

From: [Ailith Rutt](#)
To: [North Shropshire Reinforcement](#)
Subject: Deadline 1 submission
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Please find attached our submission in relation to the various matters to be dealt with by today as per the published timetable. This one letter covers all the relevant matters.

Please let me know if you have any queries,
Many thanks
Ailith

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Planning Manager



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**Canal &
River Trust**

Making life better by water

NorthShropshireReinforcement@
planninginspectorate.gov.uk

Your Ref EN020021

Our Ref IPP - 36

Friday 29 March 2019

Dear Mr Hudson,

Application by SP Manweb for an Order Granting Development Consent for the Reinforcement to the North Shropshire Electricity Distribution Network

Canal & River Trust Response submission for deadline one

Thank you for your consultation.

I have provided below our latest information in relation to the examination, with headings to identify the various elements of the process, and I hope that you will find this clear, helpful and satisfactory. Please note that we did receive further information from the applicant on the morning of 27 March but, because of the proximity of the supply of the information to the deadline, we have not had the opportunity to review this in further detail. We will endeavour to do so as soon as possible and will update our comments in due course, if appropriate.

Accompanied Site Inspection

The Trust note the proposal to hold the accompanied site inspection on 11 April 2019 and ask that as part of the visit, the Examining Authority (ExA) walks the towpath of the Montgomery Canal past the site where the overhead line would cross and back again, in order to appreciate the short, medium and long distance views of the line that would occur for boaters and towpath users in this area, and its resultant landscape impact.

I am available to meet the Examining Authority and carry out this part of the site inspection with him if it is required. One can either meet to the north and walk south, or vice versa. To the north, the best location to park and meet is Lock Gate Bridge, approximately 2km south of the A495 and is likely to take approximately an hour. From here it is possible to park in the off-road parking area and then walk over the road bridge and access the towpath via a gate, from where you can proceed south along the towpath for approximately 2km until the crossing point is reached. Alternatively, you can park in the car park to the south of the crossing point at Woodhouse Drive and proceed over the canal bridge and onto the towpath, from where you pass almost immediately under the railway bridge and then proceed northwards for approximately 2km until the crossing point is reached.

The walk along the canal would demonstrate to the ExA the positive benefits of the canal in this area and the likely impact of the installation of the overhead line on the wider landscape when viewed from the canal corridor, as well as specifically the impacts of the line and supports at the crossing point. These are noted in more detail in our main submissions.

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Written Representation

I refer you to our relevant representation letter of 1 February 2019 and can confirm that the bulk of that letter remains as our case. Some of the matters raised are now expanded as a result of more opportunity to consider the applicants submission documents. Our detailed understanding of the proposal and response to more recent information follows.

The Canal runs on a north-east/south-west line in the relevant location and as such the proposed E-W electricity line would cross it at an angle, rather than forming a perpendicular crossing. The canal is located on an embankment to its western side, with the land level lower than the waterway and the towpath atop this bank adjacent to the waterspace. To the eastern side (offside), lies a ditch running roughly parallel with the canal at this point, and the land is at a similar level to the canal. Pole 37 would be located to the west of the canal, and pole 38 to the east, and neither would be located on land within the Trust's ownership. This is a rural stretch of canal, with mature planting along it, and which is well used for leisure and recreation opportunities. This stretch is also very popular with anglers as well as boaters and other towpath users.

1. Undergrounding the proposed line in the vicinity of the Montgomery Canal

To minimise the visual and operational impacts of new electricity lines that cross the canal network, the Trust considers that it is always necessary to review whether it would be appropriate for the electricity lines to be undergrounded within the vicinity of the canal. However, we do appreciate that in some cases, it is not appropriate for lines to be placed under the canal and therefore we do entertain the merits of a case for over-grounding. In this case, we have been clear with the applicants from the outset that as they propose the line to be overhead where it crosses the Montgomery Canal, they will need to demonstrate why this is necessary and proportionate and why it is not possible to underground the lines in this location. If this can be demonstrated, then appropriate mitigation will need to be provided for within the DCO. This may be a single or cumulative set of issues and is a matter for the applicant to address and demonstrate to the satisfaction of the Trust and the ExA. This is consistent with the requirements in section 2.8.4 of NPS EN-5 where applicants are required to address these measures.

Unfortunately, to date, the applicant has not provided sufficient information to allow the Trust to assess whether the undergrounding of the lines in this location would be appropriate. In addition, the applicant has not confirmed the package of mitigation which could be provided in order to address any negative impacts of the overhead lines. Whilst the Trust had taken a pragmatic approach with the applicant and sought to work with them to understand the mitigation proposals, this information has not been forthcoming.

The submission documents now include some information to address the matter of the undergrounding of the proposed line. Undergrounding is dealt with at paras 2.3.7 – 2.3.15 in the ES chapter 2 – alternatives and design evolution (document ref 6.2). This takes a very generic approach to the line as a whole and suggests that undergrounding would only be considered where there are particularly sensitive impacts or locations to be considered and does not consider that any of these exist along the proposed line. The Trust does not agree with this assessment and considers that the canal and its setting meet the criteria of a sensitive location. An appropriate assessment should therefore be undertaken by the applicant at its earliest opportunity to address this.

ES chapter 2 also cross-references to DCO document 7.6 which claims that to underground the entire length would be significantly more expensive. The Trust is not suggesting the undergrounding of the entire line, only a very small section of it.

The Montgomery Canal is a heritage asset and its operation and visual amenity should be given significant weight in the determination process. (In this case, the operation and visual amenity of the canal should include the provision of the waterway and its maintenance, its structural integrity, navigational safety, cultural and historic

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appreciation and opportunity for water-related pursuits such as boating, angling and towpath users.) Therefore, we consider that the proposed crossing of the canal should include a consideration of these impacts and whether they are sufficient to justify its undergrounding, with an assessment of whether this would be feasible or not. Such information still appears to be absent from the submission documents despite repeated requests being made for this information to be provided.

2. Proposed landscape and visual mitigation

Without prejudice to the point raised above, if the line is to be overhead where it crosses the Montgomery Canal, we ask that the mitigation of its impacts be included in the DCO application in order that there is a commitment for the mitigation to be delivered as part of the proposals. This mitigation should include the likely visual impact of the poles on the canal users and mitigation measures to reduce this significantly. This is likely to be best achieved through appropriate size, species and location of planting to provide screening and replace any planting lost during construction.

Whilst the documentation details what planting/landscaping will be removed in order to facilitate the line there are no details or proposals of what would be planted in order to provide short and long-term screening and mitigation. This should also address any detriment to habitat or biodiversity as well as the necessary reduction of the impacts of the overhead line and poles.

From the information provided, it is difficult to tell what is proposed and whether it would be sufficient to mitigate for all the impacts of the proposed line and support structures for users of the Montgomery Canal. There also appears to be no mechanism requiring its implementation and maintenance, which is a point of concern to the Trust. We therefore request that full information on the detailed proposals be provided, including their delivery mechanism and how this will be ensured with any degree of certainty. It is suggested that these works should be identified in the submission documents, and then included in the requirements section of the DCO so that it is clear what the works entail and that they are required to be implemented. This would also comply with the requirement in the NPPF for the provision of biodiversity net gains.

It is acknowledged that the support pole option selected is that which has the least visual and landscape impact as set out in section 3.3 of the Planning Statement (document reference 7.1) and this is welcomed. This forms part of the mitigation of the proposal that the Trust seeks if the line is to go overhead.

The Trust will continue its pragmatic approach and liaise with the applicant on the potential provision of appropriate mitigation, should the line be installed overhead, and we hope that the matter will be concluded to the satisfaction of the ExA and the Trust.

3. Overhead clearance of proposed line over canal

The Trust raised concerns in its relevant representation in relation to the height of poles 37 and 38 and the resultant clearance over the canal. The Trust received information from the applicant in respect of this on 27 March. Given that this information has been provided very close to the deadline for submission of this representation, we have not had the opportunity to review this information. We therefore reserve our position in respect of this until we have reviewed this information.

4. Provision of localised fishing restriction

Notwithstanding all of the above, if the line is to cross the canal overhead, it will lead to a requirement for a fishing restriction, as it is not safe for anglers to use rods and lines in proximity to an overhead cable. Normally this would not be acceptable as it precludes the Trust aim in relation to providing an environment where angling can occur, as mentioned above. Therefore, the Trust will be required to install (or seek a third party to install) relevant signage and other works to preclude fishing. This needs to include a delivery mechanism relative to the implementation of the overhead line works. In the event that it is considered that overhead lines would be

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appropriate in this location, we would suggest including a requirement in the DCO dealing with the provision of signage and other works. Whilst the applicant has recently confirmed that paragraph 1.16.9 of the draft CEMP states that signage to warn anglers of the proximity of the overhead lines will be provided, our preference would be for this to be included in a separate, specific requirement.

5. Mitigation and construction impacts on flight line

Section 2.7 of the NPS for Electricity Networks Infrastructure (EN-5) refers to the need for the impacts of the proposed overhead line on birds in flight to be considered by the applicant in their submission. It has been established that bird diverters will be required to be installed if the overhead line goes ahead. Our preference would be for this to be included in a specific requirement of the DCO in order to ensure its identification and delivery.

6. CPO/omnibus agreement

On the basis that none of the poles are proposed to be located on Trust land, the applicant will only require from the Trust appropriate rights for the overhead lines to be located over (or potentially under) the canal. Whilst normally there would be a separate commercial agreement to provide the necessary rights, it is likely in this case that the line would meet the requirements for adding the site to an existing omnibus agreement. This is because the Trust have an existing omnibus agreement with statutory providers such as the applicant and new apparatus can be registered using a standard, agreed format. The works to construct and install the lines must then comply with the Trust's Code of Practice. Compliance with the Trust's Code of Practice is currently being negotiated through the protective provisions.

It is noted that the DCO currently contains compulsory acquisition powers in relation to the airspace rights required from the Trust. The Trust has made clear to the applicant from the outset of the consultation in relation to the proposed DCO that compulsory acquisition powers would not be acceptable to the Trust.

Notwithstanding this, the applicant has progressed with including such powers and has failed to engage with the Trust to reach a private agreement. This is inconsistent with the approach advocated by the DCLG's Guidance "Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land" (September 2013) which states, at paragraph 25, that "as a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail". It is extremely disappointing that no attempts of engagement on this issue had been made by the applicant until w/c 25 March 2019, despite contact details being provided.

In addition, on the basis that there is an omnibus agreement which the electricity lines could be added to, it is not necessary or proportionate for compulsory purchase powers (in relation to the Trust's interests) to be included in the draft DCO. We would therefore be grateful if the applicant could review its position in respect of this.

7. DCO/protective provisions

The Trust's solicitors have been liaising with the applicant's solicitors in relation to the draft DCO and protective provisions. Comments and proposed amendments in relation to these were provided to the applicant's solicitor on 15 February and we are yet to receive a response.

Update on SCG

The draft Statement of Common Ground (SCG) requested by the Examining Authority in their letter of 20 February 2019 was provided to the Trust during the morning of Monday 18 March 2019. We have considered the content of the draft, but a further draft has now been received on the morning of March 27th. As we had already considered the initial draft and begun to compile our response to the original draft, we will continue with this and provide it to the applicants by the end of Monday 1 April 2019. At this stage, there appear to be various

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discrepancies outstanding that will need to be addressed before it can be finally agreed. The ExA will be kept up to date on progress as each relevant deadline is reached. A track changed draft can be provided on request.

Comments on other interested party representations

We note that the local branch of the Inland Waterways Association (IWA) have made representations on the application. No further points need be made by us in response to their comments at this stage as they are addressed in our main submission above.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

Ailith Rutt MRTPI
Planning Manager

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