

**Summary Statement of outstanding issues on  
Relevant representations received by PINS on 22 March 2016**

**1. Introduction**

1.1 The table below summarises the relevant representations made at Deadline 6 and Deadline 7. It includes the Applicant's response to those representations. The purpose of this statement is to clarify that, despite some issues remaining between the Applicant and the parties making such representations, good progress has been made on reaching voluntary agreement with landowners generally. The Applicant has invested significant resource in seeking to resolve outstanding issues, as encouraged to do so by the Examiner at the hearings, and further, that the issues outstanding are not reflective of the overall positive steps that have been made in reaching agreement with landowners.

**2. Policy**

2.1 The Guidance<sup>1</sup> provides that the Applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The purpose of this note is to update the Examining Authority as to the significant progress made with landowners and the very real efforts that the Applicant has made in seeking to meet this requirement.

2.2 Paragraph 19 of the Guidance accepts that the high profile and potentially controversial nature of major infrastructure projects means that they can potentially generate significant opposition. Paragraph 25 of the Guidance states that "Where proposals would entail the compulsory acquisition of many separate plots of land (such as for long, linear schemes) it may not always be practicable to acquire by agreement each plot of land".

2.3 The Applicant considers that the remaining representations relate to very specific objections. The Applicant has had full regard to the Guidance in dealing with these representations. Developments of this type will be controversial and there will be objections. It is not unexpected in the circumstances therefore that the Applicant has been unable to resolve all of the issues that have arisen and the Guidance acknowledges this fact.

2.4 Paragraphs 27 & 28 of the Guidance urge applicants to consider offering full access to alternative dispute resolution techniques for those with concerns about the compulsory acquisition of land and that this should include a suitably qualified independent third party. The Applicant considered this part of the Guidance and decided to appoint Bruton Knowles, initially, to review the landowner engagement with a view to assisting negotiations but in the capacity as professional qualified third party to oversee the process. Whilst this was the initial reason behind appointing Bruton Knowles, after the first hearings it was decided to instruct Bruton Knowles to engage specifically with BJP and Mr Jones as an additional resource to aid negotiations.

**3. Update on landowner agreements**

3.1 The Applicant has submitted at Deadline 7 an updated landowner engagement table. In summary this shows the following:

- Landowners who have signed Heads of Terms: 27 (44%)
- Landowners who have not signed Heads of Terms: 35 (56%)

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<sup>1</sup> Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land DCLG September 2013

- Twenty six landowners from whom Heads of Terms are sought are represented by BJP.
- Of these, one signed their Heads of Terms prior to instructing BJP.
- Fourteen landowners are represented by other land agents.
- In the view of Freedom, of the landowners represented by other land agents, four landowners have signed the Heads of Terms (28% of the 14) and for ten landowners it is anticipated that agreement will not be reached before the close of examination (72% of the 14).

3.2 The Applicant has written to all landowners where heads of terms have not been agreed at Deadline 6 encouraging landowners to continue to consider the Heads of Terms offer and the incentive payments. A copy of the letters (one for landowners represented by BJP and one for other landowners) are appended to this note. The reasons for the different forms of letter are merely that Bruton Knowles are instructed to engage with BJP and Freedom continues to liaise with other landowners and their agents.

3.3 Despite some landowners not agreeing to Heads of Terms, significant progress has been made with non BJP clients in reaching agreement.

#### 4. **Landowner engagement and review**

4.1 The Applicant has carefully considered the comments made by the Examiner at the last hearings in terms of reviewing its engagement with landowners, particularly those present at the hearings who made representations. In addition to the responses in the table below to those who have made representations at Deadline 6 the Applicant would like to draw to the attention of the Examiner the following:

- (a) The Applicant considered carefully the representations made by Mr and Mrs Woods and have now removed land owned by Mr and Mrs Woods from the Book of Reference. It was considered that this small area of land could be avoided by limiting micro-siting on adjacent land. This step is considered to be a reasonable compromise in the circumstances.
- (b) The Applicant instructed its consultant hydrogeologist to undertake a site visit with Mr and Mrs Rentmore to review their concerns relating to their private water supply and the potential for contamination. The Applicant's conclusion is that there the development is unlikely to impact upon this water supply and there remains, following that meeting, disagreement between professionals on this matter. Further details are noted below. The Applicant notes that the Examining Authority has raised further queries on this matter which will be dealt with at Deadline 8.
- (c) The Applicant has engaged with Mrs Reader and Mr and Mrs Davies and very carefully considered their concerns relating to the impact of the development on their land. A detailed assessment of the issues has been undertaken and shared with these parties and a report has been submitted at Deadline 7. This concludes that whilst a fundamental change to the scheme is not justified, small changes may be able to be made with the agreement of these parties that, albeit that they are not in the Applicant's view necessary to make the development acceptable, will go some way to alleviating the local impact of the development on these parties.
- (d) It is regrettable that significant progress has not been made with BJP or Mr Jones' clients since the hearings. As noted above, the Applicant instructed Bruton Knowles to engage with BJP following the first set of hearing but unfortunately no Heads of Terms have been agreed. The Applicant notes that a significant amount of engagement has

occurred between BJP and Bruton Knowles as evidence by the correspondence submitted to the Examination. Unfortunately this has not resulted in any positive outcomes despite the significant resources and engagement time dedicated by the Applicant and its team.

## 5. **Summary**

- 5.1 The Applicant has taken significant steps to engage with landowners. Carmarthenshire County Council and PINS have both concluded that the level of pre-application engagement was satisfactory, sufficient for the application to be examined. Since submission the Applicant and its agents have undertaken extensive engagement with landowners and sought to reach commercially acceptable negotiated terms for interests in land to undertake the development. A large number of landowners have accepted terms. Suggestions that the Applicant has not engaged, or not engaged in a meaningful manner are simply not an accurate reflection of the Applicant's sustained engagement in a genuine attempt to reach commercial agreements. It is of course disappointing that not all parties have agreed terms but the Applicant is prepared to and will continue to engage with landowners and their agents beyond the close of the examination.

**Relevant Representations received by PINS – 22 March 2016**

	<b>Rep</b>	<b>Comments Made</b>	<b>WPD Response</b>
1.	Avril and Bryan Davies	Insufficient engagement and consideration of representations	<p>The Applicant has met with Mr and Mrs Davies and considered further their representations. Details are set out in the "Review of proposals to re-align a section of OHL on land at Penwaun and Llwyn Newydd" [REP7-016]. The conclusions of that report provide potential for mitigation subject to voluntary landowner agreement.</p> <p>The Applicant notes the further response received by e-mail on 4 April 2016 at 16:29 noting a preference for Option 3 in the report and for the reasons set out in the document the Applicant is content that it has arrived at a design which best meets the project requirements whilst minimising effects upon landowners. Mr and Mrs Davies were consulted throughout the non-statutory and statutory consultation stages and their specific concerns raised now were communicated to the Applicant after the application was accepted for examination.</p>
2.	Dawn Reed	Details of heads of terms and access are not agreed.	Noted. The Applicant is in ongoing and constructive discussions with Mrs Reed in respect of Heads of Terms and is seeking to build in operational flexibility to meet her objectives in respect of access and land area.
3.	Diana & Kevin Reader	<p>Incorrect details in landowner engagement table (boundary dispute).</p> <p>No detailed response following meeting on site with WPD.</p> <p>Failure to comply with consultation obligations throughout the application process.</p>	<p>The reference to the boundary dispute does not relate to Mr and Mrs Reader's land and it has been explained that this entry referred to a letter sent by their agent that included reference to other clients of that agent to which this matter referred.</p> <p>The Applicant has met with Mrs Reader and considered further their representations. Details are set out in the "Review of proposals to re-align a section of OHL on land at Penwaun and Llwyn Newydd" [REP7-016]. The conclusions of that report provide potential for mitigation subject to voluntary landowner agreement.</p> <p>The Applicant notes the further response received by e-mail on 4</p>

			<p>April 2016 at 16:29 noting a preference for Option 3 in the report and for the reasons set out in the document the Applicant is content that it has arrived at a design which best meets the project requirements whilst minimising effects upon landowners.</p> <p>The Applicant considers that it has fully complied with the consultation process. Further details of engagement with Mrs Reader are noted in the report above. The Applicant has met with and engaged with Mrs Reader throughout the non-statutory consultation stages of the project.</p>
4.	P & EJ Morris & Sons	Conflicting comments during landowner engagement	<p>Below is the response to Mr P Morris submitted at DL6.</p> <p><i>08.03.2014</i></p> <p><i>When Eirian and Nigel Morris attended the meeting at the Ivy Bush, no mention was made of surveys whatsoever.</i></p> <p>Our records show that from the meeting (Consultation Event) with Eirian and Peter ,land boundaries were confirmed together with contact details and 2 days' notice for surveys would be required.</p> <p><i>03.04.2014</i></p> <p><i>When we were visited at around 5.30pm, milking time, the gentleman who visited said he had been sent over by Mr. Ashley Jones of Ty Llwyd Mawr to ask us about plots of unregistered land and enquire as to whether they were owned by us. A map showing the plots in question was produced and the man left. The visit lasted 10 minutes at the most and at no time did a survey enter the conversation, neither was access discussed or agreed to.</i></p> <p>It is agreed we visited on that date to determine a land boundary and our records show that consent was provided for surveys.</p> <p><i>09.10.2014</i></p> <p><i>A meeting between Eirian and Nigel Morris and a visitor who told us he did not work for WPD took place at the bungalow on the</i></p>

			<p><i>farm. During the visit a request was made to move the line East towards the hedge. We were told that under no circumstances could the line be moved but that the positioning of the post could perhaps be changed. We later learned that Jones, Ty Llwyd Mawr were told that perhaps the position of the line could be moved as requested by them.</i></p> <p>A Freedom representative attended the farm to conduct draft conceptual route alignment, a request was made to move the line <u>West</u> of its then positioning, A change request was submitted to the project team and is WPD's response is recorded within the submitted landowner engagement table.</p> <p><i>In addition to the above, we noticed that a two day survey of wildlife and habitat which took place here during the week ending 10<sup>th</sup> July 2015 has been omitted.</i></p> <p>We are not aware of any Wildlife and Habitat surveys that took place where we arranged access in July 2015.</p>
5.	Mr & Mrs Rentmore	Potential impact on water supply and contamination of water supply. A report has been commissioned	<p>Our conclusion is that the report is based on observations, not on measurements. Our main observations are as follows.</p> <p>The report ruled out any effect on topographic groundwater flows (WPD poles outside catchment area).</p> <p>The report posits the 'potential' for connectivity by preferential pathways (not proven/ no evidence provided), and hence adopts a precautionary and worst-case position.</p> <p>The report guesses at the potential for contamination but we note they assign a 'moderate' risk (defined in their own table as "insufficient to change long term water quality status").</p> <p>The report's own estimates of resource supply and resource usage indicate that only ~0.2 – 0.3% of the available flow (observed to flow into the catch-pits) is actually drawn off for use by the landowner. We would contend that a single pole is unlikely to stop the flows to such an extent (i.e. stop more than 99.7% of the flow).</p>

			The Applicant is by way of mitigation encasing poles in concrete and has agreed with Carmarthenshire County Council for them to undertake water quality monitoring of the private water supply.
6.	Bryan and Yoka Kilkelly	<p>Insufficient engagement and progress on Heads of Terms. Last correspondence was on 12 January 2016.</p> <p>Incorrect details in landowner engagement table.</p>	<p>The progress made with Mr &amp; Mrs Kilkelly's agent is constructive and ongoing as follows:</p> <p>12.01.16 Heads of Terms meeting conducted. Awaiting written queries from Agent (Francis Chester-Master).</p> <p>19.01.16 Email to Agent (Francis Chester-Master (FCM))</p> <p>21.01.16 Email from Agent (FCM).</p> <p>29.01.16 E-mails to and from Agent (FCM).</p> <p>05.02.16 E-mails to and from Agent (FCM).</p> <p>09.02.16 E-mails from and to Agent (FCM). Agent supplies annotated Heads of terms.</p> <p>19.02.16 Email from Agent (FCM).</p> <p>10.03.16 Email to Agent (FCM) with comments on Heads of Terms.</p> <p>11.03.16 E-mails from and to Agent (FCM).</p> <p>Tel Call with agent on the 15 March to discuss the revisions suggested to the Heads of Terms; 16 March Emailed plan for FCM to annotate with a view to reduce the area over rights are being sought, Email response from agent acknowledging the plan with additional question over the definitions, 18 March we respond to agent, 23 March discussion with agent over phone. Following internal legal review revised terms are to be discussed with agent in next two days.</p>
7.	HV & E Jones	Support for Option B and additional undergrounding	Noted

8.	Iwan Jones	Comments on the Heads of Terms negotiations and attaches copies of correspondence with Bruton Knowles	<p>The Applicant has disclosed the significant volume of correspondence with BJP. The latest e-mail at Deadline 6 from Bruton Knowles is set out below. The Applicant would add that at Deadline 7 Mr Jones has disclosed a detailed table setting out a summary of objections. These objections follow previous comments made. The Applicant would note however that Bruton Knowles met with Iwan Jones on 7th December 2015 to discuss individual concerns of his clients. At that meeting Mr Jones was unable to raise any individual concerns and BJP and BK used the meeting to discuss generic terms. The Applicant considers that as professional representative Mr Jones is and has been fully able to mark up heads of terms for his clients and return these to BK for review. Unfortunately Mr Jones's complaints have instead been directed to PINS. The Applicant will continue to seek agreement with Mr Jones and his clients and will update the Examiner further as progress is made.</p> <p><b>From:</b> Nick Buxton [mailto:Nick.Buxton@brutonknowles.co.uk]  <b>Sent:</b> 23 March 2016 17:12  <b>To:</b> Iwan Jones  <b>Cc:</b> Brechfa Forest Connection  <b>Subject:</b> RE: Brechfa Forest [BK-BK.FID371062]</p> <p>Dear Iwan,</p> <p>Thank you for your email.</p> <p>I would like to confirm that I do not agree with many elements of this correspondence and in particular I do not accept the comments and assertions laid out as bullet points within the text of the email.</p> <p>In your final paragraphs you question how I can have engagement without meeting the landowners. Notwithstanding the fact I have met with some of your clients, they instruct you to advise them in relation to the Heads of Terms and it would be normal RICS protocol for you to obtain feedback from your clients and channel that to me as the agent acting on behalf of WPD. If there are individual practical issues that need to be reflected in the Heads of</p>
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			<p>Terms this can be dealt with on an individual basis. I have yet to receive such practical detail from you.</p> <p>It is clear that in recent weeks we have not made any meaningful progress on agreeing the terms. As such I do not believe that we will make any further progress by continuing this email trial. As we have previously discussed I intend to write to each of your clients, copying you in, summarising my understanding of the situation in relation to the terms in each case. I understand that you are now away for two weeks and would ask that you make contact with each of your clients on your return to discuss in detail their individual terms and report back to me with their comments with a view to reaching agreement where possible. As you are aware WPD will also pay reasonable legal fees in the conclusion of the terms into binding contracts.</p> <p>As I have mentioned before, there is a definitive timeframe for reaching agreement and I do hope that we can make substantive steps forward on your return.</p> <p>Regards</p> <p><b>Nick Buxton</b> Associate</p>
9.	Leslie and Pearl Birch	Comments on heads of terms discussions and general engagement. Notes that they remain ready to engage with the Applicant despite continued objections to the scheme.	<p>The Applicant sought to engage with landowners and appointed Bruton Knowles to assist particularly with BJP clients. Mr &amp; Mrs Birch are professionally represented and WPD have sought to deal with BJP clients efficiently and properly through that engagement (and have agreed to meet BJP costs in doing so). Whilst this process has been frustrating for Mr &amp; Mrs Birch, and indeed for the Applicant and Bruton Knowles, the Applicant welcomes the agreement to continue engagement to resolve the Heads of Terms.</p>
10.	Mr & Mrs Medland	Comments on heads of terms and private water supply.	<p>The comments on heads of terms are noted. The Applicant considers that amendments can be made to accommodate Mr &amp; Mrs Medland's primary concerns relating to restrictions on the use of land subject to the need to use the access land for construction</p>

			<p>and maintenance.</p> <p>In terms of mitigation for the protection of water sources the Applicant provides the following response which it has submitted in respect of Mrs Rentmore's PWS within document Vol.09.58 Applicant's response to Procedural Decision 30 March 2016.</p> <p>In line with the CEMP (REP4-026), the proposed mitigation put forward by the applicant of placing the poles 171 172 and 173 in concrete sleeves mitigates the risk of leaching of preservative from the poles and severs the linkage between the source and the receptor. In line with the CMS (APP125, 126) and, due to the sensitive nature of the ground conditions, the predominant form of access envisaged is that of vehicles with low bearing pressure tyres or with rubber tracks. In addition the access tracks to be installed to access the pole locations are temporary in nature and have been purposely specified to allow natural infiltration to occur and therefore will not interrupt natural infiltration or groundwater flows. It should also be noted that there are no proposals for welfare facilities to discharge into the PWS catchment and any welfare facilities will be self-contained. All other relevant mitigation proposed through the CEMP will be applicable to ensure the PWS is not impacted by the works.</p> <p>Arrangements for dealing with spills, leaks and unplanned emissions, unplanned damage to the environment and other environmental incidents is detailed in the Pollution Prevention and Emergency Response Plan (which is an appendix to the CEMP).</p> <p>An Environmental Incident Response Team, reporting to the Site Manager, shall be trained by the contractors to deal with pollution incidents in conjunction with other safety-related incidents as required.</p> <p>An Emergency Contact List shall be displayed on site notice boards and on fuel bowsers.</p> <p>All plant shall be checked for leaks of fuel and lubricants before</p>
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			<p>being allowed onto the working area.</p> <p>A suitable quantity of pollution control equipment, e.g. spill kits containing absorbent pads, absorbent granules etc. will be kept in the stores for use in the event of an emergency. The Environmental Manager shall ensure that adequate pollution control equipment is maintained and carried by the work crews.</p> <p>Environmental Manager shall carry out daily visual inspections of all watercourses, drainage outfalls and pumping activities, particularly during periods of inclement weather.</p> <p>Prior to the commencement of works the applicant has agreed with Carmarthenshire County Council that it will sample the quality of the water supply at properties occupied by Mr and Mrs Rentmore and Mrs Medland. This will provide the Council with an understanding of current water quality prior to works commencing. Following works, the Council will again sample the water quality to enable a comparison to be made. Subsequently, both properties will be included within the Council's established PWS sampling regime.</p>
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## **Annex**

**Copies of letters sent to landowners who have not yet signed heads of terms**