



# Preliminary Meeting Note

## Summary of Key Points Discussed and Advice Given

<b>Application</b>	<b>Triton Knoll Electrical Connection</b>
<b>Reference</b>	<b>EN020019</b>
<b>Date</b>	<b>3 September 2015</b>
<b>Venue</b>	<b>The Storehouse Conference Centre North Parade Skegness Lincolnshire PE251BY</b>

---

## Contents

1. Introduction.....	<b>Error! Bookmark not defined.</b>
2. Principles of the examination .....	5
3. Submissions on matters not set out in the agenda .....	7
4. Procedural Decisions .....	11
5. Initial Assessment of Principal Issues .....	19
6. Draft Timetable .....	24
7. Any other matters .....	31
8. Close of the Preliminary Meeting.....	31



# The Planning Inspectorate

## 1. Introduction

The Examining Authority (ExA) introduced themselves as Mr Kelvin MacDonald, appointed by the Secretary of State for Communities and Local Government as the lead member of the panel to examine the application put forward. The further two members of the ExA appointed by the Secretary of State introduced themselves as Richard Allen and Guy Rigby. The three named members constitute the ExA for this application.

The representative from the Planning Inspectorate was introduced as Mrs Katherine King (Case Manager).

Mr MacDonald welcomed those present.

Further to the above, the ExA stressed the importance of the fact that the meeting was a working meeting, and that the intention of the meeting was to focus on the way in which the panel intended to examine this application. It was set out that the meeting would purely be discussing the procedural aspects of the examination. As a result, evidence would not be taken at this meeting and the merits of the proposal would not be discussed. The merits of the application would only be considered once the examination starts formally, and the ExA stated that the examination would start formally on the day following the Preliminary Meeting (4 September 2015).

The panel recognised that the application has raised some real concerns amongst people in the local area. The ExA stated that a number of letters and e-mails and other correspondents about this had been received and that he would be dealing with some of the issues raised by the correspondence later in the meeting.

Those present were made aware of the fact that notes and an audio recording were being taken of this meeting. The ExA made the audience aware that they would be available via the Triton Knoll Electrical System section of the National Infrastructure pages of the Planning Portal website and at locations listed in the appendices of the letter, published on 30<sup>th</sup> July 2015, as soon as possible.

Prior to the beginning of the examination process, Mr MacDonald asked the audience whether there were any journalists present. The journalists present introduced themselves as Paul Murphy, Environmental Correspondent from BBC North, Elaine Davies from



## The Planning Inspectorate

the Lincolnshire Echo and Tom Baker, a News Reporter from Lincs FM.

Following the introduction of the journalists present, the ExA invited those present to introduce themselves in different groups but in no particular order of precedence.

Those defined as affected persons, people, firms or bodies who are affected by the applications to compulsorily acquire land or rights – or representatives of the affected persons introduced themselves first.

Those present were as follows:

- Andrew Spence, Landowner
- Richard Benici-Eden, Landowner
- Giles Johnston, DDM Agriculture Land Agents
- Brian Wilson, Landowner
- Debra Wilson, Landowner
- Simon Randle, Solicitor, Lincolnshire County Council
- Melvin Grosvenor, Chairman Triton Knoll Cable Group
- Ben Wills, Beeswax Farming Ltd
- Robert Hurst, Chartered Surveyor, Fisher German LLP
- Graham Hand, Farmer
- Judy Macinder, Landowner
- Martin Macinder, Landowner
- John Smithson-Whitehead, Land Agent, Brown & Co
- Sophie Stewart, DLA Piper Solicitors (representing National Grid Gas, National Grid Electricity Transmission and landowners)
- Mr Calpin, Landowner
- Eric Calpin, Landowner
- Robert Sharp, C P Sharp & Sons
- Martin Sharp, C P Sharp & Sons
- Christian Ford, National Farmers Union
- John Webster, Osborne Clark, representing Western Power Distribution

Those acting as representatives of the applicant present were:

- Elizabeth Garner, Partner at Burges Salmon Solicitors representing Triton Knoll Offshore Wind Farm Ltd
- Kim Gauld-Clark, Senior Consent Manager Triton Knoll Offshore Wind Farm Ltd



## The Planning Inspectorate

- Adam Kendall, Land Transaction Manager, Triton Knoll Offshore Wind Farm Ltd
- Paul Carter, Offshore Consents Manager, Triton Knoll Offshore Wind Farm Ltd
- Tim Golding, Gobe Consultants, on behalf of Triton Knoll Offshore Wind Farm Ltd

Those acting as any representative of local and national amenity bodies, expert and representative bodies present were:

- Louise Burton, Senior Advisor, Natural England
- Christian Ford, National Farmers Union
- Elizabeth Byott, Lincolnshire Wildlife Trust

Those present acting as representatives of local authorities or Parish Council were:

- Alison Watson, Orby Parish Council
- Paul Edwards, Boston Borough Council
- Pete Woollvern, Anderby Parish Council
- Colin Davey, Lincolnshire County Council represented by Simon Randle
- David Loveday, East Lindsey District Council
- David Cardel, Skegness Town Council
- Michael Brookes, Boston Rural Division/ Borough Council
- Paul Skinner, Fishtoft Parish Council
- Stephanie Dickens, representing MP Matt Wardman for Boston and Skegness
- Gerry Chidley, Anderby Parish Council
- Kath Hayes, Anderby Parish Council
- Tony Cox, Anderby Parish Council

Members of the local community not listed above that were present:

- Margaret Spence, Orby Resident
- Keith Thomas, Orby Resident
- Gillian Watson, Orby Resident
- Jacqueline Davies, Anderby Resident
- Jill Tidley, Anderby Resident
- Michael Hudgenson, Local Resident
- Christine Vertini, Resident Huttoft

Two additional persons not listed above were present:



## The Planning Inspectorate

- Stuart Andrews, Partner at Eversheds LLP for National Grid Viking Ltd
- David Moore, National Grid, European Business Development

### 2. Principles of Examination

It was explained that the purpose of the examination is to enable the ExA to make a recommendation to the Secretary of State for Energy and Climate Change as to whether this project should receive consent in the form of a Development Consent Order under the Planning Act 2008. The Planning Act 2008 has brought in a distinct regime for the consideration of Nationally Significant Infrastructure Projects.

Firstly, it is an inquisitorial process, in which the ExA takes the lead in establishing what's important and relevant to the decision which the SoS needs to take. Mr MacDonald explained that the ExA will be looking for evidence of what is important and relevant, and testing the evidence put forward to see how robust it is in the context of relevant policy. He reminded those present the relevant legislation for this system, the 2008 Planning Act (s.87(1)): *'It is for the Examining Authority to decide how to examine the application.'* He then set out his objectives in more detail and explained the ways in which the ExA intended to use these objectives in its examination of this case.

The objectives are:

- Independence and Impartiality
- Rigour
- A focus on evidence and justification
- Openness
- Fairness
- Timeliness

Secondly, the primary method of examining the application is through written representations. Whilst there is provision for holding certain types of Hearings, the central part of the examination is the written process which the ExA will use to gather further information about the application.

Mr MacDonald explained that he has received a number of written submissions from different parties submitted prior to the Preliminary Meeting and that these have been accepted into the examination and as soon as practicable after the Preliminary Meeting these will be published onto the Triton Knoll Electrical



## The Planning Inspectorate

Connection pages of the Planning Portal website. The ExA explained that there is provision in the timetable for interested parties to comment on these submissions, as stated by Mr Guy Rigby further on.

The ExA brought forward the issue of costs. The ExA made those present aware that the letter notifying of this preliminary meeting, published on 30<sup>th</sup> July 2015, drew attention to the guidance on costs which was issued by the Department for Communities and Local Government in July 2013. Guidance in the aforementioned document states that costs can be issued in two instances. In summary, firstly, costs can be claimed where the party against whom an award of costs is sought has acted unreasonably and that the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense during the examination. Secondly, separate provisions apply to the award of costs in relation to an application for compulsory acquisition.

The ExA opened to the floor and asked whether there were any questions relating to its proposed examination of this application.

John Smithson-Whitehead from Brown & Co, representing a number of landowners, questioned whether the six months examination period commences today, on the 3<sup>rd</sup> of September. The ExA (Kelvin Macdonald) clarified that the examination period commences on the day following the Preliminary Meeting, 4 September 2015.

Second to speak was Robert Hirst, a Chartered Surveyor from Fisher German LLP representing several landowners. He stated that there are several issues that affect a number of landowners, and that several Chartered Surveyors have been jointly discussing these issues. Mr Hirst questioned whether the ExA would accept joint representations on specific issues. The ExA stated that this would be acceptable, and that it would in fact be helpful and useful to the examination.

### **3. Submissions on matters not in this agenda**

Annex A of the 30 July 2015 letter informed those present of the Preliminary Meeting, inviting submissions on any matters that were not set out on the agenda to the Planning Inspectorate by midnight on Monday 24 August 2015.



## The Planning Inspectorate

The ExA received twenty five such submissions. All of these have now been published on the Triton Knoll Electrical System pages on the website.

These are:

- An e-mail dated 24<sup>th</sup> August from Diane Fairweather, Clerk to Bicker Parish Council
- An e-mail dated 21<sup>st</sup> August from Boston Borough Council
- A letter dated 5<sup>th</sup> August from the Equalities and Human Rights Commission
- A 'no comment' e-mail dated 7<sup>th</sup> August 2015 from the GTC Group of Companies
- An e-mail dated 23<sup>rd</sup> August from Graham Hand
- An e-mail dated 24<sup>th</sup> August from Marlene Sylvester Clerk to Huttoft Parish Council
- An e-mail dated 14 August from Eversheds LLP on behalf of National Grid Viking Link Limited
- An e-mail dated 12<sup>th</sup> August from Public Health England
- A 'holding' e-mail dated 12<sup>th</sup> August from Western Power Distribution
- Letters and e-mails dated at various dates between 14<sup>th</sup> and 24<sup>th</sup> August, containing similar or common forms of wording, from:
  - Mr D Bowler
  - Helen Bowler
  - Miriam Fox
  - Theo Fox
  - Ian W A Grant
  - Ian W A Grant for Wildmore Farms
  - Mr K. N. Grant
  - Stuart Grant
  - Stuart Grant for J J Grant company
  - Melvin Grosvenor of the Triton Knoll Cable Group
  - Stacey Lunn
  - Stephen Lunn
  - C P Sharpe and Sons
  - Robert Sharpe
  - Andrew Spence
  - Chris Stephenson

The above mentioned sixteen letters or e-mails raised issues related to the interrelationship between the proposed Triton Knoll Electrical System and the Viking Link Interconnector Cable project. The ExA



## The Planning Inspectorate

stated that the proposal is clearly of concern to people potentially affected by the proposed Triton Knoll Electrical System.

Mr MacDonald stated that the letter on behalf of National Grid Viking Link Limited relating to the preliminary identification of principal issues which would be dealt with by Mr Allen on that item on the agenda, and a representative of National Grid Viking Link Limited would be invited to speak to address the issue that it raises – whilst bearing in mind that, during a preliminary hearing, procedural issues only are dealt with and not the merits of the proposed scheme.

The ExA recorded at this stage that the letters and e-mails from local individuals and organisations listed above all respectfully request that actions are immediately taken to revoke all of the Triton Knoll Examination procedures, until full and proper consultations are undertaken and completed jointly by RWE and National Grid.

Mr MacDonald stated that, whilst the Examining Authority has considered the above requests seriously, it is not minded to do anything that would delay or postpone the start of the formal Examination period.

The ExA reminded those present that, once an Examination has started, it is carried out to a binding statutory timetable.

Mr MacDonald stated that the ExA had taken account of the fact that no application for the suggested Viking Link project has been made under the 2008 Planning Act – or, as far as that the ExA is aware, under any other legislation. As a result, it would be impossible to hold a joint or parallel examination even if the legislation allowed for that to happen.

It is not possible for the Planning Inspectorate to prohibit one developer from submitting an application for development consent because there is potentially another development happening close by in the future.

The holding of the Examination into the proposed Triton Knoll Electrical System should provide an opportunity to bring together all the information that is currently publicly available on the Viking Link Interconnector Project in order to examine, as far as is possible, the interrelationships between the two projects and to look, as far as



## The Planning Inspectorate

available information allows, at any possible cumulative impacts arising from that interrelationship.

The Examining Authority has identified 'cumulative effects, including the relationship to the Viking Link Interconnector' in its Initial Assessment of Principal Issues identified in the Rule 6 letter.

Mr MacDonald reminded those present that all of the letters and e-mails from local individuals and organisations earlier listed contain a warning that the Examination taking place may be being subject to Judicial Review.

In terms of Judicial Review, the relevant part of the legislation, s.118 of the 2008 Planning Act, provides for legal challenges relating to applications for orders granting development consent but restricts the period in which Judicial Review may be applied for to a period of 6 weeks beginning with the day on which the order is published or, if later, the day on which the statement of reasons for making the order is published; or a period of 6 weeks beginning with the day on which the statement of reasons for a refusal for an order is published; or a period of 6 weeks beginning with the day on which an application is withdrawn.

The ExA invited those present to make any comments on any procedural implications of the case put forward and reminded those present that comments into the merits of the proposed scheme would not be heard at this stage.

Malcolm Grosvenor, representing the local community and landowners on the proposal of the Triton Knoll Cable Route, raised concerns regarding environmental issues including the cumulative impacts including the relationship to the Viking Connector interface with existing and proposed servicing operations. He asked how the local community and landowners can judge those cumulative impacts when it is a matter for the examination without having sufficient evidence.

In answering the question put forward by Mr Grosvenor to the ExA, Mr MacDonald reminded Mr Grosvenor of the strengths of the system, being an inquisitorial process that allows detailed questions to be asked and answered and that all of the information and evidence received in respect of the proposal would be made accessible in the public domain. The ExA stressed the need for evidence and reminded parties that they will need to submit evidence that would subsequently be published. However, in doing



## The Planning Inspectorate

so, it was stated that evidence cannot be submitted that is commercially confidential.

In response, Mr Grosvenor stated that the Viking Connector put forward by National Grid had been accepted as a scheme by Ofgem as a part of the cap and floor regime. The ExA reminded Mr Grosvenor that procedural matters only can be heard at this stage and that the merits of the case would be invited later in the process.

Stephanie Dickens representing Matt Wardman, MP from Boston and Skegness, referred to a letter from Mr Wardman and Victoria Atkins MP for Louth and Horncastle. Mr MacDonald stated that the ExA had not yet received any letter and no one else present had seen it so Ms Dickens should simply summarise the points it made. The MPs asked the ExA to refrain from setting out a timetable for the examination process unless the absolute assurances on the provisions of disclosures are obtained.

The ExA noted the point brought forward by Ms Dickens, however the panel stated that they do not intend taking any actions that will delay the process of the consideration of the application.

A representative from Beeswax Farming, Mr Ben Wills questioned the ExA how the ExA will look at the land affected subject to this application and inspecting the route. Beeswax Farming also invited the ExA to come and look at their affected land.

Mr MacDonald stated that Mr Guy Rigby will be dealing with the examination timetable later on in this Preliminary Meeting and will be discussing matters such as an accompanied site inspection. Mr Wills was welcome to bring up this matter during the discussion of the timetable later on in the meeting.

Christine Sercini, supporting Graham Hand Brothers, questioned at what point further submissions could be made.

Mr MacDonald stated that Mr Rigby will be dealing with timetable later on in this Preliminary Meeting and will be discussing matters such as when written submissions can be made.

#### **4. Procedural Decisions**



## The Planning Inspectorate

Mr MacDonald stated that Annex G to the letter of 30 July 2015 shows that a number of procedural decisions under s.89(3) of the Planning Act 2008 have been made by the ExA.

The ExA set out to deal with such matters in the order in which they were set out in that Annex. The first matter to be dealt with concerned the matter of accepting documents into the examination.

The letter stated that the Examining Authority would announce at the Preliminary Meeting its decision on whether documents received following the acceptance of the Application on 21 May 2015 will be accepted, rejected or if there will be a wish to consult on the acceptance of documents prior to the commencement of the Examination.

On behalf of the Examining Authority, Mr MacDonald dealt first with representations received from interested parties, affected persons or other persons received following acceptance of the Application on 21 May 2015 but in advance of the commencement of the Examination.

The 30 July letter lists these as being:

- A representation dated 15th July 2015 from Ms Fields; and
- A representation dated 29th June 2015 from Norfolk County Council

The ExA has since received one other submission:

A representation dated 16th July 2015 from Witham Fourth District Internal Drainage Board;

The three documents stated above provide information that is relevant to the Examination, but they were sent outside the time limits for such representations. Ms Fields has since been accepted as an 'Other Person'.

The ExA stated that the three documents are accepted into the Examination and those not already published will be published in the Triton Knoll Electrical system pages of the website very soon after the start of the Examination.

Several other documents have been submitted prior to this meeting by the Applicant and are listed in the 30 July 2015 letter.

The following documents are:



## The Planning Inspectorate

- a) Plans of the Order Limits
- b) Works Plans
- c) Access to Works and Street Plans
- d) Hedgerow Plans
- e) Public Rights of Way Plans

*These four plans have only been altered – following advice from the Planning Inspectorate– a full stop has been changed to a comma. The scale itself has not changed on the plans.*

- f) Land Plans and Crown Plans

*One plan has been changed simply to ensure that an inset box on Crown Land 1d does not shield any of the plots on that sheet.*

- g) Draft Development Consent Order (DCO) (clean version)

*Some minor typographical have been corrected in this version. They do not change any provision in the draft DCO.*

- h) Statement of Reasons

*Two plots were given the wrong numbers in paragraphs 13.3 and paragraph 13.4 of the original version – plots 37/16 and 37/17 in the previous version should have been plots 37/18 and 37/19.*

- i) Book of Reference

*The material in the Book of Reference has not been changed but it has been rearranged so that different parts are not separated into different sections relating to different local authority areas. This was asked for by the Planning Inspectorate when the application was accepted for Examination in order to make the Book of Reference easier to read.*

- j) Consultation Report

*When the application was accepted for Examination, the Planning Inspectorate asked for a revised Consultation*



## The Planning Inspectorate

*Report which included some evidence that had been referred to in the original report but not provided.*

k) Environmental Impact Assessment (EIA) Evidence Plan

*The file name for this document was wrong in the original submission and this version includes a fuller version of one appendix – without changing any of the statements made in the Evidence plan.*

l) Response to s.51 Advice and table of amended documents

*This document simply provides a guide to the changes to the other documents – changes which are summarised above.*

In making the decision on whether to accept, reject or consult on the acceptance of documents, the ExA has regard to the guidance in paragraphs 109-115 of the March 2015 Department for Communities and Local Government *Guidance for the examination of applications for development consent*.

The above guidance concerns matters such as changing an application after it has been submitted for Examination. In particular, cases are dealt with where any changes to the applications are determined by the ExA to be of such a degree that they constitute a materially different project.

In the case of the changes outlined above, the ExA considered that the changes to the documentation do not change the nature and description of the nationally significant infrastructure project as set out in the draft Development Consent Order (DCO) and associated documentation.

As such, therefore, the changes to the documentation do not constitute a material change to the project applied for.

A remaining legal test that requires to be considered stems from *Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) 43 P & CR 233*. The test is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.



## The Planning Inspectorate

The ExA already determined that the changes made in the documentation do not constitute changes to the proposed development. Moreover, as these changes have been made at the outset of the Examination, parties and persons still have a full opportunity to use and, if necessary, comment on, the revised documentation through the course of the Examination.

Mr MacDonald asked the Applicant whether that was a fair summary of the changes. The Applicant agreed that the summary was a fair one.

Progress reports were requested by the Examining Authority in the 30 July 2015 letter, to assist the ExA with certain elements of the examination. The request for progress reports is not a substitute for questions that may be asked. Such information contained within the Progress Report, received on the 24<sup>th</sup> August 2015 has been published on the website.

The ExA welcomed the representatives of the Applicant to summarise the progress made under various headings. The first of these concerns related to matters of the Compulsory Acquisition of land or rights. The ExA asked the Applicant to make a statement setting out the progress that has been made since 23<sup>rd</sup> April 2015 (the date on the DCO application) on:

- a) acquiring the land and rights and interests it requires by agreement
- b) obtaining consents to access land to undertake archaeological, ecological or other surveys
- c) liaison with Lincolnshire County Council in respect of land identified as being subject to Section 132 of the 2008 Planning Act
- d) identifying and liaising with statutory undertakers that have the potential to be affected by sections 127 and/or 138 of the 2008 Planning Act

Elizabeth Dunn, on behalf of the Applicant, stated that a letter was provided in response to the Rule 6 letter. The letter is dated 24 August 2015 and contains a number of appendices that deals with the above issues. In summary:

- a) In relation to the acquiring of the land and rights and interests it requires by agreement, appendix 2 of the letter provides a summary of continuing discussions with the 114 landowners. Since the 23<sup>rd</sup> April 2015, there have been



## The Planning Inspectorate

further letters sent to landowners and the Applicant's agent has also visited the sites. Landowners that have not been in physical or verbal contact with the Applicant have still received written communication via letter from the Applicant. Of all 114 landowners, there are only 5 that the Applicant is not in contact with. Three sets of heads of terms are reasonably progressed and are hoping to be concluded shortly.

- b) In respect of survey access, the landowners that the Applicant is in discussion with and hopes to reach access agreements with will have access rights included in those land agreements. It was also identified that there was a need to conduct additional surveying of specific pond areas prior to construction taking place. Negotiations have concluded on the right to access one of the ponds for surveying purposes and a further eight agreements are required.
- c) In respect of special category land identified by Lincolnshire County Council, a meeting was arranged in August, however the meeting had to be rearranged to take place on the 9<sup>th</sup> September 2015. The purpose of the meeting would be to discuss a Statement of Common Ground (SoCG) and the land at the landfall.
- d) In respect of the statutory undertakers identified, National Grid Electricity Transmission is in discussion with the Applicant: discussions involving protective provisions and potentially an agreement to sit alongside that are progressing well. National Rail Infrastructure Ltd is in discussion with the Applicant in respect of protective provisions. The Applicant reported difficulty in contacting the Canal and River Trust which have responsibility and owns land around the River Witham; however the Applicant is now engaged with the Trust, although a meeting has not yet taken place. In respect of the Environmental Agency, protective provisions have been discussed with the Applicant and are near to agreement in respect of those protective provisions. The discussions in terms of Environment Agency land are not as well progressed. Anglian Water Services is in discussion with the Applicant and is near agreement to resolving the issues that they were concerned about. It has been identified that Anglian Water Services does not own any land in relation to the Compulsory Acquisition. Draft protected provisions have been provided to Western Power Distribution and Western Power Distribution has appointed Solicitors Osborne Clark who are in discussion with the Applicant. There are three Internal Drainage Boards that the Applicant has been in discussion with for a



## The Planning Inspectorate

considerable amount of time relating to protective provisions and it has been identified that they do not own any land required for Compulsory Acquisition.

As a point of clarity in relation to the above, Mr MacDonald discussed the term 'Protective Provisions.' The term applies to a matter where if an undertaker may have its operations or its equipment potentially affected by a scheme that there can be legally bound provisions put in the DCO with the agreement of both parties so as to protect that equipment, and this is done by negotiation.

The issue of Local Impact Reports (LIRs) was addressed by the ExA and either individual or joint statements were requested from the following:

- a) Boston Borough Council
- b) East Lindsey District Council
- c) Lincolnshire County Council
- d) North Kesteven District Council

The ExA asked the above to set out their intentions in respect of providing LIRs and, in particular, whether these will be provided jointly. Paul Edwards for Boston Borough Council set out the intention of providing a single LIR as well as a Statement of Common Ground (SoCG.) David Loveday set out the intention of providing a single LIR and a SoCG for East Lindsey District Council. Simon Randle on behalf of Lincolnshire County Council also set out its intentions to provide a LIR and that a SoCG would be discussed and that discussions had not yet taken place in regards to a SoCG due to illness. There were no representatives present from North Kesteven District Council and it was recognised that the proposed scheme does not pass through North Kesteven.

Mr Paul Edwards of Boston Borough Council asked whether an Article 4 Direction under the General Development Permitted Order 2015 (GDPO) could be issued to the ExA or Secretary of State as to restrict Permitted Developments Rights to National Grid at the existing substation.

The ExA stated that the request for an Article 4 direction was noted and that it may be covered within the first Ground of Questions that was due to be issued shortly. Elizabeth Dunn, on behalf of the applicant also expressed that they would be happy to provide



## The Planning Inspectorate

further clarification as a part of the SoCG process to Boston Borough Council.

David Loveday on behalf of East Lindsey District Council questioned whether Local Authorities had to register as an Interested Party. The ExA pointed out to Mr Loveday that Local Authorities no longer have to register as Interested Parties and they are included as a part of the Examination.

The letter dated the 30 July 2015 listed those parties from which the Examining Authority considers a SoCG with the Applicant would be useful.

The ExA has requested SoCGs between the applicant and:

- a) Anglian Water Services
- b) the Canal and River Trust
- c) ConocoPhillips (U.K.) Limited
- d) Eastern Inshore Fisheries and Conservation Authority
- e) EDF Energy Renewables
- f) Historic Buildings and Monuments Commission for England (Historic England)
- g) Lincolnshire Wildlife Trust
- h) National Grid Viking Link Limited
- i) Natural England
- j) Public Health England
- k) Trinity House
- l) Westminster Gravels Limited

Elizabeth Dunn on behalf of the applicant provided an update on the SoCGs as set out in Appendix 4 of the letter dated 24<sup>th</sup> August. As well as the list that the ExA provided above, Elizabeth Dunn stated that various of discussions are taking place with other interested parties with regard to a SoCG to tie off the Environmental Impact Assessment (EIA) process that took place during the Pre-Application stage and to ensure that the agreements reached as a part of the evidence in the EIA as a part of the examination process are completed.

- A) Anglian Water Services: Following discussions, a SoCG will hopefully be completed shortly
- B) Canal and River Trust: There has been some difficulty in engagement, however the Applicant is seeking to press forward and a SoCG is being drafted
- C) Conoco Phillips (U.K.) Ltd: A draft SoCG has been completed and it will be discussed on the 14<sup>th</sup> September 2015



## The Planning Inspectorate

- D) Eastern Inshore Fisheries and Conservation Authority: The SoCG was sent to the Authority on the 4<sup>th</sup> of September
- E) EDF Energy Renewables: Discussions have taken place and a draft of the SoCG would be forwarded to EDF in due course
- F) Historic Buildings and Monuments Commission for England (Historic England): The applicant is in active communication with HE and the first draft of the SoCG was being finalised
- G) Lincolnshire Wildlife Trust: A meeting was held on the 10<sup>th</sup> August 2015 to discuss a drafting of the SoCG
- H) National Grid Viking Link Ltd: Discussions are in place and a draft SoCG was in progress.
- I) Natural England: The scope of the SoCG had been agreed and the Applicant is close to agreement on most matters
- J) Public Health England: Discussions have taken place and the Applicant is in the process of clarifying the information that has already been provided. Once done so a SoCG will be drafted
- K) Trinity House: A draft statement of the SoCG will be going out imminently
- L) Westminster Gravels Ltd: Discussions are in place and a draft SoCG is in progress.

In addition to the above, the Applicant is in advanced discussions with Boston Borough Council and East Lindsey District Council in respect of a SoCG. In terms of discussions with Lincolnshire County Council, there has been a hiatus in terms of discussions however a meeting is due to take place on the 9<sup>th</sup> September 2015. The Environmental Agency is in advanced discussions with the Applicant regarding a SoCG and the discussions are principally concerning the evidence within the EIA plan and the drafting of the Development Consent Order (DCO.) The Applicant has also been in contact with the Marine Management Organisation and a meeting took place on the 28 August where there was little disagreement in terms of the drafting of the DCO. The Internal Drainage Boards all have a SoCG from the Applicant and have been in discussions for some time. The Applicant is also in discussion with National Grid, separately from National Grid Viking Ltd. Discussions have also taken place between the Marine and Coastguard Agency regarding a SoCG and have discussed points stated within their relevant representations.

### **5. Initial Assessment of Principal Issues**

Mr MacDonald handed over to Richard Allen to discuss the Initial Assessment of Principal Issues. Mr Allen stressed the need for this discussion as stated in S.88(1) of the Planning Act 2008 (as



## The Planning Inspectorate

amended), requiring the ExA to make an initial assessment of the principal issues arising from the application.

Annex C of the Rule 6 letter dated 30 July 2015 sets out the initial assessment of the principal issues. It was reminded that the Annex C list of principal issues was compiled alphabetically. The list is not in any specific order of importance or preference, and therefore it should not be assumed that an issue is of less importance simply because it is lower down on the list.

The initial principal issues identified by the examining authority are:

### **The Alternatives Sites**

This shall include an assessment of the choice of onshore interface point where the electricity generated by the Triton Knoll Electrical System (TKES) will link to the National Grid; the choice of landfall point at Anderby Creek North and positioning of the Transitional Joint Bays; the site choice for the on-shore Electricity Substation; the route selection for the off- and onshore lines; the requirement for, and site choice of, the Intermediate Electrical Compound; and the choice between undergrounding and the use of pylons.

### **Archaeology and Heritage**

The ExA will examine the adequacy of the surveys undertaken; the adequacy of the Outline Written Schemes of Investigation (WSIs); and the effect on Sibsey Lancaster Memorial and war grave.

### **Compulsory Acquisition**

The ExA will examine the alternatives to compulsory acquisition; the Applicant's liaison with affected persons and others; the interface with the consented wind farm in relation to plot 01a/01; funding which shall include the availability of funds; how the scheme affects Crown Land; Special Category Land; the position of Statutory Undertakers; and the access to survey sites which shall include the possible use of s53 of the Planning Act 2008 as amended.

### **Environmental Issues: Off-shore**

The ExA will examine the cumulative effects of this scheme as set out in Volume 2 of the Environmental Statement; the interface with existing and proposed services and operations; the effects of the construction; operation; maintenance and decommissioning methods, including waste management; the use of cable protection; bathing water quality; and the adequacy of monitoring.

### **Environmental Issues: On-shore**



## The Planning Inspectorate

The ExA will examine the cumulative effects of this scheme as set out in Volume 3 of the environmental statement, including the relationship to the Viking Link Interconnector and whether this is a relevant matter to the scheme; the interface with existing and proposed services and operations; and the effects of construction, operation, maintenance and decommissioning methods including waste and soil management; the adequacy of surveys; the adequacy of monitoring; the opportunities for enhancement; the flood risk, including sea defences; public health issues including possible effects from electromagnetic fields; the effect from noise; and the effects on the Lincolnshire Coastal Grazing Marsh project.

### **Habitat Regulations Assessment**

The ExA will examine the HRA screening process and the possible effects on European protected sites and species including the Inner Dowsing, Race Bank, and North Ridge SCI.

### **Landscape & Visual Effects**

The ExA will examine the design of the Intermediate Electrical Compound and on-shore Electricity Substation; the landscaping and planting schemes; and the number, and impact of the temporary construction compounds.

### **Socio-economic issues**

The ExA will examine the effects on agriculture including land drainage/depth of cables, possible heat transfer, biosecurity, severance, the number and effects of the inspection chambers, and the effects on soils; the effects of the scheme on fishing; shipping and navigation; impact on undersea infrastructure; the effects on tourism/holiday trade, including on the Coastal Country Park; the effects on other businesses, including aggregates; the scope for local employment; and the community benefits which may arise from the scheme.

### **Traffic and Transport**

The ExA will examine the port access; the means and effects of transporting materials and personnel; the effects of construction traffic on rural and other roads including off-site highway works; and the Public Rights of Way.

The ExA states that the purpose of the meeting is to discuss whether it is considered that there are any other issues not listed in Annex C or which have been mentioned above, that need to be added.



## The Planning Inspectorate

The ExA has received a response from the Applicant dated 24 August 2015 requesting clarification on two points in relation to principal issues.

Firstly, it asks whether the ExA had any concerns in relation to the interface with the consented wind farm in relation to plot 01a/01 in respect of compulsory acquisition; and secondly, the degree to which fishing, shipping and navigation matters would be considered under socio-economic issues rather than off-shore environmental matters.

On the first matter, the ExA will take particular note of the Applicant's request and any concerns the ExA may have will be set out in first questions, which will be issued shortly after this meeting. On the second point, the ExA can confirm that these issues will be considered and examined under socio-economic matters – whilst bearing in mind that there is bound to be some blurring of the boundaries between different issues.

Mr Allen invited any comments on the initial assessment of principal issues, reminding those present that the purpose of the Preliminary Meeting is not to discuss the merits of the application.

First to speak was David Loveday on behalf of East Lindsey District Council who queried whether the ExA is reopening discussions in regards to the option of overhead lines. He suggested that if such changes were made, these would constitute as fundamental changes to the scheme and as such would rule it invalid.

In response to the above, the ExA stated that it is not seeking to reopen the whole process. Instead, the ExA is seeking to get a full understanding of the process that led the Applicant to decide undergrounding and clearly that it is relevant in matters, for example such as the fact that Compulsory Acquisition may have been different if the Applicant went for pylons rather than undergrounding.

Secondly, Louise Burton from Natural England (NE) stated that NE has no outstanding concerns of such importance that NE feels that it needs necessarily to attend Issue Specific Hearings. In terms of NE's remit relating to environmental issues offshore, environmental issues onshore, the Habitats Regulations Assessment and landscape and visual effects, Natural England is proposing that these will be covered as a part of the SoCG and through examinations in terms of



## The Planning Inspectorate

questions put forward by the ExA. Therefore Natural England does not anticipate being actively involved in the Issue Specific Hearings and will only be observing hearings unless identified to be specifically involved by the ExA.

Thirdly, Cllr Tony Cox on behalf of Anderby Parish Council requested for security to be raised as an issue. The ExA agreed to consider the point raised by Cllr Cox when looking at the points needing to be discussed at the Issue Specific Hearings.

Chartered Surveyor Mr Robert Hirst pointed out that a SoCG had not been made with the landowner's representatives such as the National Farmers Union (NFU) and Country Landowners' Association (CLA.) Mr Hirst is a member of the Lincolnshire Association of Agricultural Valuers, which he said invited the Applicant to a meeting to hold discussions, which the Applicant declined. Mr Hirst asked whether the ExA would consider the need for the Applicant, firstly, to agree a SoCG with the landowner representatives such as NFU and CLA and secondly to meet with the Lincolnshire Association of Agricultural Valuers.

In response to the above, the ExA stated that it cannot be for the ExA to direct the Applicant to conduct or not conduct a meeting. In terms of the SoCG, the ExA suggested that such a SoCG may well be of value to the ExA.

Stuart Andrews from Eversheds LLP on behalf of National Grid Viking Link Ltd confirmed to the ExA that a planning application has not been submitted. As a point of clarification, Mr Andrews also stated that a Viking Link planning application would not be submitted prior to the end of the Examination of the Triton Knoll application and that it is an important matter when considering the effects of a cumulative impact of the Viking Link and the application put forward for the Triton Knoll Electric Connection.

Martin Mackinder, a landowner affected by the scheme, questioned whether it is possible to legally challenge the request for the hearing to be delayed given the fact that Viking Link has people working on the proposed project and that it has been shown that there are routings along similar lines to the Triton Knoll application.

In response to the above, the ExA raised the point that the ability of legal challenge is a procedural matter, and that the matter of the two potential schemes that may or may not be sharing facilities or routes is a subject that will be discussed during the Examination.



## The Planning Inspectorate

The legislation on the ability to mount a legal challenge had already been stated, namely that, in summary, a legal challenge cannot take place until the application has been withdrawn, or the Secretary of State (SoS) has issued a decision or the reasons for that decision.

### **6. Draft Timetable**

The ExA handed over to Mr Rigby who discussed the draft timetable for the Examination. The draft timetable for the Examination is included within Annex D of the 30 July 2015 letter.

Mr Rigby explained the logic behind the draft timetable, before moving on to explain the various items within the draft timetable such as deadlines, hearings and site inspections.

Mr Rigby reminded attendees that it is a statutory requirement for the examination to be completed within six months, beginning tomorrow (4 September 2015.) Therefore, as the preliminary meeting took place on Thursday 3 September 2015, that fixes Item 25 on the draft timetable, ie that the date for completion of the examination is Thursday 3 March 2016.

Within the six month timeframe, the ExA has structured the timetable to allow reasonable time for all the activities necessary to ensure an open, fair and impartial examination, including:

- for the ExA to put written questions (remembering that the examination is primarily a written process), for instance:
  - to seek explanation or clarification; or
  - to request additional information: for example, the ExA has noted the Applicant's request for clarification of what information it requires to be included in the Schedules of compulsory acquisition and mitigation, and will bear this in mind in the drafting of its first round of written questions; also, the ExA will be requesting that the Applicant complete matrices for all the sites which were screened for Habitats Regulations Assessment purposes
- for written replies to be submitted to those questions;



## The Planning Inspectorate

- for reports and written submissions to be put to the ExA, including
  - Statements of Common Ground and Local Impact Reports; and
  - the Applicant's revised draft Development Consent Order;
- for those included in the examination process to comment;
- for those who submitted replies to questions, or to reports, or who made written submissions, to answer those comments;
- for notice to be given of any hearings and accompanied site inspections;
- for the hearings and site inspections themselves;
- for written information to be submitted to the ExA following the hearings;
- for compilation and publication by the ExA of the Report on Impacts on European Sites (RIES.) This document is normally compiled as late as possible in the timetable so that as much information as possible can be included, for instance, information on all the sites which were initially screened;
- for the ExA to ask any further questions in writing if necessary;
- for written responses to be made to those questions;
- for those participating in the examination to comment on those responses before closure of the examination

The ExA noted at this stage that information submitted after the examination had closed could not be considered.

### **Deadlines**

The first thing to note in relation to what has been said about the timetable prepared is that the dates set as deadlines are for you to submit the various items of written information to us.

The first deadline, **Deadline 1** has been set as Monday 5<sup>th</sup> October 2015 to allow at least three weeks to respond from when you receive our first round of written questions and our Rule 8 letter enclosing the agreed examination timetable;

**Deadline 2** has been set Tuesday 27 October 2015 to give three clear weeks for comments on items submitted at Deadline 1;



## The Planning Inspectorate

**Deadline 3** allows a clear 7 days following the hearings for information to be submitted to us, and also comfortably more than three weeks for submissions of comments on material submitted at Deadline 2;

**Deadline 4** has been set so as to allow three clear weeks to respond to our second round of written questions, and again comfortably more than three weeks for submissions of comments on material submitted at Deadline 3;

**Deadline 5** is set in the same way as Deadline 3 and allows for submission of information following the second round of hearings if these are held;

**Deadlines 6 and 7** are essentially alternatives depending on whether a second round of hearings is held or not, and allow sufficient time for comments and information to be submitted to the ExA, and for the ExA to consider these before the close of the examination.

Therefore, some items may have two deadlines depending on whether we need to hold a second round of hearings or not.

For example, the ExA has timetabled the publication of the impact on European Sites (RIES) for Monday 18 January 2016 with comments to be received by Deadline 6 if no second hearings are required: and alternatively for Wednesday 10 February 2016 with comments to be received by Deadline 7 if no second hearings are required.

The timetable will be kept under review, bearing in mind that any information submitted after the examination has closed can no longer be considered.

Mr Rigby opened questions to those present with regard to any queries about the general logic underpinning the draft timetable, or about the various deadlines.

First to speak was Elizabeth Dunn for the Applicant, who recognised that there will be substantial material submitted in particular for Deadline 1 and Deadline 3. She questioned how long it will take for the information to be published on the Planning Inspectorate website so that those who are looking to review it can understand the timeframe.



## The Planning Inspectorate

In relation to the above, Mrs King answered the question put forward on behalf of the Planning Inspectorate and stated that it partly relies on the Applicant and how well the information is submitted. Providing the deadline isn't on a Friday, it is the norm for the information to be published onto the website the day after the deadline. The size of the information submitted can also affect the time period in which the information is published on the website.

Mr Ben Wills on behalf of Beeswax Farming raised a question with regard to the timetable. He said that there are 114 affected landowners and asked whether two days is a sufficient time period for accompanied site inspections if required, given the scale and the complexity of the route.

In response to the above, the ExA stated that requests by parties who are involved in the examination that require a site inspection are made by Deadline 1. The ExA made those present aware that unaccompanied site inspections have already taken place along publicly accessible land along the proposed route and that a note of places already visited was to be placed on the National Infrastructure website. If there is a need, a revised timetable can be issued to accommodate the request by Mr Wills.

### **Hearings and accompanied site inspections**

Mr Rigby started with how the ExA intends to deal with accompanied site inspections. In doing so, it is explained how the accompanied site inspections will be carried out and how they fit in to the overall timetable that was discussed under point 6.

The ExA stated that it has already started to become familiar with the land environments of the proposed order area by carrying out an unaccompanied site inspection on land publicly accessible on 1 and 2 September 2015. A note of the locations visited on the site inspection would be published on the Planning Inspectorate website shortly.

In addition to the above unaccompanied site inspection, there is an intention to conduct an accompanied onshore site inspection of specific locations that interested parties may wish to nominate.

The ExA have reserved Tuesday 10 and Wednesday 11 November 2015, for this purpose in the draft timetable, to fit in with the hearings.



## The Planning Inspectorate

The ExA does not propose to undertake an offshore site inspection unless parties consider that it is important and relevant to do so. The ExA's reasoning was that the Triton Knoll array and associated platforms have already been consented.

The ExA is also conscious that there may be sensitivities about the conduct of such inspections. For example, it may not be prudent or even possible for the ExA to inspect potentially hazardous operational sites or to go to sea in the company of a large number of people. If such inspections are requested, the normal process would be for parties to agree who might accompany the ExA on a representative basis, to ensure that the inspection is open and fair, rather than arranging for everybody to attend.

Therefore, the ExA invited those present to notify the ExA of possible locations that should be inspected by Monday 5<sup>th</sup> October 2015.

In order to nominate a location for the Examining Authority to inspect, the following should be stated:

- the location,
- the features to be observed,
- whether the ExA can observe these features from public land,
- the reasons for your nomination,
- whether and, if so, why you think that an accompanied inspection is necessary and, if so,
- who should accompany the ExA.

If land isn't publicly accessible, the ExA may need consent to enter onto the land and you should advise the ExA who that consent can be obtained from.

The ExA may also need assistance to ensure that we can inspect a site such as railway land or part of an operating manufacturing plant or substation safely.

If the ExA need consent to enter onto land or assistance once the ExA are there to ensure safety, the ExA would inspect the land on an accompanied basis.

When the ExA undertake site inspections, they will not ask for or hear any oral submissions or receive any documents from anyone.



## The Planning Inspectorate

Questions will be confined as to matters of fact to ensure that the ExA are observing the correct land or features.

The deadline to nominate a site is by Deadline 1 in the draft timetable - Monday 5 October 2015.

The ExA recognised that not everyone who might want to make a site inspection request has attended the Preliminary Meeting. Deadline 1 will enable them to make such requests in writing and it will be available with the letter that is being sent out shortly.

The ExA questioned whether anybody has any questions or submissions in principle to make about the approach taken to the draft site inspection programme.

First to speak was Louise Burton on behalf of Natural England. Once it is finalised where the site inspections will take place, could the ExA notify Natural England via the Planning Inspectorate to ensure that there are not any natural environment constraints to accessing the areas required.

Mrs Katherine King from the Planning Inspectorate accepted the request from Natural England.

Mr Chidley on behalf of Anderby Parish made the ExA aware that the 12<sup>th</sup> November 2015 may not be a suitable date for a site inspection.

Mr Rigby then turned to the provision for hearings.

The following dates for hearings are reserved in the draft timetable if they are required:

- The evening of Tuesday 10 November,
- The evening of Wednesday 11 November
- The afternoon of Monday 16 November 2015 for open floor hearings

Issue specific hearings and compulsory acquisition hearings dates have been reserved as following if considered necessary:

- Thursday 12, Friday 13, Tuesday 17, Wednesday 18, Thursday 19 and Friday 20 November 2015



## The Planning Inspectorate

It was confirmed that one of the above hearings will be for consideration of the draft Development Consent Order and that the ExA intends to timetable this for as early as possible.

The agenda for such a hearing is likely to be quite detailed, and the ExA has noted a request from the Applicant to bring forward item 6, the publication date for agendas for issue specific hearings, to Monday 2 November 2015.

The ExA has also reserved Tuesday 19 January through Friday 22 January 2016 for a second round of hearings, allowing time for a second hearing for the draft Development Consent Order (DCO) and a second compulsory acquisition hearing, should either or both of these be required.

The ExA questioned whether anyone thought that hearings should be held at any other venues close to the project Mr Paul Edwards from Boston Borough District Council stated that residents in the far west of Boston might appreciate a venue in the far west of the application area rather than the east of the application area.

In response, Mr Rigby stated to Mr Edwards that if he would like to nominate a venue, he would request that he writes to the ExA as soon as possible and certainly within the time period of Deadline 1 (Monday 5<sup>th</sup> October 2015,) and this request could then be considered.

Concerns raised within the meeting will be considered by the ExA after the meeting has closed, and the ExA will advise the outcome in their Rule 8 letter, which will be sent out soon and which will be available to view on the Planning Inspectorate website.

The ExA asked whether there were any further questions regarding:

- the draft timetable,
- submission deadlines
- hearings and site inspections

Elizabeth Dunn on behalf of the Applicant stated that there could be an Issue Specific Hearing in relation to Compulsory Acquisition in the November deadline and a further Compulsory Acquisition hearing in the January deadline. The Applicant has made a request that all of the Compulsory Acquisition Hearings are made in the January block of hearings to allow for time to negotiate private treaty agreements with the various landowners.



## The Planning Inspectorate

The ExA stated that it is sometimes useful to hear issues relating to Compulsory Acquisition in two separate deadlines. This would be a matter for decision by the ExA and more information would be in the Rule 8 letter that would be sent out shortly.

A question was raised whether there are two DCOs submitted in January. The ExA responded to this by stating that this would be checked prior to the Rule 8 letter going out: Mr Rigby stated that there is no more than one DCO in play at one time. The Rule 8 letter will include a final version of the timetable for the examination.

### **7. Any Other Matters**

The ExA notified those present that no other matters have been notified to them apart from those already dealt with under item 3 on the agenda for this meeting.

No further matters were raised in relation to any other relevant items needing to be discussed.

### **8. Close of the Preliminary Meeting**

Mr MacDonald thanked all of those present for contributing so fully and usefully to the meeting, and said that the ExA is looking forward to the examination of this application.

The ExA stated that both notes and an audio recording of the proceedings will be made available – as soon as is practicable - on the Triton Knoll Electrical System section of the National Infrastructure pages of the Planning Portal website.

Further to the above, a letter will be issued following this meeting setting out the final timetable and any other procedural decisions that the ExA have made as a result of this meeting and further consideration of the examination.

The ExA will also be issuing its first round of questions at or near the same date as that letter.

The ExA declared the Preliminary Meeting for the proposed Triton Knoll Electrical System closed.