difficult to provide advice on this matter due to uncertainty on future restrictions.

The Applicant specifically noted that it is considering how it can meet Regulation 8(2)(g) of the APFP Regulations which requires applicants to include within the s56 notice a statement that a copy of the application form and its accompanying documents, plans and maps are available for inspection free of charge at the places

(including at least one address in the vicinity of the proposed development) and times set out in the notice. The Applicant explained that it was conscious of the 'stay home' guidance and regulations from government. The Applicant noted that it was therefore tentative to commence s56 notification and would await the Prime Minister's update on the lockdown on Sunday 10 May 2020 before finalising its intentions.

The Applicant is also considering holding another hard copy at NELC's offices and offering to courier electronic devices, on loan, to view the application documents, or provide hard copies of specific documents on request. The Applicant explained that it proposes to erect notices at the site and publish the notice on the relevant local authority's website, as well as referring to the project page on the [Planning Inspectorate's website](#). The Applicant proposes to notify the local community within the consultation zone identified in its Statement of Community Consultation (SoCC) by mail. The Statutory Consultees have been contacted to seek their agreement to receiving notice electronically in the first instance, to ensure they're served appropriately. The Inspectorate noted the additional arrangements will help de-risk the exercise when it comes to being considered.

The Inspectorate acknowledged ongoing work by the Ministry of Housing, Communities and Local Government (MHCLG) to consider amendments to legislation affected by the current lockdown situation but was unable to provide any indication as to when / if any changes might be made. It was also noted that, although not relevant to casework in England, the Welsh Government had recently updated its online guidance to advise that exceptions to the current restrictions include fulfilling a legal obligation<sup>1</sup>.

There was discussion on whether the s58 certificate, certifying compliance of duties under s56 of the PA2008, could be expanded or accompanied by a document setting out the Applicant's clear justifications and decisions for how notification of the accepted application was carried out. The Inspectorate reminded the Applicant that in accordance with s58 it is an offence for a person to issue a certificate which purports to be a certificate under s58(2) and contains a statement which the person knows to be false or misleading in a material particular or recklessly issues a certificate which purports to be a certificate under subsection s58(2) and contains a statement which is false or misleading in a material particular.

The Inspectorate advised that the Applicant needs to take its own legal advice on compliance with s56 and whether it's able to certify compliance in accordance with s58, once it has undertaken its notification of acceptance of the application. If the Applicant does not feel that it's able to certify compliance in accordance with s58, the Inspectorate advised the Applicant to submit a document to the Secretary of State (the Inspectorate) explaining what it's been able to do to notify of the accepted application. If the Applicant does feel able to certify compliance with s58 it should submit the form set out in the regulations; the Applicant may wish to submit a supporting document with this to explain its position.

The Inspectorate queried as to the duration of the Applicant's Relevant Representation (RR) period and whether additional time will be afforded due to the current circumstances. The Applicant outlined its RR period would likely be 42 days (from the last newspaper notice) and stipulated it wanted to conduct the s56 exercise so as to avoid any need to extend or repeated the period.

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<sup>1</sup> <https://gov.wales/staying-home-and-away-others-guidance>

The Applicant was requested to include a paragraph within its s56 notice to ask persons wishing to register as Interested Parties (IPs) to use the online form if possible; those who require a postal form should contact the Inspectorate by phone to discuss an alternative arrangement.

The Applicant confirmed that it wished to have a follow up meeting, during the week commencing 11 May 2020, to inform the Inspectorate of its intentions.

### **Meeting of 12 May 2020**

The Applicant acknowledged that the government's 'stay home' requirements had evolved into 'stay alert'. On this basis it had prepared its s56 notice, which includes deposit locations to display hard copy application documents, and explained that rather than the Grimsby location it proposes to use a room within the site of the South Humber Bank Power Station, complete with its own access, to act as a deposit location. In addition, a second deposit location will be prepared at the Applicant's head office in Leeds; both locations will be accessible by appointment only. The Inspectorate noted the inclusion of deposit locations but explained it was unable to provide legal drafting advice on an applicant's s56 notices.

The Applicant outlined that requests to view hard copy documents on display during previous consultation exercises had been limited but speculated some local workers could come to view them while complying with the government's 'stay alert' requirements. In light of the current COVID-19 restrictions, the Applicant noted that it will in general encourage the public to use alternative methods to view the application documents where possible.

The Applicant acknowledged that its s56 notice will sign-post to the suite of application documents hosted electronically on both the Inspectorate's and its own website and queried whether the two suites must be identical. The Inspectorate advised that by complying with the General Data Protection Regulations (GDPR) it had redacted some sensitive personal information before publishing and encouraged the Applicant to ensure it had satisfied its own obligations with regards to GDPR in the first instance. The Applicant may wish to mirror the Inspectorate's redaction to make the two suites identical.

The Applicant highlighted that its s56 notice will set out that the Inspectorate's Registration and Relevant Representation Form (RRRF) will be available at the Inspectorate's website. The Inspectorate clarified that the website hosts the RRRF as a web-based form that requires an internet connection to complete and submit it; the Inspectorate explained providing paper copies of the RRRF may be difficult due to the current COVID-19 restrictions but it can provide further guidance on alternative ways of viewing the RRRF if contacted directly.

The Applicant queried whether the Inspectorate's Advice Note 8.2 - How to register to participate in an Examination – will be updated in light of the COVID-19 situation and whether the current iteration should be sign-posted within the s56 notice. The Inspectorate advised that it's in the process of looking at whether any advice needs updating in the light of the current situation, and the Applicant should refer to the whole Advice Note 8 series and the Inspectorate's website for updates.

The Applicant outlined that its RR period will be open 42 days following the publishing of the second newspaper notice. The Inspectorate acknowledged it was sensible to

afford additional time for persons to register to become IPs and queried whether there were concerns regarding the newspapers' current circulation. The Applicant noted that some newspapers had reported slightly lower readership of physical copies, due to current restrictions, but higher online readership, and one newspaper can host the s56 notice both in the physical version and electronically.

The Applicant acknowledged it had been liaising with NELC with regards to how the s56 notice should be circulated to the local community. The Applicant highlighted that it would create an accompanying document to submit with the s58 certificate setting out the clear justifications and decisions for how notification of the accepted application was carried out. This will address the discussions with NELC.

The Applicant explained that it will be preparing a press release that will encourage electronic methods of reviewing the suite of documents. The Inspectorate requested a copy of the finalised newspaper notice to publish on the project page of the National Infrastructure website.

It was acknowledged that preparatory documents for conducting hearings virtually have recently been published for the Aquind Interconnector and A38 Derby Junctions Improvement scheme respectively. The Inspectorate advised that it was continuing to look at ways to progress NSIPs that were already in Examination when the COVID-19 restrictions were implemented. This led to discussion on how other examination events, such as Accompanied Site Inspections, may be substituted by additional photomontages / drone footage and / or supplemented with additional Unaccompanied Site Inspections (USIs). The Applicant noted that USIs may be difficult to accommodate due to access protocols currently in use for the operational site but noted the majority of the site was visible from the public road network.

The Applicant set out that it hoped to certify compliance of its duty under s56 mid-July and requested an outline of the subsequent timescales that would follow. The Inspectorate acknowledged the Applicant's preference for avoiding an extended Pre-examination stage, due to the current COVID-19 situation, and noted that the first tranche of virtual events would've been held by then. The Inspectorate advised that it would be in contact in due course to advise of timescales going forward.