



Meeting note

File reference	North Wales Wind Farms Connection
Status	Final
Author	Georgina Murray
Date	10 December 2014
Meeting with	SP MANWEB
Venue	Conference Room 5, Temple Quay House
Attendees	<u>Planning Inspectorate</u> Nicholas Coombes – Case Manager Kathryn Dunne – Infrastructure Planning Lead Justin John – Legal Advisor Georgina Murray – Case Officer Alison Down – EIA Advisor Linda Rossiter - EIA Advisor <u>SP Manweb</u> Claire Duffy – Environmental Planner Steve Edwards – Environmental Planner Duncan O’Connor – Solicitor, Pinsent Masons
Meeting objectives	To discuss draft documents and SP Manweb’s approach to the draft Development Consent Order (draft DCO)
Circulation	All

Summary of key points discussed and advice given:

- Pinsent Masons and SP Manweb explained how their approach to consent differs between their North and Mid Wales proposals.
- A number of elements of the draft DCO require refinement
- The consultation report needs to include a more thorough explanation of how the route was determined in regard to the consultation process

Specific discussions

1. SP Manweb were made aware of the Planning Inspectorate’s openness policy, that any advice given will be recorded and placed on the Planning Inspectorate’s website under s.51 of the Planning Act 2008, as amended by the Localism Act 2011. Any advice given does not constitute legal advice on which applicants or others can rely.

2. SP Manweb explained that they are approaching the North and Mid Wales proposals on their merits respectively, in relation to the aspects of the schemes for which they will seek consent under the draft DCO, and following early consultation with local authorities undertaken for the North Wales scheme.
3. SP Manweb explained that the initial consultation for the North Wales Wind Farms Connection Project (NWWFC) was in 2012. At this initial stage SP Manweb identified that they needed a substation, overhead line and an underground line. SP Manweb engaged in early discussions with the two Local Authorities (LAs) within whose boundaries the proposed route would pass. SP Manweb discussed the decision to apply for the substation via a Town and Country Planning Act 1990 (TCPA) application with Denbighshire County Council who were keen for that approach and SP Manweb has decided to proceed in that way, therefore not requesting consent for the substation in the draft DCO.
4. SP Manweb explained that the underground cable for NWWFC would fall within the highway. In this case the excavation of a metre wide trench would normally be required, including the temporary diversion of the road while the cable is inserted. SP Manweb explained that it believes these works would be permitted development (as it is an operator licensed under the Electricity Act) and the LA supports this approach. SP Manweb will not, therefore, be requesting consent for those works in the draft DCO.
5. SP Manweb stated that the project Environmental Statement (ES) was complete and that whilst assessment of the overhead line with the substation and underground cable is intended to form the subject of an appendix, the relevant cumulative impact assessment will be accounted for within the main body of the ES. SP Manweb assured the Planning Inspectorate that the results of this study have been taken into account through a phased approach of cumulative assessment.
6. The Planning Inspectorate advised SP Manweb to thoroughly explain their decision, and reasoning, to not include some aspects of the scheme within their DCO application.
7. SP Manweb report that they still aim to submit the application to the Planning Inspectorate at the end of February 2015; though a caution was given that the project managers are keen to pull that date forward. The Planning Inspectorate assured SP Manweb that a few weeks earlier would be acceptable but they must provide sufficient notice.
8. SP Manweb agreed that before submitting the DCO application they would submit a second round of draft documents to PINS for comment if there is sufficient time; the Habits Regulation Assessment No Significant Effects Report is to be submitted to National Resources Wales (NRW). The Planning Inspectorate warned that at the Acceptance stage they can't ask for further clarification on unclear elements of the project or other issues. As such, there is a risk in not submitting further draft documents for comment. If comment is sought then SP Manweb will need to allow sufficient time for this in their pre-application timetabling. It was agreed that SP Manweb would include the outcome of their discussions with NRW in their submission to the Planning Inspectorate.

9. SP Manweb inquired about the timetabling for the process. The Planning Inspectorate stated that there is usually three months between Acceptance and the Preliminary Meeting, yet it can be longer depending on the relevant representations or availability of the venue. SP Manweb suggested that the venues for Clocaenog Forest Wind Farm examination process are used.
10. The Planning Inspectorate gave SP Manweb a copy of the fees letter and advised that if submitting a cheque it be done so in time for it to clear before submission.
11. The Planning Inspectorate have issued and published advice, dated 5 December 2014, under section 51 of the Planning Act 2008 in relation to draft documents provided by the applicant on 14 November 2014. Further advice, following high level review by PINS, is summarised in Table 1 below. Discussions resulting from the advice given follow below, including: - the intended location of a description of the project; the procedure for obtaining any necessary consents relating to Crown land; the structure of the book of reference (BoR) and the labelling of works in schedule 1 to the draft DCO.
12. The Planning Inspectorate advised that SP Manweb ensure a description of the project in relation to relevant policy is easy to access within the application documents, if they are still not intending to submit a planning statement. SP Manweb should thoroughly explain how the proposal accords with relevant policy. SP Manweb suggested that this information may either be provided in the ES or in a separate planning statement.
13. The Planning Inspectorate advised that if Crown land is affected, the applicant should seek consent from the relevant Crown authority (s135 Planning Act 2008) prior to their Development Consent Order (DCO) application being made. The Planning Inspectorate also referred SP Manweb to CLG Guidance 'Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land' (September 2013).
14. The structure of the book of reference in terms of affected rights and plots was discussed. The Planning Inspectorate advised that it would be easier for the public to access if it was primarily structured by plots and that under each plot all the rights potentially required were described in full. SP Manweb stated that they will consider this advice.
15. Schedule 1 to the draft DCO, the labelling of the works is potentially confusing (for example works 1A and 2A, and 1B and 2B); generally Works are numbered sequentially. SP Manweb explained that they chose to label the works in this way to align with the LA boundaries and that it is split into four parts in the ES. SP Manweb explained that they will consider this issue and may adopt the sections used in the ES as respondents are familiar with these as they were used in the consultation.

Table 1: Advice given by the Planning Inspectorate relating to submitted draft development consent order, 10 November 2014 version, and related specified draft documents.

Draft Document	Planning Inspectorate advice
<p>Draft Development Consent Order (and Explanatory Memorandum)</p>	<p>See Planning Inspectorate Advice Note 15 (October, 2014) for guidance regarding works to trees and tailpieces and more generally</p>
	<p>While the Explanatory Memorandum references the use of model provisions for some clauses in the draft DCO, the model provisions used are not always specified. These should be explained more clearly</p>
	<p>Explain why changes are necessary when model provisions are varied</p>
	<p>Various schedules need populating</p>
	<p>Consider and explain how works are defined. Consider what aspects of the works can be defined as 'development'</p>
	<p>The definition of 'maintain' will require justification</p>
	<p>Interpretation: restrictive covenants are currently only included by reference, in references to "rights". Referring to restrictive covenants expressly in any relevant operative provisions would be clearer and preferable.</p>
	<p>Be prepared for robust examination of the compulsory acquisition articles</p>
	<p>Article 5(2): consider how the 'operation' of electric line is covered by the Planning Act 2008</p>
	<p>Articles 6 and 7: regarding ability to transfer benefit of DCO. In 6 consider naming the applicant as opposed to "the undertaker".</p>
	<p>Article 7(2): consider wording from other made DCOs</p>
	<p>Article 7(4): the exclusions listed in the provision will be subject to scrutiny by the ExA and SoS</p>
	<p>Article 8(2): consider whether any street to be altered under this provision should be one having a junction with a street in article 8(1)</p>
	<p>Article 11: is in square brackets. Unsure what was intended, if indeed it is intended to include this provision at all. A similar point was made in relation to article 40.</p>
	<p>Article 19(3): If this is seeking only to limit type of right to which someone can seek compensation, this needs to be justified.</p>
<p>Article 21(1) is potentially unclear in relation to period of suspension and doesn't state what type of notification should be given nor to whom notification should be given</p>	
<p>Schedule 2 to be populated and, it is assumed, expanded.</p>	

	Schedule 9 parts 2 and part 3 headings are quite generic; the applicant needs to define which undertakers by name and consider if different undertakers will require different protective provisions.
Statement of Reasons	Explain uses of different legislation and consenting routes accessibly and clearly. Alternatively the explanation could be included in a planning statement or design and access statement. Populate all blank sections.
	Paragraph 3.2.5 p.15 refers to a group of wind farms, the paragraph before doesn't specifically link these wind farms as the same group
	Paragraph 4.1 p.22 scope of compulsory acquisition (CA): need to be more explicit about what is permanent and what is temporary, referring (here and in other relevant paragraphs) to both rights and restrictive covenants
	Paragraph 9.2.2/9.2.3: explain why CA is required if negotiations are on-going
	Paragraph 9.3: don't take for granted that this will be accepted where there are voluntary agreements. If using compulsory powers this will be robustly examined
	Paragraph 9.10 could be refined to reflect the wording in the DCO about pole locations and limits of deviation
Book of reference	The Planning Inspectorate advised generally on what a BoR should contain and how one should be structured (with reference to Annex D of CLG Guidance 'Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land', September 2013) and that where it is proposed to create and acquire new rights compulsorily they should be clearly and fully identified against each relevant plot of land.
	All individuals listed in Part 3 should also be listed in Part 1
	Parts 2a/2b as currently drafted - PINS suggest it is just a single part 2
Consultation Report	Require a thorough explanation of how the chosen route was selected with reference to consultation responses. SP Manweb said this information is included in the most recent ES draft and can be transferred to the consultation report
	No need to include the original responses unless they are specific to an answer given. Summary responses can go in the appendix. However it must be shown how account has been taken of each relevant response. This reduces the need for extensive redaction of personal information
Plans Location plan Land Plans Work Plans	Include road and settlement names on plans

ACTIONS:

SP Manweb

- Inform the Planning Inspectorate if they are to send further draft documents

The Planning Inspectorate

- To email an electronic copy of the fees letter
- To complete the meeting note