

From: Karen Miles (Hywel Dda Health Board - Director of Finance, Planning & Performance)

Sent: 31 January 2016 18:24

To: 'kathryn.king@pins.gsi.gov.uk'

Cc: Stella Perrett; 'iwan'

Subject: Personal Brechfa Forest Connection - Becoming a Party to Statement of Common Ground

Dear Mr Broderick and Mrs King

Please find attached the minutes of the landowners affected by the above scheme. At our meeting on the 22nd January, we agreed the following,

'In the second round of questions from the Planning Inspector Mrs Karen Miles has been asked if there is a consideration, as a representative of the landowners, to become a interested party for the Statements of Common Ground. As discussion takes place, and landowners feel that we do not have sufficient knowledge or adequate resources to become a party, the meeting agrees to decline the invitation'.

Thank you for this offer nevertheless.

Yours faithfully,
Karen Miles

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Sent to: Examining Inspector, the Planning Inspectorate

The Planning Inspectorate, Mr M Broderick.
FAO Mrs Kathryn King,
3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our Ref BFC- AFP077
Your reference: EN020016

1st February 2016

Dear Mr Broderick

Re: Update on Heads of Terms (HoTs) by Western Power Distribution (WPD) to support further evidence for 'ExA' as per 1st February 2016 deadline

Further to our letter dated 17th December 2015 on the same, it is with regret we still find ourselves in a position that we cannot sign the HoTs, and that there has been no progress.

The wider generic issues continue to be submitted by our Land Agent, Mr Iwan Jones BJP on behalf of all landowners, with which we concur. Specifically in our case, we would like to both reiterate and confirm our shared and ongoing concerns as follows:

- In addition to never meeting with us to develop a 'mutually agreed document by both parties', the updated terms proposed by WPD in the current version provided to our land agent dated 18/1/16 would severely restrict our legitimate 'freedom to act' within our farm business. The current HoT document cannot be signed in its existing format as it remains too restrictive on our remaining land interests not required for the new transmission line.
- Rights being requested for easement areas are completely unreasonable – we, very correctly, should be allowed to transfer / lease /build on etc parts of our landholding which will not affect the scheme. Our views on this are as per the Minutes of the Landowners Meeting dated 22nd January 2016 (attached). In previous correspondence, we have stated that we believe the extent of easement, and number of easements, to be excessive and without explanation to the contrary cannot understand the need for them, and this remains the situation.
- As per earlier representations made to you, injurious affection has still not been proposed or discussed when clearly the proposed scheme will severely impact on the value of our property and on the daily working of our farm-holding.

- The new line will dominate the views from our property and the verbal offer by WPD to bury the existing line, and which at the Compulsory Acquisition Hearing was also requested, remains omitted from the HoTs or in subsequent correspondence.
- Previously, we have also cited our lack of confidence in WPD's surveys, their understanding of land parcels and landowners interests, pole numbers and their alignment, and we still do not know whether there will be even more poles on our landholding as a result. In addition, we still have no understanding on the degree of tree felling of mature oaks which accompanies the proposal which clearly is still unacceptable
- The following issues also remain unresolved:
 - A schedule of apparatus changes between consultation stage 2 and 3 cite a pole number (pole 145) never assigned to our property – we think there has been confusion with another landowner but if this schedule has also been supplied to you then clearly you will also be misinformed. The same schedule cites that poles 141 and 142 are moved to field boundaries – we have requested full burial of all poles throughout, but these 2 poles do cross right through the middle of a park field of mature oaks so at least recognises our de-minimum request to protect these trees. WPD whilst recognising other similar requests to, at the very least, move all the poles into field boundaries, will not agree, and do not give reasons why this is the case.
 - Many landowners have cited changes as per their Heads of Terms - our Heads of Terms received on 14th November 2015 quotes pole numbers 138 to 144 inclusive (7 poles comprising 1 H pole and 6 single), but the pole-numbers provided to the Examining Authority as part of the site visit itinerary provided on 1st December for the visit on 2nd December 2015 states pole numbers 137 to 144 (8 poles and we are now unclear as to their configuration). Again, as previously stated if that's just our case, then what exactly is being signed off across the entire route under the auspice of the Compulsory Acquisition process? We still believe landowners need a complete and more importantly, accurate reconciliation of all the changes across the entire route, pole numbers and their configuration by landowner, and extent and number of 'easements strips' and not 'easement areas', so we can all understand exactly what the process involves, and whether all procedures are being properly followed. We would still respectfully suggest that WPD cannot proceed any further until this is provided.

Consequently, the current HoT document cannot be signed in its existing format on two counts – the first, that we still have too much uncertainty around the number of poles, their alignment and their impact on our mature oak trees and secondly that it remains far too restrictive on our remaining land interests not required for the new transmission line which is unreasonable.

Yours faithfully,
Howard and Karen Miles



Landowners meeting,

22nd January 2016 at Alltwalis School, Alltwalis, at 7pm.

Subject: Brechfa Forest Connection

Present:

Mr and Mrs B and A Davies, [REDACTED]

Mr and Mrs L Birch, [REDACTED]

Mr and Mrs R Jones, [REDACTED]

Mrs M Davies, [REDACTED]

Mrs P Medland, [REDACTED]

Mr and Mrs G Evans, [REDACTED]

Mr. Morris, [REDACTED]

Mr and Mrs Pain, [REDACTED]

Mrs Reader, [REDACTED]

Iwan Jones, [REDACTED]

Mr and Mrs Reed, [REDACTED]

Mr and Mrs Kilkelly, [REDACTED]

Mr and Mrs Miles, [REDACTED]

Mr and Mrs Dufty, [REDACTED]

Apologies:

Mr R Howells, [REDACTED]

Mr and Mrs J Hoddinott, [REDACTED]

Mr Reader, [REDACTED]

Mr and Mrs Jones, [REDACTED]

Mr C.O. Evans, [REDACTED]

Mr and Mrs Jones, [REDACTED]

Mrs F Morris and Messrs Davies, [REDACTED]

Mr E James, [REDACTED]

Mr and Mrs R Eagle, [REDACTED]

Mr and Mrs A Rentmore, [REDACTED]

Mr and Mrs B Patten, [REDACTED]

Purpose

- 1) The purpose of the meeting is to consider the responses from WPD/Freedom/Bruton Knowles to the recent developments (i.e. revised heads of terms, communication etc)
- 2) To assess if we as a group of landowners want to be a party within the Statements of Common Ground discussions
- 3) To prepare for the Compulsory Acquisition Hearing on Wednesday 10th February 2016 and the Issue Specific Hearing on Thursday the 11th February 2016.

A. Recent developments Re HoT Negotiations

Mr Iwan Jones BJP stated at the meeting that new Heads of Terms have been submitted to him on the 18th January 2016 by Bruton Knowles to BJP (Copy attached). Mr Jones confirmed that he was disappointed with the revised HoTs which provided minimal changes to those requested in an e mail to BK sent on the 29th December 2015 (copy attached) and advised landowners to speak to their own solicitors but also advised landowners present that the revised HoT in their current form (in his view) should not be signed for the following reasons.

1. Easement Area/ Easement Strip

Mr Jones confirmed that Point 8 of the revised HoT has not been modified in accordance to landowner's requests and still reads: -

'Under the terms of the Agreement, the Landowner (and any tenant who is party to the Agreement) will agree not to object to the application for a Development Consent Order and will agree to a number of protective provisions relating to the Landowner's property including not to submit a planning application, not to do anything which may interfere with the rights to be granted to WPD under the Easement, not grow trees or plant or alter the Easement Area and not to create new interests affecting the Landowner's property.'

The Landowners had previously agreed to an amended HoT as put forward by our Land Agent Mr Jones of Bjp.

The Landowner (and any tenant who is party to the modified HoT Agreement) will agree not grow trees or plant or alter the Easement Area but the Early Access Agreement will not prevent the landowner creating new interests affecting the Landowner's retained property.'

Mr Jones explained that if the HoT was signed in its current draft the landowner interests in their own property would be frozen for the duration of the agreement.

All landowners at the meeting confirmed that this restriction was not acceptable as the only area WPD needed for their development (and should be allowed to control) was the access approach road (to be identified) and the area where the poles would be erected, the so called 'Easement Strip'.

Any areas outside this strip should not be included in the HoT. Landowners at the meeting all agreed that the HoT needed to be modified to reflect these reasonable requests and the plan attached to the HoT needed to be redrafted with the appropriate access corridors highlighted and the revised demise area to reflect the easement strip and not the whole property.

In a e mail letter received by Mr Iwan Jones BJP from Mr Alun Price RedKite Solicitors on the 20th January 2016 [copy attached suitably redacted] the solicitor stated

I think it is important that the land which is subject to the rights granted to WPD and to the covenants which bind the landowners should be kept to the minimum area possible in order to allow the landowners to transfer/lease/build on etc parts of their landholding which will not affect the scheme. Ideally this would be done at the stage of signing the heads of terms since a plan is attached to each of these.

Mr Jones confirmed his concerns regarding the wide ranging interest WPD were attempting to secure on Landowners retained property which was not required for the development being proposed by WPD and was also concerned that WPD had never explained to landowners why such a large area of their retained land needed to be secured under the HoT.

Mr Jones stated that the land subject to the grant of easement should be kept to the minimum area required to facilitate the development proposed by WPD and that any revised HoT had to mirror what land area was reasonably required to enable the development to proceed but did not need to include the whole property which in some cases ran to hundreds of acres. Mr Jones again stressed that the revised HoT also needed a modified plan to reflect the agreement with defined access routes to the easement strip. Mr Jones felt that these requests were not unreasonable.

Mr Jones was asked by one landowner that if landowners wanted to carry out work on their land for instance erect a building, or making arrangements to sell or gift land [tax planning] within the defined red line on the landowner's property would they need to ask permission from WPD to do this and would it be refused. Again Mr Jones stated that landowners would need to take the modified HoT to their solicitor to take further advice on this point but Mr Jones again stated that the only interest WPD needed over the Landowners retained property was a defined right of access to the defined easement strip.

Landowners confirmed that they would not agree to the creation of such a large third party interest on their retained property and many stated they would refer the matter to their own solicitors for further advice. Mr Jones confirmed that this was appropriate and encouraged landowners to seek independent legal advice on this and other matters discussed in the meeting.

Mr Jones did not believe landowners requests were unreasonable and Mrs Kilkelly, Lanclynadda, Alltwalis stated at her Landowners Meeting with Freedom on the 12th January 2016 to discuss the HoT with her retained land agent Mr Chester Masterton and he stated like Mr Jones that the only land interest required was control of the 'easement strip' and defined access routes to the 'easement strip'. Mr Jones again confirmed that Mr Price a solicitor with RedKite had similar views.

Mr and Mrs Pain, Derlwyn Cottage, Alltwalis also suggested that forcing landowners to agree to the HoT as it stood was also a breach of the landowner's individual human rights. The European Constitution for Human Rights, article 1, protocol 1 states:

- (1) *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- (2) *The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

2. Line of poles

There is still a lot of uncertainty where the poles are going to be, what number of poles landowners will have on their land and what type of poles will be erected and where the stays for supporting the poles are being positioned.

Landowners at the meeting all agreed that landowners affected by the scheme could not sign the HoT if landowners don't know what they are signing for.

All landowners confirmed that there had been no communication from WPD, that land has not been physically walked by WPD or its representatives and no communication was coming forward from WPD to inform the landowners.

All Landowners agreed that at this late stage in the process landowners should now be fully informed about the route. Now that stage 3 of the Consultation was completed the route and placement of poles should have been worked out with landowner agreement.

Mrs Miles confirmed she was not aware what was happening with her poles and whether the 11kV line was going to be dropped to provide some form of mitigation. Mr Jones stated that Mrs Eagle who was unable to attend was very unhappy that 2 single poles which she accepted had changed to 2 H poles at stage 3 consultation without her knowledge and that some large redwood trees and mature pins trees would need to be cut down. Iwan Jones and Mrs Reader explained that the likely reason why Mrs Eagle H poles and other H poles delivered into the process at Stage 3 had been provided late in the process was to enable WPD engineers to span over the exiting 11Kv lines or other apparatus in the way and that H poles had not been sighted for the benefit of individual landowners. Mrs Reader also explained that this was due to costing reasons also as WPD would not be compensated for burying the 11kV line.

Landowners confirmed that they would like GPS co-ordinates for the poles, so placement of them could be pinpointed as WPD had not been reliable to date.

3. Backstop date

In a letter, addressed to Mr Iwan Jones, Bruton Knowles stated that the backstop date should be included in the HoT and that the date was the 31st December 2022 to coincide with the time limit with the DCO.

Landowners were concerned that If WPD were to appeal any decision of the Planning Inspector could the process be further lengthened. Mr Jones suggested landowners would need to take advice from their solicitors before signing the HoT especially when considering the land interest WPD were trying to create across the landowners retained property.

Landowners felt the timescales were unreasonable, to long and therefore unacceptable to them.

Landowners agreed that a backstop date should only be for a 2/3 years based on the modified HoT.

Bruton Knowles hopes that all landowners will sign the HoT before the Inspector makes his decision, but besides the backstop date for 2022, no further communication has been received about all the stop dates for the build itself. Again, landowners are left in the dark. Landowners are not able to plan for the future with this date hanging over their decisions.

4. Point 11, b and c

Mr Jones also pointed out other clauses in the HoT that Landowners needed to be aware of before signing. These included: -

b) "to take access over and use any land adjoining the Easement Strip".,

Landowners confirmed as in Point 8 of the HoT the agreement had to be modified to limit WPD wants access to the defined 'easement strip' as there was no reasonable requirement to have unhindered access over the whole property as this was not reasonable or required to allow the development to proceed. Landowners confirmed that WPD would not be given open access over the landowner's property *carte blanche* and that this was not an option. This paragraph needs to be amended/taken out.

c) "to take access over the Landowners property to any adjoining land",

Landowners again agreed this would have to be deleted from there HoT.

5. Injurious affection

Many landowners are concerned that any claim put before Bruton Knowles/Freedom will be dismissed as WPD's land agents are not prepared to consider the subject.

Mr Jones stated in the meeting that he felt it was pointless putting claims to BK as BK had openly stated in a recent meeting with Mr Jones in Carmarthen that all claims would be 'parked' until the DCO process had been completed.

6. Progress since last Inspector's meeting

Landowners are very worried and disappointed that there has been no correspondence received from WPD/Freedom/Bruton Knowles about issues that have been mentioned in the Planning Inspectorate meetings and individual worries that landowners have, most of which are on the Inspectorate's website. (see "documents received") after the Stage 2 consultation.

Mrs Medland confirmed that the feedback she had received from WPD had been very poor in respect to her private water supply. She informed the meeting that she had written to Mr Hubbard in 2014 with concerns regarding her water supply and two other adjoining properties and after repeated attempts it was only this week that a

Hydrologist had phoned her to set up a meeting to discuss the private supply. Mrs Medland felt that the whole process was no more than a tick box exercise.

Mrs Reader confirmed her complete engagement and involvement in the process had led to very little and that WPD had not listened and had managed to get all the facts wrong or muddled up and still did not appreciate or understand her land interests. Mrs Reeder stated that she would write independently to The Inspector outlining her concerns about her own experience and the lack of true engagement by WPD. Mrs Reader also confirmed that she had been promised the 11kV line would be buried for her and her neighbour but now WPD were back tracking on this undertaking.

Mrs Davies also confirmed that WPD had confirmed that they would consider burying the 11kV line and Mr Jones confirmed this statement in a meeting held at the property to discuss Mr and Mrs Davies concerns about then proximity of the new Brechfa transmission line. Mrs Davies and Mr Iwan Jones were also not aware of the additional H Pole which had come to light post Stage 3 without Mr and Mrs Davies knowledge or consultation. Freedom also refused to provide Mr Iwan Jones with a copy of the plan showing the proposed line.

A lack of interest in supplying landowners with information is very much felt by everyone. To find out information by the landowner themselves proves to be very difficult as the WPD's website is very difficult to negotiate.

B. Becoming a Party to Statement of Common Ground

In the second round of questions from the Planning Inspector Mrs Karen Miles has been asked if there is a consideration, as a representative of the landowners, to become a interested party for the Statements of Common Ground. As discussion takes place and landowners feel that we do not have sufficient knowledge or adequate resources to become a party. The meeting agrees to decline the invitation.

C. Preparation for the Compulsory Acquisition Hearing on 10th February and the Issue Specific Hearing on the 11th February.

As the Stage 3 consultation is taking place WPD would have hoped to have ironed out most issues with the land owners. The Planning Inspector has issued another round of questions that need to be answered by the applicant and/or interested parties, but the meeting acknowledges that there is so much disagreement and no communication exchange. The members of the meeting are advised to submit to the Inspectorate their interest of attending and speaking in both meeting at this will be the only way we can express our worries and anxieties. The meeting members will also submit written statements to the Inspectorate to underline their intentions.

The meeting closes at 8.50pm and all are thanked for attending.

